



August 18, 2010

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, N.W.
Washington, D.C. 20006-1506

Re: Regulatory Notice 10-33
Proposed Rule Requiring the Filing of Supplemental FOCUS Information and
Supplementary Schedule to the Statement of Income (Loss) Parts II and IIA

Dear Ms. Asquith:

The National Association of Independent Brokers-Dealers, Inc. (NAIBD or the association) was formed in 1979 to positively impact rules, regulations, and legislation by facilitating a consistent, productive relationship between industry professionals and regulatory organizations. The association is national in scope with 350+ Broker-Dealer and Industry Associate Members.

We support the initiative to gather additional detail regarding firms' finances and operations for the purpose of staying tuned in to industry and membership trends. Notwithstanding this, we believe that the proposal is overly broad in some respects, and not adequately flexible in others.

In general, to balance scope with impact, we suggest that additional detail be required only for those line items exceeding a fixed threshold of more than one dimension. We suggest a diminimus threshold in the range of 5-10% along with a dollar amount of \$25,000. We believe this recommendation is consistent with the 10% threshold already incorporated in certain parts of the data sheet, and that it will serve to decrease any unnecessary burden on small firms.

As an alternative to this recommendation, we suggest that implementation be staged as a series of pilots, beginning with clearing firms, then gradually covering the membership by firm size, specifically, in descending order, so that small firms are afforded the benefit of time and experience, before the complete requirements become effective across the board.

As proposed, we are concerned that the level of detail required for unregistered offerings unfairly targets investment banking firms, which will always meet the 10% income threshold requiring supplemental information. This aspect of the rule should be reconsidered because it is overly burdensome on this category of firm with no proportionate value to the regulator. To balance the impact on small firms, FINRA should consider adding a minimum dollar value threshold (such as \$25,000), below which these particular additional reporting requirements would not apply.

Further, we are concerned that the amendment as proposed presents issues related to the level of confidentiality inherent to private deals. Most investment banking engagements entail a high

level of confidentiality on all terms and conditions of the offering, even post-closing. Broker-dealers specializing in restructuring/distressed situations are frequently bound to confidentiality by U.S. bankruptcy laws that would preclude the release of certain information.

In addition to raising specific contractual obstacles, there may be other unintended consequences. For instance, requiring FINRA member firms engaged in such highly sensitive banking deals to disclose detailed deal information to FINRA may cause issuers seeking to raise debt or equity in the private capital markets to work with an intermediary that is not subject to such stringent reporting guidelines in order to maintain confidentiality.

In order to comply with the enhancements proposed in Regulatory Notice 10-33 broker-dealers would have to modify their general ledger to align to the new income and expense categories proposed by FINRA. The proposed effective date of the new rule may or may not align with a particular firm's fiscal year end, and any modifications to the general ledger made in the midst of a fiscal year could cause inaccurate or confusing books and records. For this reason, we request that FINRA consider implementation on a firm-by-firm basis, within a reasonable time of each firms' fiscal year end.

We recognize that information requested by the Operational Page Supplement (for Firm Underwriting and Selling Group Arrangements) is identical to the information the regulator routinely requests by email upon following a blue-sheet transaction. If this supplement is incorporated as represented in this proposal, we believe that the separate FINRA information requests are redundant. As such, should the rule be implemented as proposed, we suggest that FINRA cease routinely requiring firms to provide this information on an individualized basis.

Because the additional requirements for supplementary information represent a sweeping change, and with concern regarding the extent to which specific line items may prove to be missing or irrelevant over time, we object to the aspect of the proposal that would allow FINRA to make direct rule filings with the SEC, and request instead that the regulator's customary rule cycle beginning with seeking member comment continue to be observed.

We suggest that the FINRA draft and distribute a subsequent information notice to clarify and better define items such as "insurance costs" (does this include health insurance?), and also to describe the extent to which firms are permitted latitude in reporting (input for items such as 'technology, data and communications' might vary greatly from firm to firm).

Above all, we urge FINRA to make good on a commitment that it represents is the underpinning to the rule proposal: a more focused examination program. Surely with this detailed supplementary financial and operational data, FINRA will have information that will enable it to segment the membership such that the regulator's examination efforts can be fine-tuned, contributing to an inspection process that is both meaningful and effective.

NAIBD appreciates the opportunity to comment on the proposed rule noted above. We hope that our expressed views will have constructive value.

Best regards,

Lisa Roth
Chair, NAIBD Member Advocacy Committee