

# **GWFS Equities, Inc.**

A Great-West Company

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Greenwood Village, Colorado 80111  
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## **Via Email**

Ms. Marcia E. Asquith  
Office of the Corporate Secretary  
FINRA  
1735 K Street, NW  
Washington, DC 20006-1506

Re: Regulatory Notice 10-54

Dear Ms. Asquith:

GWFS Equities, Inc. ("GWFS") is a limited broker/dealer that distributes mutual funds and variable insurance products principally to defined contribution retirement plans ("DC Plans"). We appreciate the opportunity to provide comments with respect to a concept rule proposal to require a disclosure statement for retail investors at or before commencing a business relationship.

We appreciate and understand FINRA staff's belief that a clear statement of the scope of services, conflicts of interest, and duties, including any limitations on duties owed to a customer, would benefit a prospective customer who is considering opening a brokerage account with a retail member firm. However, RN 10-54 does not sufficiently recognize or address the proposed rule's applicability and/or needed exemption status for customers of broker dealers that do not offer services through "*retail brokerage accounts*".

For example, GWFS offers securities to end customers, as listed below, mostly through distribution by unaffiliated, third party registered representatives or at the recommendation or advice of third party consultants, administrators, or investment advisors, in the DC Plan marketplace and/or as a product wholesaler:

- ERISA Employer Sponsored 401(k), 401(a), and 403(b) DC Plan Sponsors, and non-ERISA "safe harbor" 403(b) Plan Sponsors, who are selecting a retirement plan services provider and record keeper through a Request for Proposal ("RFP") process and/or with assistance from unaffiliated, third party brokers/advisers;
- 457 DC Plan Sponsors selecting a retirement services provider and record keeper through the RFP process and with the recommendation of a third party consultant, adviser, and/or the Employer's investment committee;
- Plan Participants opting to invest rollover assets into an IRA account offered directly by GWFS, or through the advice of a third party representative or advisor, following separation from service or a de minimis withdrawal from the Participant's previous DC Plan;

- As conceived by FINRA, the disclosure would be required "prior to commencing a business relationship with a retail customer". If the customer relationships described herein are confirmed to be in the definition of "retail customer", more specific guidance should be given regarding the definition of the point in time that is considered to be "commencing a business relationship". For example, responding to a RFP to provide services or providing a price quote should not be considered as having commenced a business relationship; rather, a customer relationship is currently viewed to exist once a Services Agreement is executed or a product application (for which GWFS is the principal underwriter) signed by the customer is received by the issuer in good order.
- The purpose of the proposed rule as initially described in RN-54 is to provide the intended disclosures "*prior to commencing a business relationship*," yet goes on to indicate on page 3 that the document would be designed to permit "*existing and prospective*" retail customers to reasonably evaluate needed information about the firm and its services, fees and conflicts. The final rule proposal should more clearly state whether or not firms are required to provide existing customers with the required disclosure document, along with new customer relationships entered into after the rule effective date. GWFS believes that providing the disclosure document to existing customers would be unnecessary in light of previous disclosures received at or during the course of their existing business relationship and is administratively burdensome and costly.
- The requirement to disclose "...conflicts that may arise between a firm and its customers, as well as those that may arise in meeting the competing needs of multiple customers, and how the firm manages such conflicts" is not clearly defined and impractical, if not impossible, for firms to fulfill. This provision should be removed or modified to more clearly state expectations of material conflicts of interest.

We appreciate FINRA Staff's consideration of the above comments and requests for additional exemption provisions and/or for further clarification regarding rule definitions and provisions.

Respectfully Submitted,

Beverly A. Byrne, Chief Compliance Officer  
GWFS Equities, Inc.