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April 5, 2012

Via E-mail to pubcom@finra.org

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

Re: FINRA Regulatory Notice 12-10, Request for Comment on Ways to Facilitate and Increase Investor Use of BrokerCheck Information

Dear Ms. Asquith:

Wells Fargo Advisors ("WFA") takes this opportunity to comment briefly on FINRA's Regulatory Notice 12-10 ("Regulatory Notice 12-10") concerning ways to facilitate and increase investor use of BrokerCheck information. While WFA acknowledges that Section 919B of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires FINRA to implement three near term recommendations from a January 2011 study, WFA believes that there are concerns that FINRA should address before implementing the recommendations. In addition, FINRA seeks input on including in BrokerCheck information the reason for and comments related to a broker's termination, scores on industry qualification exams, and formerly reportable information. WFA files this comment letter to outline its views on this proposed expansion of BrokerCheck.¹

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¹ The Securities Industry and Financial Markets Association ("SIFMA") has filed a letter in response to Regulatory Notice 12-10. As a SIFMA member, WFA endorses many of the views outlined in that letter.

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WFA consists of brokerage operations that administer almost \$1.1 trillion in client assets. It accomplishes this task through 15,263 full-service financial advisors in 1,100 branch offices in all 50 states and 3,548 licensed financial specialists in 6,610 retail bank branches in 39 states.²

The "Near Term" Recommendations

In its January 2011 study³, the Securities and Exchange Commission ("SEC") made the following "near term" recommendations to improve investor access to BrokerCheck:

- 1. Unify the searches for BrokerCheck and Investment Advisers Public Disclosure ("IAPD") database;
- 2. Add the ability to search BrokerCheck by ZIP Code; and
- 3. Add educational content to BrokerCheck, including hyperlinks and definitions of terms.

As it relates to unifying BrokerCheck and IAPD searches, WFA notes that investor confusion may greatly increase as the two databases disclose different information for completely separate regulatory purposes. It is not clear that investors are aware of these differences in the two databases and the varied information available in each. To simply unify both search systems without more education concerning the contents and their meaning could undermine the goal to provide investors with substantial and understandable information on financial professionals. We would encourage FINRA to offer both brief explanatory overviews of the nature of both databases and their differing information structures every time an investor initially accesses the database. It also appears that a longer, video and/or other media "tutorial" on the databases will provide another opportunity to help investors understand these databases and get the maximum benefit from them.

The second "near term" recommendation that FINRA plans to implement is affording investors the ability to search BrokerCheck by ZIP Code. The Study stated that this search capability could help those searching for a broker or those interested in seeing how their existing broker stacks up against others in the same ZIP Code. This stated premise for expanding BrokerCheck in this fashion does seem to be of questionable benefit to investors. The selection of a financial professional is almost certainly done in ways that are more tailored than the random search of BrokerCheck ZIP Code. Whether through word of mouth, advertising or other methods, the best and highest use for BrokerCheck for investors is to use it to learn information about a previously identified financial professional. A broker's ZIP Code is almost of no relevance in identifying

² WFA is a non-bank affiliate of Wells Fargo & Company ("Wells Fargo"), a diversified financial services company providing banking, insurance, investments, mortgage, and consumer and commercial finance across the United States of America and internationally. Wells Fargo has \$1.1 trillion in assets and more than 278,000 team members across 80+ businesses. Wells Fargo's brokerage affiliates also include First Clearing LLC, which provides clearing services to 92 correspondent clients and WFA. For the ease of discussion, this letter will use WFA to refer to all of those brokerage operations.

³ Study and Recommendations on Improved Investor Access to Registration Information About Investment Advisors and Broker-Dealers, As Required by Section 919B of the Dodd-Frank Wall Street Reform and Consumer Protection Act, SECURITIES AND EXCHANGE COMMISSION, OFFICE OF INVESTOR EDUCATION AND ADVOCACY January 2011 (http://www.sec.gov/news/studies/2011/919bstudy.pdf) (the "Study".)

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whether a professional is the right one for an investor. Similarly, a comparison of your existing broker with other brokers residing in the same ZIP Code may give an investor no ability to make evaluations on criteria that matter. Investment choices and service levels offered, as well as the legal standard applicable to the account are all among a basketful of relevant factors on which an investor might compare brokers that are absent in BrokerCheck. The spurious benefit that might result from including ZIP Code searches is outweighed by the financial and privacy costs that could result from allowing unfettered searches of financial advisors by ZIP Codes. This financial and privacy cost is even greater when one notes that private commercial entities will access the information for their profit making purposes. We respectfully request that FINRA and the SEC refrain from implementing the near term recommendation to add Zip Code searches to BrokerCheck.

As noted briefly above, WFA believes that offering a means to educate investors more about the BrokerCheck/IAPD databases is both essential and beneficial to afford a supportable yet informative system. It will be critical that the educational material is both static and interactive so that users can get the most out of the databases and still put the search results in proper perspective. Investors can learn from the tutorials what BrokerCheck/IAPD provides as it relates to the registered financial professionals and, equally critical, they should learn the limitations of the databases. The educational components can also include hyperlinks to other sites, but it will be important that the presentation on the BrokerCheck/IAPD consists of content presented in a new and fresh manner and in a fashion that has been refined through the use of investor focus groups. In other words, given the enhanced role these databases might play for the investing public, it is vital that the educational materials undergo a complete overhaul to make it useful.

Other Issues

FINRA asks for comments on other issues resulting from the Study. WFA believes that to benefit investors and the public the most, the combined databases should only display information related to customer facing registrants. It is the best use of BrokerCheck/IAPD to provide search results that focus on those who may be hired as a financial adviser. Firms are populated with a number of individuals who obtain various licenses or registrations, but actually have no responsibility for direct interaction with clients. The vast array of information contained in the databases simply provides unnecessary background on individuals with whom the investor will never engage, and it exposes the information of these noncustomer facing team members for no clear regulatory or investor benefit.⁴

In terms of information displayed, WFA believes it is necessary to make certain that the information displayed is as uncluttered as possible. As such, the duplication of certain disclosures creates a confused BrokerCheck display. Settled customer disputes or actions dismissed represent just some of the disclosures where FINRA displays the registered individual's disclosure and that of the brokerage firm for the same event. Thus, investors easily could be confused as to whether they are in fact viewing two disclosure events or separate views

⁴ Regulators, of course, would retain unfettered access to the information of all registered persons. There simply would be no such information available on the non-customer facing registrants.

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of the same event. As FINRA takes steps to increase the access to BrokerCheck, it should spend additional time and effort to correct some of the basic flaws in the system so that the screen display is easier to view and comprehend.

WFA opposes any effort to make the BrokerCheck/IAPD information available for commercial, "for profit" purposes. At the outset, as an outgrowth of regulatory initiatives, these public disclosure data bases essentially constitute a "public utility." Registrants acknowledge what would ordinarily consist of a gross invasion of privacy is a part of their investor protection obligations as members of a highly regulated industry. It would be an unfair and unprecedented breach of the informal agreement to allow expansive access to private details for FINRA to then allow commercial exploitation of that same information. No regulatory purpose is served by permitting commercial enterprises to access and exploit the personal data of registrants. Similarly, there should be no adjustments to BrokerCheck/IAPD such that individuals can access the information through ordinary web browsers and internet search engines. There simply would be too many opportunities for abuse where there is no means of controlling "entry" into the regulatory database.

Finally, FINRA should consider establishing a focus group which would consist of registered representatives and investors. The focus group could have a targeted discussion of design, information provided, usability and the purpose of BrokerCheck. The focus group would provide valuable insight from both a registrant and investor perspective. Consideration should also be given for educational seminars for investors. FINRA district offices could host regional seminars for investors which would provide information to them in a face-to-face meeting regarding the importance, purpose and limitations of BrokerCheck. Lastly, FINRA should consider providing BrokerCheck webinars for both registered representatives and investors. Although information about BrokerCheck is provided on FINRA's website, a webinar allows both visual and audio participation.

Conclusion

The SEC Study presents an opportunity for FINRA to consider how to provide more access to information about financial professionals. WFA encourages FINRA to delve deeply into the implications of greater access and to make certain that there are no unintended consequences flowing from some of the recommendations.

If you have any questions regarding this comment letter, please do not hesitate to contact me.

Sincerely,

Ronald C. Long
Director of Regulatory Affairs