

C. LaBastille Consulting

~ Broker dealer and investment adviser compliance ~

*1040 First Ave., #320
New York, NY 10022
(732) 245-0657*

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Thank you for the opportunity to comment on the proposed new rule that addresses disclosure of unusual or outsized compensation offered by broker dealer firms to recruited registered representatives. The compensation in question could take the form of production or signing bonuses, loans with attractive repayment terms (including forgivable loans), etc. Such compensation can result in substantial financial incentives to those representatives who move from their current firms.

Our take on this proposed rule might be a bit different than others' because of our roots in compliance. By way of background, the eponymous firm of C. LaBastille Consulting provides third-party compliance assistance to broker dealers ("BDs") and registered investment advisers ("RIAs"). The services provided include all of the obligations that are typically the responsibility of a BD or RIA's Chief Compliance Officer. We also provide the services of an outsourced, part-time Financial and Operations Principal ("FINOP").

Our firm, and others that provide similar services, helps clients stay in compliance with sundry financial industry rules and regulations while the clients service their own customers – and pursue their own profitable bottom lines. We understand that the emphasis on profitability is crucial. While the best way to be in full compliance with all rules and regulations is to do no business at all, this is obviously a ridiculous scenario. Therefore, we view our role as helping our clients engage in business and remain in compliance.

Our comments on the proposed rule follow.

We agree with the goal of this new rule, which is to protect retail customers from being disadvantaged if their brokers move to new firms solely to profit from the financial incentives offered to them personally.

We find the wording of the rule to be too vague. Some questions that arise are:

- In the case of a group of brokers and their registered assistants offered a signing bonus to move to a new firm, how does the per capita bonus get calculated? Can the bonus be considered to be given to the group as a whole and divided by the number of registered persons in the group?
- If a group of brokers and their assistants move to a new firm, can a lump sum reimbursement of transitional costs get divided by the number of group members so that the average falls under the \$50,000 reporting level?
- Would it be permissible for the written disclosure of enhanced compensation to be accompanied by a statement explaining the other factors considered when making the move to the new firm, such as availability of securities research and market analysis, or would such a detailed explanation fall into the realm of promotional material?

While loosely written rules can be used to advantage in certain circumstances, the wording for this rule is so vague that it would allow too many workarounds. We can already think of several ways to "get around" the rule, and other creative minds will surely come up with many more. Obviously, this is not what FINRA intended.

And you must realize that it would be impossible to quantify all of the reasons for a broker's move to a new firm. We believe that most reps do, in fact, make such moves in order to better serve their clients. But there may be additional factors, such as the overall ambiance at a new place, a shorter commute, good parking availability, free onsite meals, an office gym, the newest and best business equipment – all factors that could make a move attractive. If monetized, these factors could very well be worth more than \$50,000 to the recruited rep.

This, however, is nobody's business. Which leads us to our final comment, namely our belief that, despite the highly regulated nature of our industry, registered representatives are entitled to a certain degree of privacy. The details of a financial compensation package are not the public's business. The fact that there are incentives involved in a rep's move to a new firm...yes, that fact should be reported to public customers, but not details. Those customers who care should take it upon themselves to ask about the details of any enhanced compensation. Those customers who don't care shouldn't be forced to care by FINRA.

To sum up, we do not support the proposed rule as it is written, but we are in favor of mandatory disclosure of the existence of enhanced compensation. This disclosure should be accompanied by a statement advising customers to inquire about the details, should they have an interest.

Thank you for the opportunity to comment.

Sincerely,

Christine LaBastille