

March 21, 2014

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Re: Comprehensive Automated Risk Data System (CARDS)

On December 23, 2013 FINRA issued Notice 13-42 requesting industry comment on a new system ("CARDS") to collect and analyze information submitted on a regular basis by industry members (daily or weekly) for analysis by FINRA to identify either industry-wide issues or individual firm issues in connection with business conduct and trends. Our firm has reviewed the comment letter dated March 21, 2014 prepared by SIFMA and endorses its views as expressed in the letter.

Oppenheimer & Co. Inc. is a mid-sized broker-dealer with 1,400 financial advisors doing business with over 300,000 clients out of 96 branch offices. Oppenheimer is self-clearing and operates its own data processing systems. Our clients entrust over \$85 billion in assets to our custody and these clients regularly deposit and withdraw funds and securities into and from their accounts by a variety of means including bank wire, check, debit card and check-writing. In addition these clients regularly issue instructions to transfer funds and securities to family members, related trust accounts and personal businesses. Oppenheimer has an obligation to maintain these clients' activities as confidential.

Client Privacy Concerns

We note that FINRA has revised the proposed CARDS system to delete requests for personally identifiable information ("PII"). The proposed CARDS system is likely to result in client resistance on privacy issues, when fully understood, and will likely lead clients to transfer assets to non broker-dealers where such universal disclosure does not exist. Given well publicized instances of breach of data systems, the ability to prove to clients that their information will remain confidential seems extremely remote. At a minimum, industry participants will rightfully seek to be indemnified by legislation and made immune from client related issues around the invasion of privacy or unwarranted disclosure of their personal data whether through the accidental release of data or hacking. The current regulatory model does not appear to have the resources to provide such protection. Given the large amount of information provided during regularly scheduled examinations, industry sweeps, blue sheets and other regulatory inquiries, clients may justifiably say the current level of information provided seems more than adequate to uncover problems.

Implementation Costs and Viability

Implementation of the CARDS proposal would be extremely expensive, particularly for a mid-sized firm such as Oppenheimer. The costs associated with developing a system to retrieve information, verify accuracy, and monitor transmission would be prohibitively expensive. A substantial amount of costly additional storage would also be required. Providing data in a readable format would add additional cost. All of these costs may be dwarfed by the costs involved in converting data envisioned by CARDS to a format that is consistent across industry participants.

The goal to increase regulatory surveillance efforts and reduce the number of examinations and requests during examinations is well intentioned. However, for all of the reasons set forth in the SIFMA letter the proposal will actually increase the number of requests and lengthen the examination process substantially. The costs for development of a system meeting the regulatory requirements will be similar for all clearing firms, however, the burden would be most strongly felt by mid-sized firms like Oppenheimer and smaller firms that have a much smaller business base over which to allocate these costs. This makes the proposed system potentially anti-competitive and may lead to fewer client alternatives over time potentially increasing consolidation into "too big to fail" firms.

1. Are there alternative methods for FINRA to achieve its goals as articulated? If so, what are those alternatives and why might they be better suited? Are there other information collection methods FINRA should consider either as an alternative, or as a supplement, to CARDS?

Current levels of information provided during regularly scheduled examinations, industry sweeps, blue sheets and other regulatory inquiries should be adequate to reveal issues and problems of interest to regulators.

2. What would be the primary sources of economic impact, including the potential costs and benefits, to clearing, self-clearing and introducing firms in developing, implementing and maintaining the systems that would be necessary to comply with the reporting requirements of CARDS? What systems would potentially have to be modified and what would be the anticipated costs? Would the primary sources of economic impact differ based on the size of the firm or differences in the business model?

The primary source of economic impact to firms could be liability to clients for accidental disclosure of personal information through this process. Once clients understand that their activities are being disclosed in full on a daily basis, the reaction may very well be to move their relationship to another venue, where such disclosure is not taking place. The potential impact on firms of such an outcome is beyond calculation.

The full financial cost of implementation of this proposal is not yet calculable until a full description of what is required is available. As a firm with a proprietary technology platform, our costs would be comparable to much larger firms having a much larger staff and resources to implement the systems required.

3. In addition to systems modifications, what other potential changes to firms' infrastructure would be necessary? For example, would firms need to hire additional personnel either on a temporary or full-time basis to implement CARDS?

Any change of the magnitude contemplated by the CARDS proposal would inevitably necessitate additional infrastructure costs which at this point are not estimable given the many uncertainties associated with the proposal.

4. To what extent do firms believe that they would rely upon third parties to fulfill their reporting obligations? Should FINRA specify supervisory obligations for firms that enter into agreements with third parties to fulfill the firms' reporting requirements related to CARDS? How could FINRA use CARDS to reduce firm use of personnel or third parties to fulfill examination and reporting requirements?

Oppenheimer is self-clearing and maintains its own proprietary systems and therefore does not believe there would be qualified third parties capable of meeting these requirements on Oppenheimer's behalf. As noted earlier and in the SIFMA letter Oppenheimer believes CARDS will lead to increased use of firm personnel due to increased reporting requirements.

5. To what extent do introducing firms currently maintain customer profile and suitability information with their clearing firms? If introducing firms maintain such information with the clearing firm, to what extent do introducing firms use the clearing firms' data fields in providing the information to the clearing firms? If the clearing firms' data fields are not used, how do introducing firms provide the information to their clearing firms? What would be the potential costs to introducing firms in providing the data elements required by CARDS to their clearing firms? If the data is not currently maintained in a standardized form, how much effort would be required to standardize the data to ensure comparability? Although CARDS contemplates the transmission of information from clearing firms to FINRA, would introducing firms find it more efficient and cost effective to transmit the specified information (or portions thereof) directly to FINRA?

Oppenheimer does not maintain any substantive relationships with introducing firms.

6. The information provided to FINRA would include, at a minimum, account, account activity and security identification information. Is this information collected and maintained for all types of customers and products? To what extent is this information currently maintained in an automated format? To what extent is the information stored at clearing and self-clearing firms versus service bureaus?

Oppenheimer regularly stores detailed information on clients' accounts and activities. Information on securities is stored in CUSIP format which may not make such information easily researched for product type. The information as currently saved, is saved on a recurring basis but the lack of standardization in

data archiving and maintenance makes it impossible to say whether such maintenance is “automated” without further information. No search is automated until parameters are available, and such parameters may or may not be searchable.

7. FINRA expects that as applicable securities laws and FINRA rules evolve and are amended to include additional books and records requirements, it would revise CARDS’ data specification elements to include that information. FINRA is contemplating assessing whether revisions to the data elements would be necessary on a 12- to 18-month cycle. What would be the feasibility of a 12- to 18-month cycle and what could impact that feasibility? What could be the potential economic impact of a 12- to 18-month revision cycle?

Updating systems for new data specification elements every twelve to eighteen months for new requirements would necessarily be expensive and most likely burdensome. The data contemplated to be provided appears to be vast. Updating costs, like almost all costs associated with the CARDS proposal would most likely be borne by the investing public in terms of increased costs.

8. FINRA is considering submissions of the required information to FINRA on a regular schedule (such as weekly or daily) in a format that would permit FINRA to run analytics for a particular day during the period being reported. Should FINRA require a longer or shorter period of time for submission of the information to FINRA? Given the proposed purpose for collecting the information, what would be an appropriate schedule for submission of the information to FINRA? What would be the costs and benefits of a longer versus a shorter reporting schedule for submission of the information to FINRA? What would be the costs and benefits of requiring different submission schedules depending on the information to be provided to FINRA? For example, what would be the costs and benefits if FINRA were to require monthly submission of account information, but daily submission of account activity information?

Systems would have to be created for simultaneous creation, formatting and submission of virtually all client data from new account information, activity and current positions (and possibly prior period positions). This information would have to be stored for an indeterminate period of time. The information would have to be catalogued as to whether or not it had been previously submitted. FINRA would have to provide some form, most likely an electronic receipt for the information so that the submitting firm knows that it has been received. Once this system has been created, the frequency of submission becomes moot from a cost perspective. All costs are ongoing and comprehensive whether or not submission is requested or not. All information created would necessarily be subject to correction at a later date for inevitable errors. A further system would have to be created for submitting corrected data, both pre-settlement and post-settlement.

9. FINRA is considering a phased approach to implementing CARDS. It envisions that the first phase of CARDS would focus on business conduct for retail accounts. What are the ways in which the first phase could be structured to best achieve the goal of focusing it on business conduct for retail accounts?

The notion of "business conduct" includes all phases of a relationship between a client and the securities firm with whom the client has a relationship. Trying to standardize the concept of what constitutes a "retail" client given the numerous different ways that concept is treated by industry participants would be a huge undertaking prior to any opportunity to begin any phasing in of the CARDS proposal.

10. For purposes of the initial phase of CARDS, would firms be able to clearly distinguish between retail customers and others? What systems changes, if any, would be necessary to allow firms to limit the submission of information to retail account activity? What would be the economic impact on firms, including the costs and benefits of limiting the initial phase of CARDS to the submission of information relating to retail account activity only? Is it easier or harder to limit reporting to retail account activity? What other types of account activity should or should not be included in an initial phase of implementation? How should historical information versus new accounts be treated under a phased approach?

See response to #9 above.

11. Following FINRA's analyses of the datasets firms provide, would it be beneficial for firms to receive the data with performance benchmarks? If so, should FINRA make that data available directly or through vendors or clearing firms?

Benchmarks become de facto rules without rulemaking. No such benchmarking should be permitted without full exposure to the rule-making process.

Oppenheimer believes that the proposed CARDS system presents serious invasion of privacy issues for clients and is for the reasons set forth above and in the SIFMA Letter, likely to be far more expensive to implement and be far more burdensome on industry participants than presently contemplated by FINRA. The proposal also appears very likely to bring unanticipated consequences on the securities industry, its financial firm participants as well as the clients of those firms including Oppenheimer and accordingly should not move forward unless and until it has been fully vetted by all affected participants, including the investing public most likely to incur the costs associated with the FINRA proposal.

Very truly yours,

Oppenheimer & Co. Inc.