

## Brokerage and Individual Retirement Account Fees

### FINRA Provides Guidance on Disclosure of Fees in Communications Concerning Retail Brokerage Accounts and Individual Retirement Accounts

#### Executive Summary

FINRA is issuing this *Notice* to provide guidance to firms on communications with the public concerning the fees associated with retail brokerage accounts and individual retirement accounts (IRA).

Questions concerning this *Notice* should be directed to:

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#### Background and Discussion

Many broker-dealers offer retail brokerage accounts and IRAs, including rollover services for investors who wish to transfer funds from existing qualified retirement plans. Firms frequently advertise features of their accounts in retail communications, including websites and social media, radio and television commercials, and print advertisements and brochures.

Broker-dealers' marketing campaigns often emphasize that fees are not charged in connection with their retail brokerage accounts and IRAs. Nevertheless, while certain types of fees may not be charged, others will be. For example, accounts offered by broker-dealers may be subject to fees for opening, maintaining or closing accounts. In addition, investment products will have their own associated costs such as brokerage commissions, management fees and other product-level expenses. Further, retail brokerage accounts and IRAs may also be subject to additional fees for ancillary services provided by the broker-dealer.

#### July 2013

##### Notice Type

- ▶ Guidance

##### Suggested Routing

- ▶ Advertising
- ▶ Compliance
- ▶ Legal
- ▶ Registered Representatives
- ▶ Senior Management

##### Key Topics

- ▶ Communications With the Public
- ▶ Individual Retirement Accounts

##### Referenced Rules & Notices

- ▶ FINRA Rule 2210

FINRA recognizes broker-dealers offer what they view as economical alternatives to give investors flexibility in the type of accounts available to them. FINRA is concerned, however, that some broker-dealers' communications that discuss fees may not be fair and balanced, and could be misleading. This *Notice* provides guidance to firms on communications with the public that include statements or claims regarding fees.

### **“Free” or “No Fee” Claims**

FINRA has observed overly broad language in sales material of broker-dealer firms that implies there are no fees charged to investors who have accounts with the firms. In other instances, specific fees that are not charged are highlighted and separated from disclosure regarding other fees that may be charged. This kind of sales material may mislead investors regarding the cost of opening, maintaining or closing an account.

Because closing and maintaining accounts typically involve some cost to investors, either associated with the account itself, the underlying investments or the services of the broker-dealer, it would generally be inconsistent with FINRA Rule 2210's requirements to claim or imply that accounts are “free.” For example, referring to an IRA account as a “free IRA” or “no-fee IRA” where costs exist would fail to comply with Rule 2210's prohibition of false, exaggerated, unwarranted, promissory or misleading statements or claims.

FINRA Rule 2210 requires that broker-dealers' communications are fair and balanced and do not omit material information that would cause them to be misleading. Rule 2210 also requires that communications provide a sound basis for evaluating the facts with respect to any product or service. Accordingly, claims regarding fees must be accompanied by clear disclosure of the types of fees that may be charged. For example, if an account offered by a broker-dealer involves account maintenance and closing fees, fees associated with the ownership of investments in the account or brokerage service fees, a stand-alone claim such as “Start investing for less with no account opening fees” would not comply with the rule. The claim could be compliant, however, if it explained other fees that applied. For example, the following modified claim may be fair and balanced: “Start investing for less with no account opening fee. Other account fees, fund expenses, brokerage commissions and service fees may apply.”

Some firms have published communications that feature prominent claims regarding an account's fee structure with only a footnote to disclose information about other fees that may apply. This type of presentation does not comply with FINRA Rule 2210(d)(1)(C), which provides that information may be placed in a legend or footnote only in the event that such placement would not inhibit an investor's understanding of the communication.

A headline statement to the effect that a firm does not charge annual maintenance fees should include an explanation in close proximity to the headline of the conditions associated with the offer and the other fees that would apply. For example, communications could discuss the lack of an annual account maintenance fee as follows:

“There is no annual maintenance fee if you keep a minimum balance of \$5,000 in the account. Account opening and closing fees may apply depending on the amount invested and the timing of the account closure. There may be costs associated with the investments in the account such as loads, expenses or brokerage commissions. Fees for optional services may also apply. [Click here](#) for a full explanation of our fees.”

In this example, the hyperlink provided in the text “Click here” would take the reader to comprehensive fee disclosure.