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Via email: pubcom@finra.org

July 27, 2015

RE: Regulatory Notice 15-20: Concept Proposal
to Restructure Qualification Examinations

Integrated Management Solutions USA LLC (“IMS”) is pleased to comment on Regulatory Notice 15-20 (“RN 15-20”), FINRA’s Concept Proposal to Restructure Qualification Examinations (the “Proposal”). This Proposal represents a significant, long-overdue reassessment of how FINRA’s representative-level qualification examination program should be structured. We support the Proposal, but feel that other factors, not discussed in RN 15-20, should also be considered so as to maximize the value of qualification examinations and other related requirements to the financial services industry.¹

IMS is one of the largest providers of financial accounting and compliance consulting services to the financial services industry, providing such services to about 100 FINRA members, among others types of financial services firms.² We counsel clients daily on which examinations their Associated Persons will need to take to engage in the business lines for which they are approved or are seeking approval. Many of the key people employed by our clients

¹ RN 15-20’s request for comments frames 9 questions for which input is sought. Our comment letter, while discussing these 9 areas in context, focuses largely on Question 8: “Are there more effective ways to achieve the proposal’s goals?”

² The statements in this comment letter incorporate the views of IMS, not necessarily those of our clients.

were FINRA-exam qualified at one point, but for a variety of reasons, their exam qualification lapsed two years after leaving a FINRA firm. Most continued to work in some aspect of the financial services industry in capacities that did not require FINRA registration, e.g., in M&A, for mutual or hedge funds, proprietary trading firms, investment advisors, or with private equity or venture capital funds or as regulators or compliance attorneys. Unfortunately, under the current rules once they are no longer registered through a FINRA member, we could say that they have become “dismembered” though that term would be unduly harsh and would imply significant pain. These people, no longer associated with a FINRA member, do not lose their knowledge when departing a FINRA member. That is especially so when they continue to use the same or similar skills that they used when they were associated with a FINRA member. Similarly, there are persons who have been registered with a national securities exchange but not with FINRA and yet they perform the same functions they would have performed had they been with a FINRA member.

We also regularly advise individuals on whether they should seek a waiver of a qualification examination for a FINRA license previously held. At any one time, we have several examination waiver requests or appeals of adverse decisions pending before FINRA on behalf of our clients.³ We believe that our regular, daily experience with FINRA’s examination rules and how they are applied enables us to assess whether those rules are meeting their intended goals as well their impact on FINRA members from both a regulatory and business perspective.

³ We have been fortunate to be able to appeal adverse decisions that we believe should never have been made, yet we realize what a frustrating process this is. The individual applicant is forced to wait a great deal of time for a decision to be issued by senior officials or the National Adjudicatory Council and cannot function in the capacity for which an examination waiver is sought while the application is stalled in regulatory limbo. This is clearly unfair and counterproductive. For the sake of full disclosure, we can say that we earn fees for our efforts in this regard, but would prefer to earn fees for exercises that are more positive and productive.

The Concept

FINRA is now proposing that all potential representative-level registrants take a general knowledge examination, the Securities Industry Essentials Examination (SIE), followed by specialized knowledge examinations to allow them to perform their particular registered role. SIE will test knowledge fundamental to working in the securities industry, including basic product knowledge; structure and functioning of the securities industry markets; regulatory agencies and their functions; and regulated and prohibited practices. The specialized knowledge examinations would correlate to current representative examinations (e.g., Series 7 - General Securities Representative), testing subjects specific to each registration category or job function.

The Proposal is a quantum improvement over current rules because individuals will not have to be associated with a FINRA member firm to take the SIE and a passing score would be valid for four years.⁴ Assuming many individuals would consider taking the SIE straight out of college, or even as part of curriculum for a specific degree, to determine if licensure with a FINRA member is a viable career path, this would create a huge pool of exam-qualified applicants for brokerage firms of all sizes. The days of intensive, highly structured training programs of at least several months' duration at bulge bracket firms are long gone.⁵ Mid-sized and smaller firms were never able to afford the investment of time and resources such training programs require. One very positive benefit of the Proposal to the industry is that a larger group of more knowledgeable applicants for jobs are likely to be available. We suspect that likely SIE

⁴ Our concerns about this aspect of the SIE will be discussed below.

⁵ We recognize that various firms might prefer to offer intensive training to their new recruits. We applaud such efforts. Yet we recognize that, to some extent, those efforts become necessary because under the current regime, qualifying examinations may not be taken unless and until a Form U4 application is submitted for each candidate. Thus the candidates are currently less likely to have in advance the knowledge that we believe industry participants need.

candidates will include buy-side professionals, professors and instructors, regulators, prosecutors and other litigators and students.

As with all regulatory provisions, the policy metric for evaluating the Proposal should be risk assessment and cost efficiency. As discussed further below, we believe that FINRA has not adequately assessed the risks inherent in the exam qualification process nor has it proposed the most cost efficient solutions. Regrettably, the Proposal does not, in its current form, take into account the impact of qualification exams on the daily operations of the industry.

Overall Concerns

We are pleased that FINRA is now seeking input from stakeholders in the examination process. FINRA's current licensing requirements are valuable, but needlessly complex. With the introduction of the SIE, we hope FINRA will use this as an opportunity to rationalize and simplify the confusing subcategories of licenses now in place as well as the license maintenance process. We have spent countless hours explaining to prospective applicants the differences, benefits and burdens among the Series 7, 22, 62, 79 and 82 licenses.⁶ NASD Rules 1031 and 1032 are torturous to read and somewhat contradictory; the exam instructions for each of these series licenses are worse than the rules themselves.

The Proposal contains an arbitrary and useless limitation that does nothing to assure professional competency. By mandating that the validity of the SIE automatically expires after 4 years, FINRA takes a paternalistic (and unsubstantiated) view that someone's knowledge base has somehow evaporated simply by the mere passage of time. Is there any research in learning

⁶ This is particularly important because some of the current categories are not even relevant in today's marketplace. For example, the Series 22 examination is for Direct Placement Programs. Those are defined in terms that seem to relate to the Internal Revenue Code. However, we know that many, if not most, professional investors who invest in Limited Liability Companies or Limited Partnerships don't give much consideration to whether an investment provides flow-through tax attributes. We believe that the Series 82 should thus be redesigned to accommodate representatives who deal with customers to whom the investments are marketed, especially if those customers are non-natural persons, regardless of the legal structure of the entity of the issuer.

theory that supports that conclusion?⁷ If FINRA's goal is to create a more effective and efficient exam qualification process, arbitrary limitations with no substantive support are counterproductive. We suspect that they will only perpetuate the need for an exam waiver process (including appeals of adverse decisions) where people document why the work they have done during that 4 year period constitutes "related experience."⁸ That is certainly not an efficient use of regulatory resources.⁹

In our experience,¹⁰ people pursue career options that enhance their knowledge and experience. Even if someone does not immediately register with a broker-dealer, generally, such individuals are inclined to work in the business world or other segments of the financial services industry. Nor do individuals who have left the broker-dealer industry necessarily lose their knowledge base. The value of experience in creating a knowledge base is a universal precept, probably from time immemorial. In fact, we know that the knowledge gained outside of being associated with a FINRA member is often more valuable than the knowledge and experience gained at a FINRA member.

How to Assess Professional Competency

We believe there is a viable, proven and verifiable solution: mandated Continuing Education ("CE"), especially where there has been a break in someone's continuous use of learned skills. FINRA currently uses mandatory CE as a requirement to allow an individual's licenses to remain active. We believe that if someone attends and completes a relevant CE

⁷ This is probably data-driven core knowledge for an introductory college psychology of learning course.

⁸ This is one of FINRA's standard for determining whether a supervisor can serve in that capacity. NASD Rule 1014(a)(10)(D).

⁹ We are amused to note that FINRA anticipates that there will be requests for waivers of the SIE, as well as the specialized exams and is prepared to review such requests. RN 15-20, p. 15. If our recommendation that FINRA licensing be permanent is adopted, the exam waiver process would largely disappear.

¹⁰ The two writers of this letter have about 70 years' industry experience between them.

session, that should demonstrate sufficient industry proficiency to maintain a FINRA license, regardless of the lapse of time.^{11,12}

To implement the use of CE as the qualification barrier to working as an Associated Person at a broker-dealer, FINRA can enhance and upgrade its training options. FINRA's Regulatory Element should be vastly expanded to cover topics that are relevant to each registrant's current or proposed duties. The current choice of a mere four series is appallingly deficient. As a prime example, FinOps take the same Series 201 as a General Securities Principal and are not otherwise required to update their proficiency in finance or operations. This is, as a matter of substance, fundamentally meaningless. We know from our firm's first-hand experience that the current Series 201 CE session required of FinOps does not really demonstrate that relevant proficiency has been maintained.

Integration of Rules and Protocols

We are baffled that FINRA has not given much consideration to the interrelationship between examination requirements, continuing education requirements and waiver practices. Yes, they are all interdependent. Looking at examination requirements without understanding why, for decades, we now have Continuing Education requirements and an examination waiver process that as a matter of course is excruciatingly slow is somewhat unfair. The Continuing Education program that was approved by the SEC over two decades ago has been somewhat successful in its goals. NASD Notice to Members 95-35 stated its purpose as helping "...ensure that registered persons stay current on products, markets, and rules to the ultimate benefit of the

¹¹ Actually, a person who leaves a broker-dealer to be employed in an ancillary activity such as being associated with a so-called buy-side organization, or practicing professions such as law or accounting, or being employed as regulators, brings invaluable experience when he or she rejoins the FINRA community. There is little sense in having them requalify by examination when they possess experience that is extremely valuable to the financial services community.

¹² That's the way that other professions deal with someone who leaves the profession. An individual seeking licensure when he or she wishes to return is simply required to demonstrate that he or she has successfully obtained continuing professional education.

investing public.” In our opinion, the Continuing Education Program should eliminate any need for license expirations. We are pleased that FINRA has begun to recognize that there’s little reason for an individual to be associated with a member to take the SIE but the rest of the concepts proposed in RN 15-20 seem to have been created in a vacuum, without recognizing Continuing Education as a key tool to maintain professional proficiency.

FINRA Licenses Should be Permanent

FINRA should treat the license earned for any series as permanent. That should be so no matter whether a license was earned by examination, waiver or grandfathering. No broker-dealer affiliation should ever be required to maintain a license. No license should ever lapse due to an artificial, mechanical time limit. Examinations should be available to anyone (even someone who has no involvement in the financial services industry). Continuing education should be available to anyone to ensure continued expertise.

Notification of the need to update proficiency by CE should be generated automatically by the Central Registration Depository to anyone who provides an email address. This can be done by providing an optional page when submitting a Form U4, where an applicant can indicate his or her email address. The burden should be placed on the licensee, who is the most direct beneficiary of the CE qualification process. This would supplement or supplant the need for members to chase after individuals to arrange for their Continuing Education. This is especially important for those individuals who are not currently associated with a FINRA member but wish to join one. Currently, a person who needs to take CE had he or she been registered must wait until a Form U4 is filed, make a testing center appointment, take the CE and only then is that

person is able to work under the license that they have. They often give up weeks of earnings as a result.

Permanent licenses would make FINRA's licensing rules comparable to those of other professional licenses that currently do not expire, such as CPAs, lawyers,¹³ doctors, engineers, etc. All of these other professional licenses are currently maintained by mandated CE requirements, without impairing professional competence and/or standards. We are dismayed that FINRA, in RN15-20, has continued to perpetuate the two-year use it or lose it rule under certain circumstances. That is outdated thinking that separates FINRA's licensing process from those of other professions. FINRA offers no substantive statistics to justify maintaining this unique and arbitrary licensing rule.

This would also eliminate the extant hypocrisy under current FINRA rules. FINRA tolls license expirations for various individuals. For example, members of the United States armed forces on active duty are not required to take CE. Maintenance of military proficiency is obviously more important when serving in the armed forces than maintaining financial services proficiency; this reinforces our conclusion that neither being active as an Associated Person nor the mere lapse of time diminishes someone's substantive knowledge.¹⁴ Another tolling example is of individuals who associate with foreign securities affiliates or subsidiaries.¹⁵ Yet another is individuals who remain nominally as licensed Associated Persons of a broker-dealer even though

¹³ The current heads of the SEC and FINRA are lawyers who presumably maintain their legal credentials through Continuing Legal Education. In fact, there are many FINRA employees who probably do the same.

¹⁴ We don't oppose this tolling procedure. It simply demonstrates that FINRA itself turns a blind eye to the necessity for a person to be actively involved with a member if the person is serving our beloved country in a military capacity.

¹⁵ Strangely, this doesn't cover persons who associate with non-FINRA member affiliates or subsidiaries yet remain in the financial services industry.

they hardly ever use the substantive knowledge their licenses indicate when providing services to their employers, such as legal, compliance, internal audit, back-office operations, etc.¹⁶

We also believe that if individuals can obtain licenses without affiliation with a FINRA member, they should also have the option to hide license attainments from access by current employers or others. That would allow individuals to seek more licenses so that they can pursue other career paths without jeopardizing their current employment positions.¹⁷ For example, an individual should be able to qualify as a principal when such license would be required for a future career path.¹⁸

Permanent licenses would have an additional benefit to the industry. New and Continuing Member Applications will not be stymied by the wait for individuals to attain required licenses while employed currently at a different member or not employed by any member. Our experience indicates this is a major cause of bottlenecks in the application process.¹⁹

The Costs of Permanent FINRA Licenses

Examination and educational costs should be borne by FINRA members or individuals seeking FINRA licensure.²⁰ This will generate additional revenue for FINRA without significant incremental costs. We believe the benefits to the industry and the investing public would far outweigh the costs.

¹⁶ See NASD Rules 1021(a) and 1031(a).

¹⁷ We are familiar with situations where senior management at firms prohibits people from taking FINRA exams they do not believe would benefit their firms. Individuals should have the option to assume the costs of taking and maintaining all or some of their licenses.

¹⁸ The current environment is anti-competitive. Individuals cannot easily leave their current employers without significant financial impairment. Indeed, the customers that the individuals currently service cannot be served by the individuals until they have the licenses they need. See previous footnote.

¹⁹ We feel qualified to make this statement because as compliance consultants to the financial services industry, at any one time, IMS has several New Member Applications and Continuing Member Applications pending before FINRA or in preparation for filing with FINRA.

²⁰ See, footnote 12, above, for situations when an individual may choose to bear FINRA exam and maintenance costs.

Changes to BrokerCheck

Licenses held should be reflected in addition to examinations passed. Grandfathered licenses, e.g., Series 79, should be displayed. Waived licenses should be displayed.²¹

Professional degrees or attainments should be displayed, on optional basis. This would include CPA, CA, MBA, PhD, JD, LL.M., CLU, etc. Doing so, we believe, would provide a more rounded and accurate description of an Associated Person to the investing public and the industry.

Permanent Licenses for Regulators and Others

All persons who regulate FINRA members on a daily basis should be required to take and pass industry examinations, no later than within a short period of time of hire. Licenses previously acquired by examination whether while at a FINRA member or otherwise should never expire. In fact, we believe this requirement should apply to all regulators and auditors in contact with FINRA members, including those from FINRA, the SEC, NFA and senior outside auditor staff. Holding industry licenses would certainly enhance their credibility when conducting examinations and audits. There is an ancillary benefit to permanent licensure for these people. Currently, some of them are not attracted to a career at FINRA or elsewhere for fear that they will lose their licenses. Some of them join FINRA and leave before their two-year window expires so that they are not required to requalify by examination. Eliminating license expiration will likely result in some of them joining FINRA or other regulators, knowing full

²¹ We are aware of an individual who left a FINRA member for more than two years and served in a highly visible political position. He returned to the industry as head of a FINRA member. His BrokerCheck does not indicate that he retook FINRA examinations upon his return to the financial services industry; we assume that he was granted examination waivers. The general public should have access to waived examination information. Of course, if his licenses hadn't expired, as we suggest, this disclosure wouldn't be relevant.

well that because they are licensed they can leave anytime they wish. More likely, however, they will stay with regulators once they know that they can continue to retain their licenses.²²

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What the industry needs is a simplified, rational and uniform approach to the admission and ongoing regulation of financial professionals registered with broker-dealers. The key guidelines should be risk assessment and cost efficiency.

Thank you for the opportunity to comment on RN 15-20. Should you have any further questions, please feel free to call Howard Spindel at 212-897-1688 or Cassondra Joseph at 212-897-1687, or contact us by e-mail at hspindel@intman.com or cjoseph@intman.com, respectively.

Very truly yours,

A handwritten signature in black ink, appearing to be 'H Spindel', with a stylized, somewhat abstract form.

Howard Spindel
Senior Managing Director

A handwritten signature in blue ink, appearing to be 'Cassondra E. Joseph', with a cursive, flowing style.

Cassondra E. Joseph
Managing Director

²² We are aware that individuals with regulatory experience can apply for waivers from the need to qualify for licensure. For individuals who have no previous registration, they need to have at least five years of regulatory experience to so qualify. Based upon what we have suggested, we prefer that while they serve in a regulatory capacity, they qualify by examination in a short period of time and that their licenses should be permanent. The two-year, use it or lose it concept should disappear permanently from FINRA policy.