

VIA ELECTRONIC MAIL

August 17, 2015

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 15-22 regarding Discretionary Accounts and Transactions

Dear Ms. Asquith:

In its Regulatory Notice 15-22, the Financial Industry Regulatory Authority, Inc. (“FINRA”), solicited comments regarding a proposal to amend Rule 3260 (Discretionary Accounts and Transactions by Persons Other Than the Customer, hereinafter “Proposed Rule”).

Commonwealth Financial Network[®] (“Commonwealth”) is an independent broker/dealer and an SEC-registered investment adviser with home office locations in Waltham, Massachusetts, and San Diego, California, and more than 1,600 registered representatives (“RRs”) who are independent contractors conducting business in all 50 states. Commonwealth and its RR embrace technology, particularly the efficiencies produced by the use of electronic signatures when processing business with clients.

Commonwealth supports FINRA’s efforts to consolidate outdated or redundant rules, and we appreciate the opportunity to comment on the Proposed Rule. Commonwealth’s comments are limited to the impact of the requirement to obtain the signature of the authorized agent under proposed FINRA Rule 3260(b). Commonwealth understands FINRA’s concern about unauthorized or excessive trading in discretionary accounts; however, the requirement to obtain a “wet” signature from the authorized agent does nothing to address those concerns.

Congress passed the Electronic Signatures in Global and National Commerce Act (“E-Sign Act”) in 2000 to facilitate the use of electronic signatures in interstate commerce. The E-Sign Act says, among other things, that a signature may not be denied legal effect, validity, or enforceability solely because it is in electronic form¹. In the 15 years since Congress passed the E-Sign Act, virtually every major industry in the United States has embraced the use of electronic signatures.

¹ See, 15 U.S.C. § 7001(a)

The time has come for FINRA to allow electronic signatures for authorized agents accepting discretionary authority over client accounts. FINRA provides no reasoning or logical basis for requiring a wet signature. Also, FINRA provides no evidence or reasoning, that a wet signature provides any investor protection benefits over an electronic signature.

The requirement for a wet signature only serves as an administrative burden. Currently, virtually all client paperwork can be executed with electronic signatures, with the exception of the authorized agent for a discretionary account. Therefore, a client may complete all of the account paperwork electronically, but then the RR has to print the paperwork, manually sign, and scan the paperwork back into the computer system for processing. This requirement prevents the implementation of straight-through processing systems and only serves to slow down the opening of new accounts to the detriment of investors. In today's world of highly sophisticated authentication and electronic storage technologies, requiring a wet signature from the RR unnecessarily impedes interstate commerce without providing meaningful investor protection.

In addition, the Proposed Rule would impose the manual signature requirement on natural persons who are not associated with FINRA member firms, such as family members or investment advisers. This requirement is inconsistent with the legal applications of the E-Sign Act and appears to be an overreach of FINRA's jurisdictional authority to unassociated persons. The Regulatory Notice provides no reasoning or basis for the requirement.

Commonwealth urges FINRA to remove the wet signature requirement from the Proposed Rule. As long as a signature complies with E-Sign, it should have the exact same legal effect as a wet signature under the E-Sign Act. The requirement serves no purpose other than to impose unnecessary inefficiencies and administrative burdens with no corresponding benefit to investors.

If you have any questions regarding our comments or concerns, please contact me at 781.736.0700.

Sincerely,
Commonwealth Financial Network

/s/ Brendan Daly
Legal and Compliance Counsel