



NATIONAL ASSOCIATION OF
INSURANCE AND FINANCIAL ADVISORS

September 23, 2016

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

Via Electronic Mail: pubcom@finra.org

Re: FINRA Regulatory Notice 16-29—Gifts, Gratuities and Non-Cash Compensation Rules

Dear Ms. Asquith:

This letter will present the views of the National Association of Insurance and Financial Advisors (“NAIFA”) in response to FINRA’s request for comments on proposed amendments to FINRA’s rules pertaining to gifts, gratuities and non-cash compensation.

Founded in 1890 as The National Association of Life Underwriters (NALU), NAIFA is one of the nation’s oldest and largest associations representing the interests of insurance professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. NAIFA’s mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members. Approximately two-thirds of all NAIFA members are licensed as registered representatives of broker-dealers and market and service mutual funds and other investment products to their clients.

The rules proposed by FINRA via Regulatory Notice 16-29 would revise and modernize FINRA’s rules which address issues dealing with gifts, gratuities and non-cash compensation, for the purpose of improving the effectiveness and efficiency of these rules. NAIFA respectfully makes the following comments with respect to the rule revisions proposed in Regulatory Notice 16-29:

1. **FINRA Question #1:** NAIFA agrees with and supports the proposal to increase the dollar limit for gifts set forth in Rule 3220 and Proposed Rule 3221. The current limit of

\$100 has been in place since 1992, and does not reflect the steady increases in costs and prices which have taken place since that year. However, the costs of entertainment and other items which would likely fall under these rules appear to have increased at a faster rate than inflation since 1992. NAIFA therefore recommends that the dollar limit for gifts in the referenced rules be increased to \$300. This amount would account for not only cost increases since 1992 but also accommodate likely cost and price increases that will subsequently occur. Also, the use of a “round number” would allow for simpler administration and monitoring of compliance with these rules.

2. **FINRA Question # 4:** NAIFA supports the inclusion of a de minimis threshold below which members would not have to keep records of gifts given or received. However, in light of the fact that the cost/price of items which would fall under these rules have in the past, and are likely to continue to, increase at a rate greater than the inflation rate, NAIFA recommends that the de minimis threshold be set at \$100. This amount would accommodate inflationary trends for the near future, while not being set so high as to encourage or facilitate improper behavior. A \$100 de minimis threshold would also help to minimize the additional recordkeeping costs that will occur as a result of these rule revisions.
3. **FINRA Question #5:** As far as NAIFA is aware, the practice of member firms using sales contests or incentives tied to sales of specific products is largely a relic of the past. We do not believe that this part of the proposal will have a significant impact on member firms, associated persons or consumers, and that it could positively impact perceptions regarding potential conflicts of interest.
4. **FINRA Question #9:** NAIFA supports efforts to consolidate in one “place” rules, guidance, etc. pertaining to a specific topic. Doing so will not only increase the likelihood and ease of compliance but will likely positively impact both the financial and resource costs of compliance.
5. **Rule 3220, Supplementary Material .02:** Determining “market value” is at best an often difficult and subjective determination. NAIFA recommends that gifts simply be valued at cost.
6. **Rule 3220, Supplementary Material .04--.06; Proposed Rule 3221, Supplementary Material .05:** It should be expressly stated that bereavement, personal and de minimis gifts are not to be included when calculating the aggregation of gifts required under Supplementary Material .03 of these rules.
7. **Proposed Rule 3222:** Subsection (a) (1) states that a member must have written policies designed to prevent business entertainment that is intended as “an improper quid pro quo”. The term “improper” is subjective and imprecise, and should be further discussed or defined in order to provide clear guidance to members. Further, the use of the term “improper quid pro quo” seems to imply that there are certain types of a quid pro quo that would be considered proper and appropriate. If this is the case, FINRA should include in

the Proposed Rule or in the Supplemental Material a discussion of what would be a proper quid pro quo.

Thank you for your consideration of NAIFA's views on this important issue. Please contact the undersigned if you have any questions regarding our comments.

Yours Truly,

A handwritten signature in cursive script that reads "Gary Sanders".

Gary A. Sanders
Counsel and Vice President, Government Relations