Financial Industry Regulatory Authority

June 26, 2017

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Via Email to rule-comments@sec.gov

Re: File No. SR-FINRA-2017-007 – Response to Comments

Dear Mr. Fields:

This letter is being submitted by Financial Industry Regulatory Authority, Inc. ("FINRA") in response to comments submitted to the Securities and Exchange Commission ("SEC" or "Commission") regarding the above-referenced rule filing,[1] a proposed rule change to adopt consolidated FINRA registration rules, restructure the representative-level qualification examination program and amend the Continuing Education ("CE") requirements.

The proposed rule change was published for comment in the Federal Register on April 10, 2017. The Commission received 18 comment letters on the proposed rule change.[2]

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1 See Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336 (April 10, 2017) (Notice of Filing of File No. SR-FINRA-2017-007).

2 See Letters to Brent J. Fields, Secretary, Commission, from Iñigo Bengoechea, Director, Program Recognition, and Daniel J. Larocco, Manager, Program Recognition, CFA Institute, dated March 30, 2017 ("CFA"); Nathaniel Downes, CFA Society Los Angeles, dated April 4, 2017 ("CFA L.A."); Roman Iwachiw, CFA Society Washington, DC, dated April 7, 2017 ("CFA D.C."); Pat Swanson, President, CFA Societies Texas, dated April 10, 2017 ("CFA Texas"); John Skinner, President, Atlanta Society of Finance and Investment Professionals, dated April 18, 2017 ("ASFIP"); Matthew O'Hara, CFA Society San Francisco, dated April 20, 2017 ("CFA S.F."); Douglas Jackman, Chairman, and Shannon Curley, Chief Executive Officer, CFA Society Chicago, dated April 26, 2017 ("CFA Chicago"); Philip J. Taylor, Chair, New York Society of Security Analysts, Inc., dated April 28, 2017

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The commenters expressed support for the proposed rule change, in whole or in part, but some of the commenters also requested clarifications and changes. Many of the comments are similar to those that the commenters had previously raised with FINRA,[3] which FINRA addressed in the proposed rule change. The following are FINRA's responses, by topic, to the commenters' material concerns.

Permissive Registrations (Proposed FINRA Rule 1210.02)

Proposed FINRA Rule 1210.02 allows any associated person to obtain and maintain any registration permitted by the member. NASAA stated that the proposal "runs contrary to the provisions of the Exchange Act requiring FINRA to prescribe standards of training, experience, and competence for individuals engaged in the investment banking or securities business." FINRA disagrees with this statement. By definition, associated persons are individuals engaged in the investment banking or securities business of a member.[4] Moreover, the current rule expressly allows firms to permissively register associated persons performing legal, compliance, internal audit, back-office operations or similar responsibilities. The current rule is limited to these associated persons, because they were

("NYSSA"); Jeanne W. Wolf, Executive Director, CFA Society Boston, dated April 28, 2017 ("CFA Boston"); Eric Arnold and Clifford Kirsch, Eversheds Sutherland (US) LLP, for the Committee of Annuity Insurers, dated May 1, 2017 ("CAI"); Norman L. Ashkenas, Chief Compliance Officer, Fidelity Brokerage Services LLC, Richard J. O'Brien, Chief Compliance Officer, National Financial Services LLC, Jason Linde, Chief Compliance Officer, Fidelity Distributors Corporation, Fidelity Investments Institutional Services Company, Inc., dated May 1, 2017 ("Fidelity"); David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute., dated May 1, 2017 ("FSI"); Erwin J. Dugasz, Jr., Managing Counsel, Office of the Chief Legal Officer, Nationwide Financial Services, Inc., dated May 1, 2017 ("Nationwide"); Robert J. McCarthy, Director of Regulatory Policy, Wells Fargo Advisors, dated May 1, 2017 ("Wells Fargo"); Mike Rothman, President, North American Securities Administrators Association, Inc., dated May 1, 2017 ("NASAA"); Michele Van Tassel, President, Association of Registration Management, Inc., dated May 1, 2017 ("ARM"); Kevin Zambrowicz, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated May 1, 2017 ("SIFMA"); and Daniel Kosowsky, Chief Compliance Officer, Morgan Stanley & Co. LLC, Rose-Anne Richter, Chief Compliance Officer, Morgan Stanley Smith Barney LLC, dated June 5, 2017.

3 Prior to filing the proposed rule change with the Commission, FINRA solicited comments on similar, but not identical, proposals in Regulatory Notice 09-70 (December 2009) and Regulatory Notice 15-20 (May 2015).

4 See Article I, paragraph (rr) of the FINRA-By Laws.

the ones identified by commenters at the time the rule was initially proposed.[5] The proposed rule would allow firms to register other associated persons, such as those working in accounting or technology, regardless of their job function. FINRA does not believe that there is any meaningful distinction between the current categories of associated persons and other categories of associated persons for purposes of permissive registration.

In addition, firms require substantial lead time to identify associated persons with the necessary qualifications and registrations. As discussed in the proposed rule change, by allowing firms to maintain a larger roster of associated persons who are permissively registered, firms will have greater flexibility in managing unanticipated needs for qualified personnel. FINRA believes that allowing firms to permissively register associated persons in anticipation of future needs for qualified personnel is consistent with FINRA's authority under the Exchange Act.

NASAA was also concerned that the proposal could result in potentially unqualified individuals acting in registered capacities. By way of example, NASAA stated that the proposed rule would allow a firm to assign a General Securities Representative (Series 7) the role of a General Securities Principal (Series 24) 10 years after the individual has passed the Series 24 qualification examination. FINRA qualification examinations are intended to test competence regarding the regulatory requirements necessary to perform a particular function. The examinations are not intended to broadly educate the applicant and are not a substitute for experience. Further, in general, FINRA's registration rules do not impose an experience requirement to perform a particular registered role.[6] For instance, under the current rules, an individual with no prior experience in the securities industry can pass the Series 7 and Series 24 qualification examinations and register with a member to function as a principal immediately. Using NASAA's example, FINRA does not believe that an individual who passed the Series 7 and Series 24 qualification examinations, completed the principal-level CE and annual compliance meeting requirements and worked at a firm for 10 years as a General Securities Representative subsequent to passing his examinations is any less qualified to function as a General Securities Principal than an individual who just entered the securities industry and passed the Series 7 and Series 24 examinations.[7] The obligation to

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5 See Securities Exchange Act Release No. 26776 (May 1, 1989), 54 FR 19993 (May 9, 1989) (Notice of Filing of File No. SR-NASD-89-15).

6 As discussed below, FINRA is proposing an experience requirement for a registered representative who is assigned to function as a principal for a limited period before passing a principal qualification examination.

7 As another example, FINRA does not believe that an associated person who passes the Series 7 qualification examination and completes the representative-level CE requirement while working for a firm in a non-registered capacity for several years is any less qualified to subsequently be designated by the firm to function as a General Securities Representative than an individual who just entered the securities industry and passed the Series 7 examination in order to function as a General Securities Representative.

ensure that a firm's supervisory personnel are fully prepared to perform their designated functions rests with the firm.

Proposed FINRA Rule 1210.02 provides that individuals maintaining a permissive registration would be considered registered persons and subject to all FINRA rules, to the extent relevant to their activities. For instance, as stated in the proposed rule change, FINRA rules that relate to interactions with customers would have no practical application to the conduct of a permissively-registered individual who does not have any customer contact. The proposed rule also requires members to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions. In addition, the proposed rule requires that, for purposes of compliance with FINRA Rule 3110(a)(5), members assign a registered supervisor who would be responsible for periodically contacting the day-to-day supervisor of an individual who solely maintains a permissive registration to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal.

CAI asked that FINRA clarify the supervisory obligations relating to permissively-registered persons. CAI also noted that, in the absence of additional clarification, firms may reach their own conclusions. For instance, according to CAI, a firm may determine that FINRA Rule 3270 (Outside Business Activities of Registered Persons) and FINRA Rule 3280 (Private Securities Transactions of an Associated Person) do not apply to permissively-registered persons. CAI added that a more "rules based" structure would be more productive and easier for firms to implement.

FINRA does not believe that it is necessary to adopt a prescriptive provision identifying each rule that may potentially apply to a permissively-registered individual. FINRA believes that the proposed rule provides firms the flexibility to evaluate the activities of their personnel and tailor their supervisory systems accordingly, in light of the requirements of the particular rule. For example, FINRA Rule 3270 (which applies to all registered persons) and 3280 (which applies to all associated persons) apply to an individual's activities outside the course of the individual's association with a member, regardless of the individual's function at the member. Therefore, these rules apply to the outside activities of all permissively-registered persons, irrespective of their activities for members. In addition, to the extent that interpretive questions arise regarding the application of a particular FINRA rule, FINRA will work with the industry to address such interpretive questions and provide additional guidance as needed.

ARM questioned the need for dotted-line supervision for purposes of compliance with FINRA Rule 3110(a)(5) and stated that supervisory procedures and compliance programs can address any concerns with permissively-registered persons acting outside the scope of their assigned functions. Fidelity and ARM also noted that, for purposes of

compliance with FINRA Rule 3110(a)(5), a firm should not be required to designate a registered principal to supervise a permissively-registered principal.

Proposed FINRA Rule 1210.02 does not require firms to establish a traditional dotted-line arrangement with a designated secondary supervisor for purposes of supervising an individual who solely maintains a permissive registration. In a traditional dotted-line arrangement, the secondary supervisor has regular dialogue with the primary supervisor and has input into decisions regarding the supervised person. Under the proposed rule, the direct supervisor of an individual who solely maintains a permissive registration is not required to be a registered person. Moreover, a registered supervisor is only required to periodically contact the direct supervisor of such an individual to verify that the individual is not acting outside the scope of his or her assigned functions. Further, for purposes of compliance with FINRA Rule 3110(a)(5), FINRA believes that the designated supervisor of an individual who solely maintains a permissive registration as a principal should be a registered principal. A registered principal is in the best position to assess whether such permissively-registered principal is performing activities normally performed by principals.

Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

Proposed FINRA Rule 1210.04 requires that a registered representative who is designated by a member to function as a principal for a limited period before passing a principal qualification examination have at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. This change is intended to ensure that such representatives have an appropriate level of experience.

Fidelity, Wells Fargo, ARM and SIFMA questioned the need for an experience requirement. Fidelity and SIFMA noted that firms should determine the necessary experience level. Fidelity asked that if FINRA retains the requirement, it should be reduced to a total of one year of experience. SIFMA requested that FINRA clarify whether the experience requirement serves as a "safe harbor" with respect to a firm's decision to designate a supervisor.

The functions carried out by principals are an integral part of a member's supervisory system. The principal-level examinations test proficiency with the regulatory requirements necessary to perform the functions of a principal. Where a firm designates a registered representative to function as a principal without having demonstrated such proficiency, FINRA believes that it is necessary for the registered representative to have a consistent amount of securities industry experience. Moreover, the proposed rule provides firms the flexibility to designate a principal to function in another principal category for 120 calendar days before passing any applicable examinations, without having to satisfy the proposed experience requirement for representatives. In response to SIFMA's comment, the proposed experience requirement does not operate as a "safe harbor" with respect to a firm's designation of supervisory personnel.

Waiting Periods for Retaking a Failed Examination (Proposed FINRA Rule 1210.06)

Pursuant to proposed FINRA Rule 1210.06, an individual who fails the SIE or a specialized knowledge examination would have to wait 30 calendar days before retaking that particular examination. Further, if an individual fails the SIE or a specialized knowledge examination in three successive attempts within a two-year period, the individual would have to wait 180 days before retaking that particular examination.

Nationwide asked that FINRA simplify the process for retaking failed examinations by adopting one of the following alternatives: (1) provide indefinite 30-day waiting periods between failed examinations; (2) reduce the current 180-day waiting period for failing on the third try to 60 days; or (3) limit the number of times an individual can retake a failed examination.

As stated in the proposed rule change, the waiting periods for retaking a failed examination are specifically designed for test security purposes and to ensure an examination's effectiveness as a measure of ability. FINRA does not believe that removing or reducing the 180-day waiting period will achieve the purposes of the proposed rule. FINRA also does not believe that it should limit an individual's opportunity to enter into the securities industry by limiting the individual's ability to retake an examination.

Lapse of Registration and Expiration of SIE (Proposed FINRA Rule 1210.08)

Proposed FINRA Rule 1210.08 maintains a two-year lapse of registration period, and it establishes a four-year expiration period for the SIE. Several commenters requested changes to these periods. Specifically, CAI requested that FINRA eliminate or extend the SIE expiration period. Fidelity and FSI suggested that FINRA extend the lapse of registration period to four years. Nationwide stated that the SIE should not be subject to an expiration period, provided the individual completes required CE. ARM asked that FINRA extend the SIE expiration period to six years and the lapse of registration period to five years. SIFMA requested that FINRA align the SIE expiration period and the lapse of registration period.

FINRA continues to believe that the SIE should be subject to a four-year expiration period. In determining the SIE expiration period, FINRA considered the following factors. Some of the individuals who pass the SIE may not have any exposure to the investment banking or securities business until they associate with a member. Further, as proposed, individuals who only pass the SIE would not be required to satisfy CE requirements. Moreover, while the content covered on the SIE, which represents broad-based knowledge of the securities industry, may not change as frequently as the content on the specialized knowledge examination, the knowledge tested on the SIE is not static.

In response to Nationwide's comment, the current content of the Regulatory Element of CE is tailored to functions performed by registered persons. However, FINRA will consult with the Securities Industry/Regulatory Council on Continuing Education ("CE Council") to evaluate the feasibility of developing a continuing education program, which

would include general knowledge content, for individuals who have only passed the SIE. With respect to the two-year lapse of registration period, as stated in the proposed rule change, FINRA is consulting with the CE Council in exploring the possibility of extending the two-year expiration period through the use of more frequent CE.

Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210.09)

Proposed FINRA Rule 1210.09 establishes a waiver process whereby individuals who would be working for a financial services affiliate ("FSA") of a member would terminate their registrations with the member and would be granted a waiver of their requalification requirements upon re-registering with a member, subject to specified conditions. Among other conditions, the proposed rule requires that prior to an individual's initial FSA designation, the individual must have been registered for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual. Further, the waiver request must be made within seven years of the individual's initial FSA designation. In addition, the individual cannot have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4 (Uniform Application for Securities Industry Registration or Transfer).

CAI said that the seven-year period for FSA designation is too short. Nationwide stated that FSA waivers should not be subject to a time limit. ARM questioned the limited duration of FSA designation and stated that additional experience working for a foreign affiliate is beneficial to firms. CAI suggested that FINRA reduce the pre-designation registration period to three years, rather than five years. Fidelity requested that the pre-designation registration period be reduced to two years. Wells Fargo stated that a pre-designation registration period is unnecessary.

FINRA understands that firms regularly transfer more seasoned personnel to an affiliate for a limited period so that they could gain organizational skills and better knowledge of products developed by the affiliate. FINRA designed the FSA waiver program to allow such individuals to return to the securities industry without them having to requalify by examination. Thus, the FSA waiver program is narrowly tailored and the proposed conditions serve that purpose.

Fidelity asked that FINRA amend the proposed rule to clarify that FSA-eligible individuals could return to a member other than the one that designated them. Fidelity also suggested that individuals who were terminated within two years of the approval date of the proposed rule and who meet the eligibility criteria should retroactively be eligible for FSA designation.

The proposed rule change expressly states that a member other than the member that initially designated an individual as an FSA-eligible person may request a waiver for the individual. This is also reflected in the conditions set forth under proposed FINRA Rule 1210.09. For instance, one of the conditions under the proposed rule is that the individual

continuously worked for the financial services industry affiliate(s) of "a member" since the individual's last Form U5 filing. FINRA believes that applying the FSA waiver program on a retroactive basis would add unnecessary complexity. With respect to individuals who previously transferred to a financial services industry affiliate of a member and seek to reassociate with a member, the current waiver process allows firms to request a waiver for such individuals, which FINRA evaluates on a case-by-case basis.

Nationwide asked whether FSA individuals are subject to FINRA's requirements post termination. Nationwide further stated that the proposed rule should require FSA individuals to attend annual compliance meetings and complete the Firm Element of CE. Nationwide suggested that instead of requiring FSA individuals to terminate their registrations, the proposed rule should allow their designation to be changed to "not registered" so that FINRA and members can track them through the Central Registration Depository ("CRD®") system. Nationwide also suggested that information regarding FSA individuals with a "not registered" designation could be provided to the public via BrokerCheck. Nationwide added that such individuals should not be required to update their Form U4s or comply with any other FINRA requirements or rules until they are registered again.

As discussed in the proposed rule change, FINRA had originally proposed to adopt a Retained Associate ("RA") status in the CRD system for individuals who would be working for a financial services industry affiliate of a member, and who would not be working in any capacity for the member. Under the original proposal, RAs would be able to obtain and maintain any registration permitted by the member, subject to specific requirements. Further, the original proposal created an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations, including the proposed RA status. However, commenters were concerned with the complexity and operational and cost burden of the RA proposal. FINRA also engaged in discussions with SEC staff regarding the potential regulatory impact of the RA proposal. Consequently, FINRA revised the original proposal. Specifically, rather than allowing individuals to obtain and maintain their registrations based on an RA status, the revised proposal would grant a waiver of the requalification requirements to individuals working for a financial services industry affiliate of a member. To be eligible for an FSA waiver, an individual must terminate his or her registration via a Form U5 (Uniform Termination Notice for Securities Industry Registration) filing. Further, the individual cannot concurrently be registered with a member and be working for a financial services industry affiliate of a member.

In response to Nationwide's comment, FSA individuals would not be subject to FINRA's jurisdiction based on their activities for a member's financial services industry affiliate.[8] However, they would be required, among other things, to complete the Regulatory Element of CE if they wish to obtain a waiver upon their return to the securities industry.

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[8] As is the case with all former associated persons, FINRA retains jurisdiction for up to two years over a person who ceases to be associated or registered with a member, including with respect to conduct that commenced prior to the person's termination of registration. See FINRA By-Laws, Article V, Section 4 (Retention of Jurisdiction).

FINRA does not believe that it is necessary to require FSA individuals to attend annual compliance meetings and complete the Firm Element of CE, which are requirements applicable to registered persons with day-to-day responsibilities at a member. In addition, FINRA believes that creating a category in the CRD system and BrokerCheck for individuals who are "not registered" but whose registration is not technically terminated will, similar to the RA proposal, result in unnecessary complexity and confusion.

CAI stated that the FSA waiver process is overly complex and difficult to track and asked that FINRA clarify the FSA designation requirement. CAI also noted that complying with the waiver conditions may require substantial efforts by firms and requested that FINRA track FSA individuals, rather than firms. Nationwide noted that firms must develop a process for tracking and monitoring FSA individuals, which will be a burden.

The FSA waiver program allows registered individuals in good standing who transfer to a member's financial services industry affiliate to return to the securities industry within seven years without re-taking their qualification examinations, provided they complete the Regulatory Element of CE and have no disclosable pending or adverse events. FINRA believes that the FSA waiver program is much less burdensome than the RA proposal. FINRA also believes that the conditions are not difficult to satisfy, especially when compared to the alternative RA proposal. FINRA provided several examples in the proposed rule change to illustrate the application of the FSA waiver program. FINRA will also work with the industry to provide guidance, if necessary. Moreover, the current waiver process would still be available to individuals who do not qualify for the FSA waiver program.

With respect to the FSA designation requirement, if a registered person is transferring to a financial services industry affiliate of a member, the member with which the individual is associated must designate the individual as an FSA-eligible person by notifying FINRA and concurrently filing a Form U5. FINRA is considering using the CRD system for the notification process. However, FINRA would not track an FSA–eligible individual's time at a financial services industry affiliate(s) of a member. Rather, upon registering the individual with FINRA, the firm with which the individual is associating at that time would submit an examination waiver request to FINRA and would represent, among other things, that the individual continuously worked for the financial services industry affiliate(s) of a member since the last Form U5 filing. FINRA does not believe that this is an unreasonable condition. In addition, FINRA may independently verify the information. If an individual returns to a financial services industry affiliate, the designation process is repeated. FINRA will be able to track whether an individual completed the Regulatory Element of CE while working for a financial services industry affiliate of a member.

ARM asked that FINRA revise the condition relating to pending or adverse regulatory matters reportable on the Form U4 to remove the reference to pending regulatory matters. FINRA believes that pending regulatory matters have a bearing on whether an individual has remained in good standing while working for a financial services industry affiliate of a member.

ARM suggested that FINRA change the acronym "FSA" to avoid confusion with the former United Kingdom regulator, the Financial Services Authority. Similarly, SIFMA suggested that FINRA change the acronym "FSA" to "FSIA." FINRA used the acronym "FSA" in the Form 19b-4 for ease of reference. The acronym is not used in proposed FINRA Rule 1210.09. Further, to avoid confusion with the former United Kingdom regulator, FINRA will use a different acronym in the future.

Wells Fargo requested that FINRA review the administration of the FSA program following its implementation to enhance its efficiency and that FINRA engage in further discussions with industry to address necessary changes to track and monitor FSA individuals. ARM asked that FINRA provide additional guidance and guidelines as firms implement the waiver program. SIFMA also requested that FINRA engage in an ongoing dialogue with the industry to enhance the effectiveness and efficiency of the FSA waiver program. FINRA is committed to engaging in an ongoing dialogue with industry participants to ensure that the waiver program is effective and efficient and, as needed, will provide guidance to firms.

Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4))

Proposed FINRA Rule 1220(a)(4) requires members to designate a Principal Financial Officer and a Principal Operations Officer. In addition, the proposed rule requires that individuals designated as Principal Financial Officers and Principal Operations Officers qualify and register as Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals, as applicable.[9] Further, as stated in the proposed rule change, Principal Financial Officers and Principal Operations Officers would also be subject to the Operations Professional registration requirement. Individuals registering as Operations Professionals must pass the Operations Professional examination, unless they hold an eligible registration as specified under current FINRA Rule 1230(b)(6). The Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal registrations are eligible registrations under FINRA Rule 1230(b)(6).

Wells Fargo asked that FINRA clarify the registration requirements for Principal Financial Officers and Principal Operations Officers, including whether they are subject to the Operations Professional registration requirement. SIFMA requested that FINRA clarify whether Principal Financial Officers and Principal Operations Officers who have a Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal registration are exempt from having to pass the Operations Professional (Series 99) qualification examination.

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[9] The determination of whether an individual is eligible to register as an Introducing Broker-Dealer Financial and Operations Principals depends on the minimum net capital requirements of the firm with which the individual is registering.

Principal Financial Officers and Principal Operations Officers must be registered in the CRD system as Operations Professionals because their activities and responsibilities intersect with those of "covered persons" as specified in FINRA Rule 1230(b)(6). However, Principal Financial Officers and Principal Operations Officers would not be required to pass the Series 99 examination in order to register as Operations Professionals, if they already hold a qualifying registration. Because Principal Financial Officers and Principal Operations Officers would already be registered as Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals, they would be eligible to register as Operations Professionals as these registrations qualify for the Operations Professional registration.

Implementation Date

Subject to Commission approval and the timing of such approval, FINRA originally intended to implement the proposal in March 2018. Several commenters expressed concerns with the proposed implementation date.

CAI and Wells Fargo requested that firms be provided at least 18 months to prepare for the proposed rules. Fidelity requested that FINRA work with the industry to determine a reasoned plan for implementation, such as a staggered implementation approach. FSI stated that FINRA should consider working with firms on the implementation date and the operational concerns. Nationwide asked for sufficient time to implement the necessary process and address operational issues. ARM suggested a November 2018 implementation date. SIFMA stated that an implementation date of no earlier than Fall 2018 is more appropriate and that FINRA should provide firms at least 12 months to prepare.

In light of the comments, FINRA intends to move the implementation date to the fourth quarter of 2018. Subject to Commission approval, FINRA will announce the implementation date of the proposed rules in a Regulatory Notice.

Other Comments

CFA recommended that FINRA consider recognizing the CFA program and the CFA charter as an alternative means of qualifying individuals for each FINRA representative-level registration category.[10] Specifically, CFA suggested that FINRA could combine an appropriate level of the CFA program with a module on laws, rules and regulations developed and administered by FINRA.

As stated in the proposed rule change, Section 15A(g)(3) of the Securities Exchange Act of 1934 authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members. FINRA continues to believe that its current process for developing examinations, which includes input from committees of industry and

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[10] CFA L.A., CFA D.C., CFA Texas, ASFIP, CFA S.F., CFA Chicago, NYSSA and CFA Boston supported CFA's comment.

self-regulatory organization ("SRO") subject matter experts, is an effective means of developing the content of FINRA examinations and consistent with FINRA's regulatory authority. FINRA recognizes that the CFA program offers a comprehensive assessment of knowledge of financial analysis and agrees with CFA that their assessment program alone would not be sufficient to credential individuals for FINRA registrations. FINRA will consider undertaking an analysis that would evaluate the proposed CFA approach to determine if it is feasible and would be cost effective for the industry.

CAI stated that the proposed rules would have benefitted from another round of comments. Further, CAI noted that there may be future changes to the registration rules, such as restructuring of the principal-level examinations and the use of CE to extend the two-year expiration period for registrations. According to CAI, it would have been beneficial to delay the proposed rule change to consider potential future changes to the registration rules. Nationwide requested that FINRA provide more time to respond to any future proposals regarding the registration rules.

FINRA published the proposal relating to the consolidated registration rules for comment in Regulatory Notice 09-70.[11] Since that time, FINRA has continuously engaged in discussions regarding the proposal with the FINRA Board and various FINRA committees. FINRA has also engaged in extensive discussions with other stakeholders, including industry participants, other SROs and SEC staff, including with respect to the FSA waiver program. Further, the provisions relating to the consolidated registration rules in the proposed rule change are substantially similar to the proposal in Regulatory Notice 09-70, on which CAI and other commenters provided feedback. The most significant change between the proposed rule change and the proposal in Regulatory Notice 09-70 is the replacement of the RA proposal with the FSA waiver program. As discussed in the proposed rule change, FINRA believes that the FSA waiver program would significantly reduce the operational, administrative and cost burden on firms and associated persons. Moreover, FINRA designed the FSA waiver program to specifically address the burdens identified by commenters and the concerns raised by SEC staff regarding the RA proposal. FINRA believes that the value of the proposed changes warrants moving forward with the proposal now, in light of the extensive commentary previously sought and received on the registration rules. In addition, as noted above, FINRA will continue to engage in dialogue with industry participants to ensure the effectiveness and efficiency of the FSA waiver program and to provide any necessary guidance.

As part of its function as an SRO, FINRA is continuously evaluating whether to amend or delete existing rules or to adopt new rules. FINRA also regularly files proposed rule changes with the SEC following discussions with internal and external stakeholders.

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[11] FINRA published the proposal regarding the restructuring of the representative-level examination for comment in Regulatory Notice 15-20, after extensive discussions with both internal and external stakeholders.

CAI stated that while the availability of the SIE to the general public is a positive development, the implementation and management of the proposed new rules and categories for registration, and tracking and monitoring the examination status of associated persons, are not necessarily improvements over the current examination structure. CAI added that the time and effort spent on this initiative, by FINRA and eventually firms in preparing for compliance, may be better spent on other projects.

FINRA believes that undertaking the proposed restructuring will significantly improve the representative-level examination program and is worth the time and effort. For instance, currently, individuals who wish to function in multiple representative categories (e.g., General Securities Representative (Series 7) and Securities Trader (Series 57) or General Securities Representative (Series 7) and Investment Banking Representative (Series 79)) and individuals functioning in a limited representative category (e.g., Investment Company and Variable Contracts Products Representative (Series 6)) who wish to function in a more general representative category (e.g., General Securities Representative (Series 7)) are tested on the same general securities knowledge each time they take a representative-level examination. FINRA does not believe that the current approach is efficient or practical. In addition, as CAI acknowledged, the new examination structure would permit the general public to take the SIE, which will enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to a job application. Individuals can also use the SIE to assess their readiness to enter the securities industry. The proposed changes will result in a more effective and efficient examination program and reduce duplication. Finally, to facilitate the implementation and management of the new examination structure with minimum disruption, FINRA is enhancing the CRD system and developing a management system to track SIE enrollments and results.

CAI also requested additional time so that FINRA can provide cost estimates and that CAI may consider the feasibility of the proposed rules in totality. For example, CAI noted that it is unable to provide thoughtful comment regarding the availability of the SIE to the general public without understanding the costs associated with the SIE. FINRA provided a detailed economic impact assessment in the proposed rule change, including with respect to the introduction of the SIE and the restructuring of the representative-level examinations. Further, consistent with current practice,[12] FINRA will file a separate proposed rule change to establish the fees for the SIE and the specialized knowledge examinations, which will include a pricing analysis. FSI stated that the SIE fees should not be cost prohibitive. FINRA does not anticipate that the SIE will be cost prohibitive for the general public.

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12 See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories); Securities Exchange Act Release No. 76391 (November 9, 2015), 80 FR 70862 (November 16, 2015) (Proposed Rule Change to Establish an Examination Fee for the Securities Trader Qualification Examination (Series 57)).

Fidelity asked that FINRA work with other regulators to harmonize their respective registration rules. FINRA has discussed aspects of the proposal, such as the introduction of the SIE and the specialized knowledge examinations, with other SROs, including the MSRB. FINRA will continue these discussions.

FSI stated that the SIE content should not include specific details of complex rules, such as those governing net capital, margin, hypothecation of customer securities and order and quotation display. While the rules identified by FSI, such as those pertaining to margin and hypothecation, would be included in the SIE content, they would be tested at a high level.

FSI also requested that FINRA consider updating the CRD system and BrokerCheck to ensure that those who pass the SIE do not mislead investors. BrokerCheck provides information to the public on persons who are, or were, registered to conduct investment banking or securities business. Individuals who only pass the SIE would not be registered to engage in such business. Further, some of these individuals may have never associated with a broker-dealer. Thus, FINRA believes that including such individuals on BrokerCheck may cause confusion.

ARM asked if FINRA would provide SIE scores and noted that scores are more helpful for firms and candidates than a passing or failing result. FINRA recognizes that candidates who fail may use performance feedback to understand the degree to which they fell below the passing standard as well as to focus future preparation on identified weaknesses. Similarly, firms may use such feedback to estimate when and if a candidate will be ready to retest and to identify resources that may help them improve their performance. FINRA is exploring options for providing appropriate performance feedback to failing candidates and their firms. FINRA does not see a need, at this time, to provide such feedback for candidates who pass.

ARM requested that FINRA include content on options and municipal securities to the General Securities Principal (Series 24) examination content outline. ARM also requested that FINRA discuss with the NYSE the possibility of the NYSE recognizing the Series 24 examination in lieu of the Compliance Official (Series 14) examination. FINRA will address the content of the Series 24 examination and the status of the Series 14 examination as part of evaluating the principal-level examinations, which is ongoing.

ARM stated that the United Kingdom Securities Representative and Canada Securities Representative registrations should continue to function as eligible prerequisites for principal-level registrations. Currently, for purposes of principal-level registration, the United Kingdom Securities Representative and Canada Securities Representative registration categories are considered equivalent to the General Securities Representative prerequisite registration, provided the representative does not engage in municipal securities activities. While FINRA is proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories, individuals maintaining these

registration would be grandfathered and their registrations would continue to be viewed as equivalent to the General Securities Representative prerequisite registration.

Finally, ARM noted that the adoption of new registration categories will further complicate the registration process and the registration table in the Form U4. ARM added that several of the registration categories require the same principal qualification examination, the Series 24 examination, in conjunction with a unique representative-level qualification examination. ARM stated that it does see the value in adopting new registration categories and that each qualification examination should only have one associated registration category.

The proposed new registration categories, the Investment Banking Principal and Private Securities Offerings Principal categories, are intended to facilitate the registration of principals who perform limited supervisory activities. These categories are consistent with the current limited principal registration categories, such as the Securities Trader Principal and Direct Participation Programs Principal categories, and enable FINRA, firms and others to more readily identify the limited activities a principal is permitted to supervise. FINRA also believes that ARM's concerns regarding the complexities of the Form U4 registration table is more appropriately addressed through changes to the CRD system's Form U4 interface, rather than through the proposed rule change. In addition, FINRA does not believe that it is an efficient use of time and resources to develop a qualification examination for each registration category. The development of a FINRA qualification examination is time and resource intensive for both firms and FINRA. Therefore, rather than develop a new examination for each registration category, FINRA leverages its existing examinations whenever possible.

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FINRA believes that the foregoing responds to the material issues raised by the commenters to the rule filing. If you have any questions, please contact me at (202) 728-8902, email: afshin.atabaki@finra.org. The fax number of the Office of General Counsel is (202) 728-8264.

Best regards,

/s/ Afshin Atabaki

Afshin Atabaki
Associate General Counsel