



July 28, 2010

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

Re: Regulatory Notice 10-25 – Registration and Qualification Requirements for Certain Operations Personnel

Dear Ms. Asquith:

Nationwide Financial Services, Inc. (the “Company”)¹ appreciates the opportunity to submit its comments concerning the proposed Financial Industry Regulatory Authority (“FINRA”) rules that are addressed in Regulatory Notice 10-25 (the “Notice”). Specifically, FINRA is proposing to establish a registration category, qualification examination and continuing education requirements for certain operations personnel of member firms.

The Company appreciates and supports FINRA’s efforts to establish appropriate registration requirements for associated persons of member firms. However, we have concerns about the usefulness of Proposed Rule 1230(b)(6) (the “Proposed Rule”) and, to the extent the Proposed Rule is submitted to the Securities and Exchange Commission for adoption, recommend certain modifications and clarifications, which are more particularly described below.

Proposal

In the Notice, FINRA expressed its belief that licensing and education requirements for certain operations personnel are needed to help ensure that investor protection mechanisms are in place in all areas of a member firm’s business that could harm a customer, a firm, the integrity of the marketplace or the public.

Comment. The Company questions whether the Proposed Rule is necessary, given the securities registrations and supervision that are already mandated by FINRA’s membership rules. In that regard, we question whether any incremental benefits can be realized by causing the operations personnel identified in the Proposed Rule to become registered. We submit that existing registered personnel, including the Financial and Operations Principal, are already in a position to address the investor protection

¹ The Company is submitting this comment letter on behalf of its broker-dealer affiliates, each of which is a FINRA member firm.

objectives stated in the Notice. However, if the FINRA staff continues to believe that its investor protection concerns are not adequately addressed with existing supervisory personnel within member firms, consideration should be given to (i) assigning each of the covered functions addressed in the Notice to currently existing supervisory principals and (ii) requiring that such assignments be reflected in each firm's written supervisory procedures. In the event the FINRA staff moves forward with this rule proposal, the Company offers the following additional comments.

Paragraphs (b)(6)(A) and (b)(6)(B) of the Proposed Rule

Paragraph (b)(6)(A) of the Proposed Rule provides that each of the following persons shall be required to register with FINRA as an Operations Professional:

- (i) Senior management with responsibility over the covered functions in paragraph (b)(6)(B) of the Proposed Rule;
- (ii) Supervisors, managers or other persons responsible for approving or authorizing work in direct furtherance of the covered functions in paragraph (b)(6)(B), including work of other persons in the covered functions in paragraph (b)(6)(B); and
- (iii) Persons with the authority or discretion to commit the member's capital in direct furtherance of the covered functions in paragraph (b)(6)(B) or to commit the member to any contract or agreement (written or oral) in direct furtherance of those covered functions.

The Notice indicates that the requirements would not apply to persons who perform a covered function, but whose responsibilities are below these three specified levels, or persons who perform a function ancillary to a covered function or whose function is to serve a role that can be viewed as support of, or advisory to, the performance of a covered function, such as internal audit, legal or compliance personnel. The Notice also indicates that the requirements would not apply to persons who are engaged solely in clerical or ministerial activities in any of the covered functions.

The Notice also indicates that those persons subject to the new Operations Professional registration category would be considered associated persons of a firm irrespective of their employing entity and would be subject to all FINRA rules applicable to associated persons and/or registered persons.

Paragraph (b)(6)(B) of the Proposed Rule describes fifteen (15) categories of covered functions.

Comment. For purposes of applying the Proposed Rule to the Company's affiliated broker-dealers, we have concerns about unintended consequences that could arise as a result of an unduly broad interpretation by FINRA personnel (including examiners) of the three categories of individuals described in paragraph (b)(6)(A). In that regard, please consider the following:

- The broker-dealer affiliates are part of a large insurance and financial services organization that includes several business units and legal entities, including but not limited to life insurance companies, property and casualty insurance companies, a bank, a trust company, broker-dealers, investment advisers and a retirement plan administrator (hereinafter referred to as “Nationwide”).
- Nationwide, of which the Company and its subsidiaries are a part, utilizes a centralized structure for certain operations and information technology (“IT”) functions pursuant to which (i) certain individuals perform operations or IT functions for multiple business units within the organization, including one or more broker-dealers, and (ii) certain individuals perform outsourced operations functions for the broker-dealers pursuant to a service agreement.
- A limited number of the supervisors of such operations and IT personnel are registered with or associated with a broker-dealer affiliate.
- Other supervisors and managers of such operations and IT personnel are far-removed from broker-dealer operations, are not registered with a broker-dealer affiliate and should not be viewed as associated persons of the broker-dealer affiliates.

With the foregoing in mind, the Company submits that it is critically important for the Proposed Rule to clearly reflect that the “senior management,” “supervisors,” “managers” and other persons referenced in paragraph (b)(6)(A) of the Proposed Rule are limited to those persons who have been empowered by a broker-dealer to oversee covered functions of that broker-dealer and would not include (i) individuals who perform operations functions for affiliated entities (e.g., life insurance company affiliates), (ii) individuals who perform outsourced operations functions for a service provider (whether affiliated or unaffiliated with a broker-dealer) retained by a broker-dealer, or (iii) supervisors within a large, diversified financial services organization who are far-removed from an affiliated broker-dealer’s securities business and are not responsible for overseeing covered functions of that broker-dealer.

For example, at Nationwide, the IT unit utilizes a centralized model to support the common or shared technology services for Nationwide’s property casualty insurance, life insurance, banking, trust services, and broker dealer affiliates. These shared technology services include information risk management, architectural standards, global corporate services and document/printing services. Such personnel typically are not dedicated solely to a broker dealer. These technology services include specialized IT services that are provided to broker-dealers. We respectfully submit that clarification should be provided which indicates that (i) only those individuals who have direct responsibility and authority to impact the broker-dealer covered functions shall be deemed to be associated persons of that broker-dealer, and (ii) only those individuals shall be subject to the proposed registration requirements. Accordingly, the proposed registration requirements should not apply to the supervisors and managers of those individuals or the persons within the organization that report to those individuals.

All of the diversified financial services affiliates benefit from the shared operations and IT expertise and technology investments provided by a shared services business model.

Imposition of the additional registration requirements on the managers and supervisors of the individuals directly responsible for broker-dealer covered functions would limit the flow of talent among the various IT departments and restrict the design of flexible organizational structures to serve the multiple needs of the organization.

Paragraph (b)(6)(D) of the Proposed Rule

Paragraph (b)(6)(D) of the Proposed Rule provides an exception (“Exception”) to the qualification examination requirement that would generally apply to Operations Professionals. Pursuant to this Exception, persons who currently hold certain registrations (each, an “Eligible Registration”) would need to request an Operations Professional registration via Form U4 but would not be required to pass the qualification examination for that registration category. In addition, persons who previously held an Eligible Registration could rely upon this Exception, provided that it was held within the two (2) years immediately prior to registering as an Operations Principal. Paragraph (b)(6)(D) further provides that the Exception cannot be relied upon if a previously held Eligible Registration was terminated or revoked pursuant to FINRA Rule 8310.

Comment. Consideration should be given to extending the two-year period referenced in paragraph (b)(6)(D) of the Proposed Rule. A number of individuals, including operations personnel, employed by large financial services organizations have found it necessary to terminate their registrations with broker-dealer affiliates when their job responsibilities changed. By extending the period during which Eligible Registrations were held, FINRA would enable more operations personnel to rely upon the Exception. This would allow for an easier transition for many firms that will need to register significant numbers of Operations Professionals.

Paragraph (b)(6)(E) of the Proposed Rule

Paragraph (b)(6)(E) of the Proposed Rule addresses proposed implementation dates for (i) persons acting as Operations Professionals as of the effective date of the new registration requirement and (ii) persons who begin work as Operations Professionals following the effective date of the new registration requirement. With respect to the former group, a six-to nine-month transition period is proposed. For the latter group, there would be no transition period. FINRA has indicated in the Notice that a six-to nine-month transition period will provide firms with an opportunity to identify persons who would be subject to the Operations Professional requirements, and provide such covered persons an opportunity to register as an Operations Professional.

Comment. The Company agrees that an ample transition period is necessary and appropriate. Our recommendation would be that the transition period be at least nine months. For the Company, certain individuals who would need to become registered have very limited familiarity with the securities industry and with broker-dealer operations. A longer transition period would enable them to better prepare for and obtain the required registration.

The Company also recommends that, for persons who begin work as Operations Professionals after the effective date of the registration requirement, a grace period should be permitted to allow firms like Nationwide to have greater flexibility to hire and redeploy personnel within the centralized service model described above. We believe that this would greatly enhance our ability to hire and retain quality employees.

We appreciate the opportunity to provide our comments. Please let us know if we can provide any further assistance. If you have any question, please contact me at (614) 249-3184.

Very truly yours,

Robert L. Tuch
AVP, Associate General Counsel
Nationwide Office of General Counsel