



**National Association of Insurance and Financial Advisors**

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July 2, 2015

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

**VIA E-MAIL ([pubcom@finra.org](mailto:pubcom@finra.org))**

**Re: Proposed Rule Concerning Recruitment Practices (Regulatory Notice 15-19)**

Dear Ms. Asquith:

The National Association of Insurance and Financial Advisors (NAIFA) appreciates the opportunity to provide you with comments with respect to the Financial Industry Regulatory Authority (FINRA) proposed rule to require a member firm that hires a registered representative to provide an educational communication to persons who are customers of the representative's previous firm and whom the representative's new firm is seeking to have transfer investment assets to the new firm, as discussed in Regulatory Notice 15-19 (the Proposed Rule).

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.

NAIFA commends FINRA for reconsidering its approach to this issue and for carefully evaluating the feedback provided in the numerous comment letters FINRA and the SEC received from interested parties on the rule proposed in Regulatory Notice 13-02. The proposal contained in Regulatory Notice 15-19, requiring that an educational communication be sent to investors who are considering moving their accounts to a representative's new firm, is a less disruptive alternative to the original proposal contained in Regulatory Notice 13-02, which would have required that specific disclosures of dollar-ranges of incentive compensation, among other information, be provided to clients who were being solicited to follow their representative to the new firm.

The educational communication required by the Proposed Rule suggests questions for clients to ask the representative on matters such as any financial incentives the representative received to join the new firm and any costs the customer may incur to transfer his accounts. This approach will effectively serve the purpose of informing consumers of the possible implications of following their representative to a new firm without raising as many privacy and implementation concerns or being as disruptive to the investor/advisor relationship as was the previous proposal's focus on only one aspect of that relationship--the incentive compensation received by a registered representative from the new broker-dealer when the representative changes firms. The Proposed Rule will enable investors to have a "back and forth" conversation with their advisor about issues such as fees received and any problems that may arise with transferring assets to a new firm, which will give consumers the information they need to make an informed choice about whether to move their account to the new firm.

While NAIFA believes the Proposed Rule creates a better balance than the previous proposal between providing investors with useful information and possibly causing investors to perceive conflicts of interest where none exist, we do have the following comments regarding the Proposed Rule:

1. No additional information or additional suggested questions should be included in the educational communication; in fact, FINRA should consider streamlining and

reducing the length and contents of this document wherever possible. (In its current form, it is likely that once font size, formatting, logos, etc. are added the educational communication will be three pages long). More disclosure/information is not necessarily better disclosure—there is a better likelihood that consumers will read and act upon the information in the document when it is brief and to the point.

2. Requiring the customer to affirm, in writing or some other form capable of being preserved, his or her receipt of the educational communication would help to resolve possible disputes down the road about firm/representative compliance with the Proposed Rule. However, since the firm and representative, in most situations, have no control over whether the customer will provide such affirmation of receipt, any requirement to this effect should not impose unreasonable duties, requirements or expectations on the representative or firm. In addition, if language regarding customer affirmation is included in the Proposed Rule it should expressly state that the failure to obtain an affirmation of receipt does not in any way create an implication that the educational communication was not provided.
3. Although, as noted above, NAIFA believes the Proposed Rule is a better way to address FINRA's concerns than the original FINRA proposal, we are still concerned that the educational communication's discussion of compensation and conflicts of interest will cause investors to inordinately focus their attention on compensation issues rather than on more relevant matters such as the net costs to the investor of working with one broker-dealer versus another, the relative advantages of one firm over another with respect to the platform, products and services offered, the performance of the investor's portfolio in relation to the investor's risk profile, and the investor's overall satisfaction with his or her registered representative.

There are many valid reasons why a registered representative may choose to move from one firm to another. The fact that certain incentives were received by the registered representative in connection with such a move should not, in and of themselves, call into question the motivation behind such a move or serve as an indication that any such move was made for any reason other than the best interests of the representative's clients.

4. The scope of the Proposed Rule should not be expanded to apply beyond former retail customers of the representative who changes firms. Given the stated purpose of the Proposed Rule—to address FINRA's concerns "that retail customers may not be aware of important factors to consider in making an informed decision whether to transfer assets to their transferring registered representative's new firm"—and the language used in the Proposed Rule and the Educational Communication, broadening the applicability of the Proposed Rule as suggested in FINRA's Question 3 would be irrelevant and of no benefit to other customers and may in fact lead to increased investor confusion.

Thank you for your consideration of NAIFA's comments on the proposed rule. Please contact the undersigned if you have any questions.

Sincerely,



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Counsel and Vice President, Government Relations

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