

MEMO# 28429

October 2, 2014

FINRA Proposal Relating to Customer Account Statements; Comments Requested by Friday, October 10

[28429]

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TO: PRINCIPAL UNDERWRITERS WORKING GROUP
BROKER/DEALER ADVISORY COMMITTEE No. 47-14
TRANSFER AGENT ADVISORY COMMITTEE No. 64-14 RE: FINRA PROPOSAL RELATING TO
CUSTOMER ACCOUNT STATEMENTS; COMMENTS REQUESTED BY FRIDAY, OCTOBER 10

As you may recall, in May 2009, FINRA proposed a new rule, Rule 2231, relating to customer account statements, as part of its ongoing rule consolidation process. As proposed, the rule would have required members of FINRA to send customer account statements to customers monthly instead of quarterly. Supplementary Material proposed in connection with the rule, in part, would have prohibited a member from sending customer account statement or other communications to a third-party unless the customer has provided written instructions to the member to send such statements or communications. Based on comments raised by the ICI and others, FINRA revised the proposal to delete the monthly delivery requirement but elected to retain the requirement in the Supplementary Material noting that members must be able to document and record customer consent regarding account documents. Subsequent to the revised proposal being published by the SEC for comment, FINRA decided to withdraw the proposal for additional consideration.

FINRA has now published a revised version of the proposal for comment. [*] The current version is briefly described below. Comments on the proposal are due to FINRA no later than Friday October 31st. If you have comments you would like the ICI to consider including in a comment letter regarding how the proposal might impact mutual fund underwriters, please provide them to the undersigned by email (tamara@ici.org) no later than Friday, October 3rd.

Summary of FINRA's Current Proposal

FINRA's current proposal would transfer the requirements of NASD Rule 2340 and NYSE Rule 409, both relating to customer account statements, to a new FINRA Rule 2231, which is substantively identical to the current NASD rule. As discussed above, based on

comments received on the previous proposal, the revised rule maintains the quarterly delivery requirement in the current rule.

Included with the current rule proposal are eight sections of Supplementary Material, most of which would not appear to apply to mutual fund underwriters. Indeed, of these eight, all but two, Supplementary Material .01 and .04, were included in the previous version of the proposal and were not commented on by the ICI. The eight sections of Supplementary Material in the current rule proposal are as follows:

Supplementary Material .01 relates to members' carrying agreements and the responsibilities under such agreements for safeguarding customer funds and securities.

Supplementary Material .02 would prohibit a member from addressing or sending account statements or other communications relating to a customer's account to other persons or entities, or in care of a person holding power of attorney over the customer's account, unless: (1) the customer has provided written instructions to the member to send such statements or other communications to such other person; and (2) the member sends duplicates of such statements or other communications directly to the customer either in paper form or electronically.

Supplementary Material .03 would permit members to satisfy the rule's delivery obligations by using electronic media subject to compliance with SEC standards governing the use of electronic media.

Supplementary Material .04 relates to a member holding customer mail.

Supplementary Material .05 would govern information required to be clearly and prominently disclosed on an account statement. This information would consist of: (1) the identity of the introducing and clearing firm (if different) and their respective contact information; (2) that the clearing firm is a member of SIPC; and (3) the opening and closing balances for the account.

Supplementary Material .06 would govern the treatment on an account statement of customer assets held away from the member.

Supplementary Material .07 would govern the use of logos, trademarks, etc. on customer account statements.

Supplementary Material .08 would govern the use of summary account statements in instances where the FINRA member holds a customer's account and another person that separately offers financial related products or services to the customer "seek to jointly formulate or distribute their respective customer account statements together with a statement summarizing or combining assets held in different accounts." This Supplementary Material would impose specific disclosure and content requirements on such summary statements and require a written agreement between the clearing firm and the other persons who would include customer account information on the summary statement.

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endnotes

[*] See Customer Account Statements, FINRA Notice 14-35 (September 2014), which is available at: <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p600772.pdf>. The text of the proposed rule and its Supplementary Material are available at: <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/industry/p600766.pdf>.

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