

MEMO# 28051

April 21, 2014

FINRA Request Input on the Non-Cash Compensation Provisions of Rule 2830 as Part of its Retrospective Rule Review; Call Scheduled for Monday, April 28th at 2:30 P.M. Eastern to Discuss

[28051]

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TO: BROKER/DEALER ADVISORY COMMITTEE No. 20-14
PRINCIPAL UNDERWRITERS WORKING GROUP RE: FINRA REQUESTS INPUT ON THE NON-CASH COMPENSATION PROVISIONS OF RULE 2830 AS PART OF ITS RETROSPECTIVE RULE REVIEW; CALL SCHEDULED FOR MONDAY, APRIL 28TH AT 2:30 P.M. EASTERN TO DISCUSS

As you may know, FINRA is engaged in an ongoing retrospective review of its rules or rule sets to determine whether they are meeting their intended investor-protection objectives by reasonably efficient means. FINRA has identified several factors that it will use to prioritize the rules that it plans to review as part of this process. [\[1\]](#) One rule set that FINRA has prioritized involves the rules governing gifts, gratuities, and non-cash compensation. This review will include FINRA Rule 2830(l)(5), relating to non-cash compensation paid in connection with the sale and distribution of investment company securities. FINRA has published a Notice seeking comment on this rule. The Notice is briefly summarized below. [\[2\]](#)

Comments on the Notice are due to FINRA no later than Friday, May 23rd. To determine whether there are any issues associated with this rule, which we want to address in a comment letter, the ICI will hold a call on Monday, April 28th from 2:30-3:30 p.m. [Eastern]. If you are unable to participate on the call but have views on the Notice that you would like the ICI to consider including in our letter, please provide them to the undersigned prior to the call. If you plan to participate in the call, you will need to contact Jennifer Odom by email (jodom@ici.org) no later than close of business this Thursday, April 24th to obtain the call-in information.

Summary of the Notice

According to the Notice, the review process will consist of two phases – findings and action.

During the finding phase, FINRA will solicit input necessary to assess the efficacy and efficiency of the rule as currently implemented. Issues of interest to FINRA during this phase include:

- The existence of duplicative, inconsistent, or ineffective regulatory obligations;
- Whether market or other conditions have changed to suggest there are ways to improve the efficiency or effectiveness of a regulatory obligation without loss of investor protections; and
- Potential gaps in the regulatory framework.

Based on the input received, FINRA staff will report its findings to FINRA's Board of Governors and recommend that the rule be maintained as is, modified, or deleted. If necessary based on the recommendation, the action phase will consist of the staff proposing revisions to or a deletion of the rule.

Member Input Requested

To assist it in its assessment, FINRA seeks input on the following issues:

1. Has the rule effectively addressed the problem it was intended to mitigate?
2. What have been members' experiences with implementation of the rule, including any ambiguities or compliance challenges?
3. What costs and benefits are associated with the rule? Have they been in line with expectations from when the rule was adopted?
4. Can FINRA make the rule more efficient or effective?

The Institute's call is being held to obtain members' input on these four issues. Accordingly, in advance of the call, please consider how you would recommend that the Institute's letter respond to these questions.

Tamara K. Salmon
Senior Associate Counsel

endnotes

[1] See Retrospective Rule Review, FINRA Requests Comment on the Effectiveness and Efficiency of its Gifts and Gratuities and Non-Cash Compensation Rules, FINRA Notice 14-15 (April 2014)(the "Notice"), which is available at: <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p479811.pdf>.

[2] Ibid.