

**MEMO# 30977**

December 13, 2017

## **FINRA's Request for Comment on its Payments for Market Making Rule (Rule 5250); Member Call Wednesday, December 20**

[30977]

December 13, 2017 TO: Equity Markets Advisory Committee  
ETF (Exchange-Traded Funds) Committee  
ETF Advisory Committee RE: FINRA's Request for Comment on its Payments for Market Making Rule (Rule 5250); Member Call Wednesday, December 20

FINRA is conducting a retrospective [review](#) of Rule 5250, the rule governing payments for market making, to assess its effectiveness and efficiency. Comments are due by January 29, 2018.

**We have scheduled a member call for Wednesday, December 20 at 2:00 pm Eastern time to discuss the retrospective review. The dial in instructions for the call are as follows:**

**888-390-3810**

**Passcode: 54958**

With certain exceptions, Rule 5250 explicitly prohibits a member or associated person from accepting payment or other consideration, directly or indirectly, from an issuer or its affiliates and promoters, for publishing a quotation, acting as a market maker, or submitting an application in connection therewith.

The original prohibition on accepting payments for market making was published in a Notice to Members in 1975 and then codified in 1997. According to FINRA, the prohibition is intended to assure that members act in an independent capacity when publishing a quotation or making a market in an issuer's securities. Specifically, FINRA has stated that such payments may be viewed as a conflict of interest because they may influence the member's decision as to whether to quote or make a market in a security and, thereafter, the prices that the member would quote.

As part of its review, FINRA seeks answers to the following questions:

1. Has the rule effectively addressed the problem(s) it was intended to mitigate? To what extent have the original purposes of and need for the rule been affected by subsequent changes to the markets, the delivery of financial services, the applicable regulatory framework or other considerations? Are there alternative ways to achieve the goals of the rule that FINRA should consider?
2. What has been your experience with implementation of the rule, including any ambiguities in the rule or challenges to comply with it?
3. What have been the economic impacts, including costs and benefits, arising from FINRA's rule? Have the economic impacts been in line with expectations described in the rulemaking? To what extent would these economic impacts differ by business attributes, such as size of the firm or differences in business models? Has the rule led to any negative unintended consequences?
4. Can FINRA make the rule, interpretations, or attendant administrative processes more efficient and effective?

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Associate General Counsel

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