

**MEMO# 24147**

February 24, 2010

## **ICI Files Letter With FINRA Supporting Greater Flexibility in Maintaining FINRA Registrations**

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TO: BROKER/DEALER ADVISORY COMMITTEE No. 7-10  
CHIEF COMPLIANCE OFFICER COMMITTEE No. 3-10  
COMPLIANCE ADVISORY COMMITTEE No. 3-10  
SEC RULES COMMITTEE No. 9-10  
TRANSFER AGENT ADVISORY COMMITTEE No. 12-10    RE: ICI FILES LETTER WITH FINRA  
SUPPORTING GREATER FLEXIBILITY IN MAINTAINING FINRA REGISTRATIONS

As we previously informed you, in December, FINRA proposed for comment a consolidated rule proposal that would revise FINRA's registration and qualification requirements for individuals. [\[1\]](#) In part, FINRA's proposal would permit representatives to maintain their registrations in an active or inactive status. While the criteria for obtaining and maintaining either form of registration are the same (e.g., continuing education requirements, annual supervisory reviews, etc.), the registration of a person in an inactive status would not expire after two years and such person's status could be changed to "active" by notifying FINRA of the change. As such, a member would be able to have inactive registrants serving in capacities that do not require an active registration until such time as the member elects to "activate" the inactive registration.

In addition, the consolidated rule would recognize a new qualification status – a "Retained Associate" status. This new status will enable a member to register as a principal or representative any individual who is engaged in the business of a financial services industry affiliate of the member that controls, is controlled by, or is under common control with the FINRA member. For purposes of this provision, "financial services industry" means any

industry regulated by the SEC, CFTC, state securities authority, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authority. Unlike the “inactive” status, the Retained Associate status has a maximum duration of 10 years. It is intended to enable, for example, an individual who is working for a bank in a capacity that does not require FINRA registration to be licensed with FINRA in anticipation of working in a registered capacity sometime within the next ten years with a bank’s affiliate that is a FINRA member. The proposal would impose several conditions upon use of the Retained Associate status, which are discussed in detail in FINRA’s Notice.

In January 2010, the Institute circulated a draft comment letter [\[2\]](#) supporting the flexibility FINRA’s proposal would add to the existing requirements. Our letter noted that this flexibility will enable members to establish effective and efficient redundant staffing plans and, when necessary, to move persons more quickly between registered and unregistered positions and active and inactive status. In response to comments received on the draft letter, the Institute revised the letter to recommend that the provisions relating to the Retained Associate status be revised to accommodate mutual fund underwriters. In particular, our letter recommends that, for call centers of mutual fund underwriters, FINRA not require a Retained Associate to remain in an active status for at least 12 months. Our letter notes that the purpose of FINRA’s proposed requirement (i.e., to avoid customer confusion), would not arise with mutual fund call centers where the caller is handled by the next available representative and does not have an ongoing relationship with one particular account representative.

A copy of the letter we filed with FINRA is attached.

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Senior Associate Counsel

#### [Attachment](#)

#### **endnotes**

[\[1\]](#) See FINRA Regulatory Notice 09-70 (December 2009), which is available on FINRA’s website at:  
<http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p120687.pdf>.

[\[2\]](#) See Institute [Memorandum](#) No. 24097, dated January 25, 2010.