

**MEMO# 28027**

April 10, 2014

# **FINRA Announces Retrospective Review of Rules Related to Communications with the Public**

[28027]

April 10, 2014

TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 6-14

CLOSED-END INVESTMENT COMPANY COMMITTEE No. 13-14

SEC RULES COMMITTEE No. 14-14

SMALL FUNDS COMMITTEE No. 6-14 RE: FINRA ANNOUNCES RETROSPECTIVE REVIEW OF RULES RELATED TO COMMUNICATIONS WITH THE PUBLIC

FINRA has announced that it is conducting a retrospective review of several of its communications with the public rules to assess their effectiveness and efficiency. [\[1\]](#) In the Notice, FINRA outlines the general retrospective rule review process, which will first be undertaken with respect to the public communications rules and will then be undertaken on an ongoing basis with respect to other FINRA rules.

FINRA states that the review process will consist of a “findings” stage and an “action” stage. The former will include solicitations of input from affected parties (e.g., industry members) and experts, along with an assessment by FINRA staff of “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.” FINRA staff will then recommend an action plan, which may (but need not) involve proposals for rule amendments. The typical rulemaking process would remain unchanged.

In the Notice, FINRA is specifically seeking comment on FINRA Rule 2210 (Communications with the Public), FINRA Rule 2212 (Use of Investment Company Rankings in Retail Communications), FINRA Rule 2213 (Requirements for the Use of Bond Mutual Fund Volatility Ratings), FINRA Rule 2214 (Requirements for Use of Investment Analysis Tools), FINRA Rule 2215 (Communications with the Public Regarding Securities Futures), and FINRA Rule 2216 (Communications with the Public Regarding Collateralized Mortgage Obligations) (collectively, the “Rules”).

With respect to the Rules, FINRA is particularly interested in receiving feedback on the

following questions:

1. Have the rules effectively addressed the problem(s) they were intended to mitigate?
2. What have been experiences with implementation of the rule set, including any ambiguities in the rules or challenges to comply with them?
3. What have been the costs and benefits arising from FINRA's rules? Have the costs and benefits been in line with expectations described in the rulemaking?
4. Can FINRA make the rules more efficient and effective, including FINRA's administrative processes?

ICI intends to submit a comment letter, and we will be having a call with members to discuss the Notice and the Rules on Tuesday, April 22, 2014 from 3:00 p.m. to 4:00 p.m. ET. If you are interested in participating in the call, please contact Kiera Robinson at [kiera.robinson@ici.org](mailto:kiera.robinson@ici.org) or (202) 326-5818 for the dial-in number and passcode. In addition, if you have any ideas for topics to address in the comment letter, please send them to me at [matt.thornton@ici.org](mailto:matt.thornton@ici.org) in advance of the call.

Matthew Thornton  
Assistant Counsel

#### **endnotes**

[1] FINRA Regulatory Notice 14-14, "Retrospective Rule Review" (April 2014) (the "Notice"), available at: <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p479810.pdf>.

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