

COMMENT LETTER

May 31, 2011

IDC Letter on FINRA Cash Compensation Disclosure Proposal (pdf)

May 31, 2011 Ms. Elizabeth M. Murphy Secretary U.S. Securities and Exchange Commission 100 F Street, N.E. Washington, D.C. 20549-1090 Re: FINRA Proposal to Adopt NASD Rule 2830 as FINRA Rule 2341 (SR-FINRA-2011-018) Dear Ms. Murphy: The Independent Directors Council¹ appreciates the opportunity to comment on the proposal by the Financial Industry Regulatory Authority (FINRA) to require broker-dealers that sell investment company securities and receive cash compensation to make disclosures to investors about the cash compensation arrangements.² IDC shares FINRA's as well as the Securities and Exchange Commission's (SEC's) commitment to promoting greater transparency of the costs and potential conflicts of interest that may arise in connection with the distribution of mutual fund shares. For this reason, IDC supports requiring FINRA members to disclose cash compensation arrangements. We are unclear, however, why the SEC and FINRA are pursuing this narrow change at this time, when broader point-of-sale¹ IDC serves the fund independent director community by advancing the education, interaction, communication, and policy positions of fund independent directors. IDC's activities are led by a Governing Council of independent directors of Investment Company Institute member funds. ICI is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds, and unit investment trusts. Members of ICI manage total assets of \$13 trillion and serve over 90 million shareholders, and there are over 2,000 independent directors of ICI member funds. The views expressed by IDC in this letter do not purport to reflect the views of all fund independent directors. ² See Notice of Filing of Proposed Rule Change and Amendment No. 1 to Adopt NASD Rule 2830 as FINRA Rule 2341 (Investment Company Securities) in the Consolidated FINRA Rulebook, 76 Fed. Reg. 26779-87 (May 9, 2011). Ms. Elizabeth M. Murphy May 31, 2011 Page 2 of 2 initiatives that could provide more comprehensive and meaningful information to investors are underway. Indeed, we understand that the SEC staff is considering recommendations to enhance the information provided at the point of sale. Section 919 of the Dodd-Frank Wall Street Reform and Consumer Protection Act clarified the Commission's authority to "issue rules designating documents or information that shall be provided by a broker or dealer to a retail investor before the purchase of an investment product or service by the retail investor," and Sections 913 and 917 require the SEC to conduct studies relating to, among other things, possible new disclosure obligations of broker-dealers. Further, FINRA itself recently published a concept proposal to require its member firms to provide a written disclosure statement to retail investors at or before commencing a business relationship with them.³ We view FINRA's current proposal as only a small step toward the larger goal of providing investors with comprehensive point-of-sale disclosure and encourage the SEC and

FINRA to continue their work on this broader initiative. As the SEC and FINRA proceed, it is important to bear in mind that for comprehensive point-of-sale disclosure to truly benefit mutual fund shareholders, it must, in contrast to FINRA's current proposal, extend to all investment products and services. Requiring point- of-sale disclosure only applicable to mutual fund shares would establish disincentives for broker-dealers to offer funds to their customers, which would not only disadvantage funds vis-à-vis competing products, but also harm investors trying to make informed investment decisions. * * * * * If you have any questions, please do not hesitate to contact Amy B.R. Lancellotta, Managing Director, at 202/326-5824; amy@ici.org. Sincerely, Dorothy A. Berry Chair, IDC Governing Council cc: Eileen Rominger, Director Division of Investment Management 3 Disclosure of Services, Conflicts and Duties, FINRA Regulatory Notice No. 10-54 (October 2010).

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