



NASAA

---

**NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.**

750 First Street N.E., Suite 1140  
Washington, D.C. 20002  
202/737-0900  
Fax: 202/783-3571  
www.nasaa.org

July 13, 2015

Marcia E. Asquith  
Office of the Corporate Secretary  
FINRA  
1735 K Street, NW  
Washington, DC 20006-1506

**RE: FINRA Regulatory Notice 15-19**

Dear Ms. Asquith:

The following comments are in response to FINRA Regulatory Notice 15-19, which requests comments on a proposed rule requiring delivery of an educational communication to customers of transferring registered representatives. NASAA<sup>1</sup> appreciates the opportunity to again express its views on this topic, as it previously submitted a comment letter on March 5, 2013<sup>2</sup> in response to Regulatory Notice 13-02 that subsequently formed the basis for FINRA's rule proposal filed with the SEC in March 2014, which was later withdrawn in June 2014.

NASAA's March 5, 2013 comment letter supported requiring specific written disclosures to customers about enhanced compensation programs particularly where the compensation was based on the representative's future sales performance. NASAA encouraged the requirement of timely, detailed disclosures to customers of actual dollar figures paid to representatives for retaining or moving customer accounts and assets to a new firm, and discouraged the use of vague references to percentage payouts and generalized language.

However, instead of incorporating NASAA's recommendations for specific disclosures into its revised proposal, FINRA reversed course and has introduced a diluted version of its prior proposal. NASAA is disappointed that its prior call for greater transparency into this dark corner of industry practice has not been incorporated into the current proposal.

Failing to require specific, substantive disclosures unfairly shifts the burden to customers to obtain the material information necessary to evaluate potential conflicts of interest created

---

<sup>1</sup> NASAA is the association of all state, provincial, and territorial securities regulators in North America. Its membership consists of the securities regulators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Canada, and Mexico. Their core mission is protecting investors from fraud and abuse in the offer and sale of securities. Organized in 1919, NASAA is the oldest international organization devoted to investor protection.

<sup>2</sup> See letter to Marcia Asquith, Office of the Corporate Secretary, FINRA, from A. Heath Abshure, NASAA President and Arkansas Securities Commissioner, dated March 5, 2013, *available at* <http://www.finra.org/sites/default/files/NoticeComment/p220087.pdf>.

Marcia Asquith

July 13, 2015

Page 2 of 2

when a representative transitions to a new firm. The lack of disclosure also impedes customer understanding of the possible implications of transferring an account to a new firm. Placing this burden on customers is an inconsistent and unjustified departure from FINRA's recent emphasis on conflicts of interest and putting customers' interests first. NASAA is also concerned that calling the required communication an "educational communication" instead of a "disclosure document" may mislead customers as to the importance of reviewing the document. This makes the disclosure of information ineffectual.

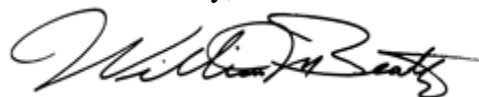
To be effective, any rule governing the disclosure of representative compensation plans should require disclosure of material information including, but not limited to, specific dollar amounts of any bonuses, detailed explanations regarding fee and commission differences between firms, and particular costs and potential tax implications to customers when they liquidate investments to leave one firm and purchase investments at a new firm. Anything less is far removed from the original intent to provide investors with the tools to assess potential conflicts of interest as representatives move from one firm to another.

Furthermore, NASAA suggests that any proposed rule contain specific provisions requiring firms to implement supervisory procedures in relation to transitioning accounts to ensure that the new accounts are overseen and monitored for problems like churning, unsuitable purchases, and failure to disclose fees and costs associated with the new accounts.

Last, the rule should require that any disclosure documents or educational materials be delivered in advance of any communication directed to the customer regarding the transfer of assets to the new firm. Regardless of the form of the communication, customers should be made aware in advance of those communications of the implications of moving their account from one firm to another.

NASAA urges FINRA to revise the proposed rule by: (1) requiring firms to provide specific, substantive disclosure of the financial incentives received by a representative when transitioning within the industry; (2) referring to the required communication as a "disclosure document;" (3) requiring firms to provide specific and detailed disclosure of the potential implications to the customer of transferring assets to the new firm; and (4) requiring the delivery of disclosure materials in advance of any attempt to contact the customer regarding the transfer of an account. Doing so would better align the current proposal with the intent of FINRA's original proposed rule by providing customers with the information needed to make informed decisions about their accounts.

Sincerely,

A handwritten signature in black ink, appearing to read "William Beatty". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

William Beatty  
NASAA President  
Washington State Securities Administrator