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April 17, 2009

Via Email:*rule-comments@sec.gov*

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: File No. SR-FINRA-2009-008
Proposed amendments to Forms U-4 and U-5

Dear Ms. Morris:

Wells Fargo Advisors ("WFA")[1] appreciates this opportunity to comment on the Financial Industry Regulatory Authority, Inc.'s (FINRA) proposal to amend the key form to register individual brokers and advisers (Form U4) and terminate their relationship (Form U5)[2] with a firm. In brief, FINRA proposes to add to the application form the same three questions concerning whether an individual has in his background circumstances that would render the individual "statutorily disqualified" from the securities industry.[3] WFA fully supports the amendments to the Forms but files this comment letter to address concerns about the timing and implementation of the proposal.

FINRA notes that the purpose of the amendments is to aid regulators in identifying more readily individuals subject to a statutory disqualification based upon willful violations of federal securities, commodities laws, and SRO rules and regulations. FINRA will elicit this information by generating six additional questions that registered persons must answer. While it is logical that FINRA would apply the new rules to new filings of Forms U4 and U5, FINRA goes further to essentially ask that firms file new forms for *all* of its registered personnel. In addition, it proposes that the firms undertake

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[1] Wells Fargo Advisors is the name that Wells Fargo & Company has chosen for the combined brokerage operations of its subsidiaries Wells Fargo Investments, LLC and Wachovia Securities LLC.

[2] Form U4 refers to the Uniform Application for Securities Industry Registration or Transfer. Form U5 refers to the Uniform Notice for Securities Industry Registration (collectively referred to as the "Forms").

[3] The definition of statutory disqualification is pursuant to Section 15(b)(4)(D) or (E) of the Exchange Act of 1934.

and complete that review by 120 days after the rule's effective date. Critically, the implementation would force firms to *immediately* after the effective date of the rule answer the new questions for any amendments to a U4 or U5. This proposed method of implementing the amendments will likely generate costs that far outweigh the benefits FINRA hopes to achieve by the amendments.

A brief review of how FINRA's implementation process would operate is instructive. WFA has over 32,000 registered representatives who would have to re-file their U4s to comply with the amendments. The additional six questions on Form U4 would require firms to pose the questions to the registrants and complete separate filings for each registered individual with that person's signature as well as a signature from a supervisor or others at the firm.[4] In addition, there will need to be a process to track down any persons who failed to respond to requests and offer consultation where needed to help individuals complete the form. If the rule is adopted as is, WFA roughly estimates that approximately 64,000 additional hours will be required to complete the amendments, conduct follow-up and retrieve all of the required signatures. It is important to note that even if the answer to all six questions is a "No," the firm must nonetheless complete this entire costly process.

FINRA's statement that it "appreciates that adding new disclosure questions on Form U4 will require firms to amend (or refile) such forms for their registered persons, and that this requirement may place an administrative burden on the firms," ignores the costs in addition to the administrative burden. If FINRA subjects implementation of the form amendments to a more rigorous cost-benefit analysis, it hopefully would conclude that it can implement the rule changes in a manner that is equally effective yet far less disruptive and burdensome to the industry.

FINRA should use a cost-effective method used by other agencies. In a number of arenas, numerous state agencies now get the assistance of brokerage firms in tracking down individuals. These agencies submit to brokerage firms a searchable database or list of persons of concern to the state, and simply request that firms identify whether they have any of these named individuals as customers or employees. Firms conduct the search and provide the state agency with any "hits."

By their very nature, the world of statutory disqualifications provides a clear-cut and finite universe of individuals who presently are subject to the disqualification. The orders are issued by certain enumerated regulatory bodies, so FINRA is able to compile a

[4] Currently, the proposed rule does not afford relief from the physical signature requirement. WFA requires not only the registered representative to sign the disclosure filing but their direct supervisor to satisfy the rule's requirement of a signature from the firm. WFA acknowledges FINRA's efforts to address the signature requirement for the disclosure filings through SR-FINRA-2009-18. WFA asks that the Commission approve SR-FINRA-2009-18 and provide an effective date that coincides with the effective date of the proposed amendments to Forms U4 and U5.

database or list that it then could send to brokerage firms.[5] Ideally, FINRA and the industry could agree on a format for this database that is easily downloadable and searchable by brokerage firms. Thus, in a cost-effective and timely manner, firms could determine which of their individuals, if any, meet the standards, and the firm could complete an updated form that would include answers to the new questions. The Commission should approve this more effective method of accomplishing FINRA's goal to identify "readily" those subject to a statutory disqualification.

If the Commission decides not to have FINRA provide a database to find those with statutory disqualifications, there are other changes to consider. Another means of easing some of the administrative burden would occur if FINRA provided a mechanism to "batch file" the answers to the new questions for all registered persons with a "no" response. Although firms will be required to complete the above-mentioned steps, the administrative burden will be lessened by batching the filing for the vast majority of individuals who will answer "no" to all six questions. Similarly, for the routine amendments to Forms U4 and U5, FINRA should allow firms to pre-populate the new questions with a "no" response from the date of the rule's effective date until an implementation date set for much later. In another solution to this same concern for the routine amendments, FINRA could suspend the necessity to answer the six new questions at all for routine amendments during the period leading up to the actual implementation date. Since minor changes to the U4 are such a frequent occurrence, it is critical that the implementation period for the new amendments not start on the effective date of the rule as would be the case under the current proposal.

FINRA could also lessen the cost and administrative burden by implementing the rule in a phased or "tiered" fashion based upon total registrants. FINRA should divide all of its member firms into five tiers based upon number of registrants. Working on an assumption that it is easier to gather information for five registrants than it is for 32,000 or more registrants, those firms with the fewest representatives should start the re-filing of their forms first. This first phase could be scheduled for 120 days, at which point the next phase would start. This process would continue until all firms are covered. The tiered implementation will allow the larger firms to gather, record and receive all appropriate documentation and signatures the proposed rule requests. This phase-in period would permit firms to provide the information in a timely manner, reduce administrative costs for larger firms and allow the day-to-day automatic amendments to occur without delay or interruption.

There are several other advantages to this phase-in method in addition to a clear cost savings. FINRA would not be inundated with a potential tidal wave of statutory disqualification notices that will hinder its ability to do adequate review and follow-up. If there are glitches in the process, FINRA will have time to address those in the earlier

[5] In its Regulatory Notice 09-19, FINRA notes that it is searching its records for individuals who would have willful violations rendering them statutorily disqualified. It likely will be efficient for FINRA to build out that database with additional information and forward that to firms.

phases with minimal disruption to its operations and those of the member firms during the period with the heavier number of filings. Finally, a phased implementation period will be an aid to other regulators who also may be using the U4 and U5 information to identify statutorily disqualified individuals.

Thank you for providing WFA the opportunity to comment on FINRA's proposed amendments to the U4 and U5. If you have any questions regarding this comment letter, please do not hesitate to contact me.

Sincerely,

Ronald C. Long
Director, Regulatory Affairs