LPL Financial

Stephanie L. Brown
Managing Director
General Counsel

One Beacon Street, 22nd Floor
Boston, MA 02108-3106
stephanie.brown@lpl.com
617 897 4340 *office*
617 556 2811 *fax*

9785 Towne Centre Drive
San Diego, CA 92121-1968
858 909 6340 *office*
858 646 0609 *fax*

May 31, 2011

VIA ELECTRONIC MAIL

Elizabeth M. Murphy
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: SR-FINRA-2011-018

Dear Mr. Savage:

We appreciate the opportunity to comment on the proposed consolidated rule issued by the Financial Industry Regulatory Authority ("FINRA") governing the disclosure obligations of member firms when distributing investment company securities (hereinafter, the "Proposal").[1] FINRA initially proposed the consolidation of NASD Rule 2830 into FINRA Rule 2341 in NTM 09-34 in June of 2009. LPL Financial LLC ("LPL") initially responded to the proposal in a letter from Stephanie Brown to FINRA dated August 3, 2009 (the "Comment Letter"). On May 9, 2011, twenty-three (23) months after the initial proposal, FINRA Rule 2341 was published in the Federal Registrar (the "Proposed Rule")[2]. While LPL is largely supportive of the broad changes made by FINRA, and the changes made in response to the concerns addressed by LPL in its Comment Letter, LPL remains concerned that the definition of additional cash compensation and the service fees that must be disclosed to retail investors will have the unintended effect of diluting the important and necessary disclosure on which a retail investor should rely when making an investment decision. Further, because of the broad nature of the changes made by FINRA since the initial proposal and the considerable delay in releasing a proposed final rule, LPL encourages FINRA to reopen the comment period to membership for additional comments.

I. Introduction

LPL Financial LLC ("LPL") is one of the nation's leading diversified financial services companies and is registered with the SEC as both an investment adviser and broker-dealer. LPL currently supports the largest independent registered representative base,[3] (referred to herein as

[1] FINRA Regulatory Notice, 09-34, June 2009.

[2] 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, U.S. Securities and Exchange Commission Rel. No. 34-64386, 76 Fed. Reg. 26779-87 (May 9, 2011) (the "Proposed Rule Notice").

[3] Investment Advisor's Top 25 Independent Broker/Dealers, *Investment Advisor*, June 2010.

"financial advisors") and the fifth largest overall registered representative base in the United States, providing financial professionals with the front, middle, and back-office support they need to serve the large and growing market for brokerage services and independent investment advice, particularly in the market of investors with $100,000 to $1,000,000 in investable assets. As of March 31, 2011, brokerage and advisory assets totaled $330 billion, of which $99.7 billion was in advisory assets.

I. Definition of Additional Cash Compensation

Under the Proposed Rule, member firm disclosure obligations would arise whenever a member receives or could receive additional cash compensation. Additional cash compensation is defined as "any cash compensation from an offeror, in addition to the sales charges and service fees disclosed in the prospectus fee tables of investment companies sold to the member."[4] While LPL applauds the notion of simplifying and consolidating disclosure information to retail investors, because of the nature of prospectus fee tables, and because of the disparate nature of the categorization of service fees among investment companies, LPL remains concerned that this requirement will lead to information overload. For instance, under the Proposed Rule, LPL would need to disclose networking arrangements, omnibus servicing arrangements, revenue sharing payments, additional payments for educational and marketing support and any other fees it may receive from investment company complexes. For several reasons, many members, including LPL, will need to disclose these payments regardless of whether they are disclosed in a Fund's prospectus fee table. First, it is unlikely that the investment company will disclose these fees in their prospectus fee table in a similar manner to LPL. Because of this, LPL will need to disclose these payments even if the Fund's intent was to disclose the same fee payments in their prospectus fee table. Further, it is not practical that a member firm will be able discern which Fund companies have disclosed servicing fees in a manner similar to the broker-dealer. The sheer volume of investment company prospectuses (and the fact that prospectuses are updated annually) will preclude members from this undertaking.

More importantly, because of the broad nature of the definition of additional cash compensation it is likely that investors may be presented with less useful information about potential conflicts when distributing investment company securities. Under the current disclosure regime, LPL discloses most prominently those investment company complexes that pay revenue sharing not tied to the servicing of an account. This allows an investor to ascertain most appropriately where potential conflicts of interest may arise, and puts the investor on notice that LPL may have a greater financial incentive to distribute certain products. Under the Proposed Rule, by including all service fees received by LPL, an investor now will be presented with a laundry list on investment companies that pay service fees to LPL. Because almost all investment companies available through LPL pay some form of servicing fee, investors would receive a list of all investment companies available through LPL. Curiously, this disclosure will have a dilutive effect on the existing disclosure that was intended to address actual conflicts of interest. The 'enhanced' disclosure under the Proposal may lead to information overload – where an investor is forced to sort through the myriad of fees that have no bearing on whether

[4] Proposed Rule paragraph (1)(4)(A).

LPL has a particular interest in promoting a particular investment company. The previously useful disclosure will have become lost in the encyclopedia of fee disclosure the Proposal would create.

II. Additional Commentary

LPL encourages FINRA and the SEC to allow membership additional time to comment on the Proposal. While LPL is highly encouraged by the thoughtful response to the commentary provided by LPL and other industry participants, because of the broad nature of the changes – and the considerable delay in proposing the new FINRA rule – LPL believes it would be equitable to the industry and investors to allow for additional comments to address any new found concerns.

III. Conclusion

Thank you for the opportunity to comment on the Proposed Rule. If you have any questions regarding this letter, please do not hesitate to contact me at (617) 897-4340.

Sincerely,

Steve Morrison
as attorney-in-fact
Stephanie L. Brown

cc: Kathy VanNoy Pineda
Chief Compliance Officer