Please note that the comments expressed herein are solely my personal views

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- 17 CFR Parts 240 and 249
- File No. S7-23-11
- Broker-Dealer Reports

Dear Sir.

Thank you for giving us the opportunity to comment on your Proposed Rule: Broker-Dealer Reports.

You are proposing amendments to the broker-dealer financial reporting rule under the Securities Exchange Act of 1934 (Exchange Act). The first set of amendments would, among other things, update the existing requirements of Exchange Act Rule 17a-5, facilitate the ability of the Public Company Accounting Oversight Board (PCAOB) to implement oversight of independent public accountants of broker-dealers as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), and eliminate potentially redundant requirements for certain broker-dealers affiliated with, or dually-registered as, investment advisers. The second set of amendments would require broker-dealers that either clear transactions or carry customer accounts to consent to allowing the SEC and designated examining authorities (DEAs) to have access to independent public accountants to discuss their findings with respect to annual audits of the broker-dealers and to review related audit documentation. The third set of amendments would enhance the ability of the SEC and examiners of a DEA to oversee broker-dealers' custody practices by requiring broker-dealers to file a new Form Custody.

I generally support these proposed rules, and their underlying rationale. The annual reporting amendments should improve broker-dealers' compliance with the Financial Responsibility Rules and enhance their safeguarding of investors' assets. The access to audit documentation amendments will allow the SEC and DEAs to lever the audit documentation towards more

robust oversight of broker-dealers. Finally the proposed Form Custody will enable a more complete regulatory oversight of broker-dealers' custody practices and should therefore promote investor confidence in this arena.

Compliance

I agree with §§ 17a-5(d)(3) and 17a-5(g) concerning the Compliance Report, Compliance Examination and Examination Report. The definitions of material non-compliance and material weakness are reasonable, if rather tautological, and are consistent in content with generally accepted definitions. I do believe that the proposed rules contain a lot of detail about a fairly simple matter. We must consider that the Compliance Report and the Examination Report employ significant judgement, and such judgement should appropriately manage the reasonable expectations of the users of the Compliance Report and the Examination Report: for example does the broker-dealer properly safeguard investor assets? We need to bear in mind this overriding expectation when dealing with the details of the proposed rules.

For completeness I would recommend one procedural change to the Compliance Examination and Examination Report. In the commentary you state that:

> "the Examination Report would pertain solely to the assertions in the Compliance Report and not to the broker-dealer's process for arriving at the assertions. Because the report of the independent public accountant required by proposed paragraph (g) of Rule 17a-5 would require the accountant to perform its own independent examination of the related controls and procedures, the Commission preliminarily does not believe that it is necessary for the independent public accountant to provide an opinion with regard to the process that the broker-dealer used to arrive at its conclusions."

I believe that the Compliance Examination and Examination Report would be complete if the independent public accountant would provide an opinion on the broker-dealer's process for arriving at assertions. I suggest that this would be sufficient to better manage the expectations of users regarding compliance with the Financial Responsibility Rules.

Proposed § 17a-5(h) requires the independent public accountant to notify the Commission within one business day of any material non-compliance determined during the Compliance Examination. In addition to this I would suggest that you should require an initial assurance in a positive way: for example that the Compliance Examination shall be sufficient to provide reasonable assurance that any material weaknesses existing at the date of the Examination would be disclosed.

Yours faithfully

Chris Barnard