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Via email rule-comments@sec.gov
File Number SR-FINRA-2010-021

Securities and Exchange Commission

We are pleased to have the opportunity to comment on FINRA's proposed amendments to Rule 8210 (the "Rule") requiring encryption of information transmitted by portable media devices. By way of background, IMS is one of the largest providers of financial accounting and compliance consultants to the securities industry, providing such services to about 100 FINRA members. We believe that this perspective enables us to assess the impact of the Rule on FINRA member firms.

Effects of the proposed amendments

We recognize that FINRA is acting under Section 15A(b)(6) of the Securities and Exchange of 1934 for the protection of the public interest and responding to the increased transmission of data to it by electronic media, some of which may contain confidential and/or proprietary information (the "Information"). The sole focus of this proposed amendment to the Rule is the manner of transmission. FINRA wishes to effectively remove all discretion from its members to determine which data will be encrypted, regardless of whether such transmission includes Information or otherwise. We also note that data submitted by hard copy, including, without limitation, Information, will not have to be encrypted. Similarly, we note that data transmission via email will not be covered and responses to routine requests that are not made pursuant to Rule 8210

will apparently not be covered either. In addition, transmission of Information by FINRA members that is done voluntarily or which is done pursuant to rules other than Rule 8210 would not be covered. FINRA's mistake is that it apparently wishes to mandate procedures that FINRA members are quite capable of deciding on their own and requiring the encryption of certain data but not all data transmitted to it regardless of content or sensitivity, On the other hand, FINRA is not providing a means for a member to voluntarily transmit data under an encryption protocol when the data is not being transmitted pursuant to a request under Rule 8210. Simply put, the proposed amendment represents a poor solution that appears to not be well thought out.

What should be done instead?

We strongly encourage FINRA to assess the unduly harsh impact the proposed amendment to Rule 8210 requiring encryption for information transmitted by portable media devices will have on members prior to making the Rule effective. Each member firm should be allowed to determine for itself whether any particular set of documents contains Information that requires encryption rather than imposing a flat requirement based simply on the fact that data is being transmitted using a portable device.

Frankly, FINRA should simply establish a protocol so that any member that wishes to send any data to FINRA for any reason, whether or not the data are sent pursuant to any rule, should be able to send the data using encryption techniques so long as the member also provides to FINRA contemporaneously the decryption keys for the data so that FINRA can read or otherwise utilize the data once it is decrypted. This protocol should be available not only for requests made under Rule 8210 but for any transmissions to FINRA.

Thank you for the opportunity to comment on this matter.

Should you have any further questions, feel free to call me at 212-897-1688.

Very truly yours,

A handwritten signature in black ink, appearing to read "Howard Spindel". The signature is fluid and cursive, with a large initial "H" and "S".

Howard Spindel
Senior Managing Director

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