



VOICE OF INDEPENDENT BROKER-DEALERS
AND INDEPENDENT FINANCIAL ADVISORS

www.financialservices.org

VIA ELECTRONIC MAIL

January 30, 2012

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

RE: SR-FINRA-2011-073 - Notice of Filing of Proposed Rule Change Relating to Establishing a Governmental Accounting Standards Board Accounting Support Fee

Dear Ms. Murphy:

On May 11, 2011, the Securities and Exchange Commission issued an order to the Financial Industry Regulatory Authority, Inc. (FINRA), requiring it to establish a fee to fund the annual budget of the Government Accounting Standards Board (GASB) and to promulgate rules necessary to implement the fee and its collection. Thereafter, FINRA published Regulatory Notice 11-38 (RN 11-38)¹ soliciting comments on the establishment of the proposed fee. On December 19, 2011, FINRA filed SR-FINRA-2011-073, Notice of Filing of Proposed Rule Change Relating to Establishing a Governmental Accounting Standards Board Accounting Support Fee (Proposed Rule), with the SEC.² The Proposed Rule would adopt a new Section 14 to Schedule A of the FINRA by-laws which would implement the SEC's mandate to establish an accounting support fee designed to fund the annual budget of the GASB.

The Financial Services Institute³ (FSI) welcomes the opportunity to comment on the Proposed Rule. We have some concerns regarding the Proposed Rule and urge FINRA to address them. These concerns are discussed in detail below.

Background on FSI Members

The independent broker-dealer (IBD) community has been an important and active part of the lives of American investors for more than 30 years. The IBD business model focuses on comprehensive financial planning services and unbiased investment advice. IBD firms also share a number of other similar business characteristics. They generally clear their securities business on a fully disclosed basis; primarily engage in the sale of packaged products, such as mutual funds and variable insurance products; take a comprehensive approach to their clients' financial goals and objectives; and provide investment advisory

¹ Available at <http://www.finra.org/Industry/Regulation/Notices/2011/P123793>.

² Available at <http://www.finra.org/Industry/Regulation/RuleFilings/2011/P125305>.

³ The Financial Services Institute is an advocacy organization for the financial services industry – the only one of its kind – FSI is the voice of independent broker-dealers and independent financial advisors in Washington, D.C. Established in January 2004, FSI's mission is to create a healthier regulatory environment for their members through aggressive and effective advocacy, education and public awareness. FSI represents more than 125 independent broker-dealers and more than 31,000 independent financial advisors, reaching more than 15 million households. FSI is headquartered in Atlanta, GA with an office in Washington, D.C. INSERT BOILERPLATE TEXT.

services through either affiliated registered investment adviser firms or such firms owned by their registered representatives. Due to their unique business model, IBDs and their affiliated financial advisors are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their financial goals and objectives.

In the U.S., approximately 201,000 independent financial advisors – or approximately 64% percent of all practicing registered representatives – operate in the IBD channel.⁴ These financial advisors are self-employed independent contractors, rather than employees of the IBD firms. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans with financial education, planning, implementation, and investment monitoring. Clients of independent financial advisors are typically “main street America” – it is, in fact, almost part of the “charter” of the independent channel. The core market of advisors affiliated with IBDs is comprised of clients who have tens and hundreds of thousands as opposed to millions of dollars to invest. Independent financial advisors are entrepreneurial business owners who typically have strong ties, visibility, and individual name recognition within their communities and client base. Most of their new clients come through referrals from existing clients or other centers of influence.⁵ Independent financial advisors get to know their clients personally and provide them investment advice in face-to-face meetings. Due to their close ties to the communities in which they operate their small businesses, we believe these financial advisors have a strong incentive to make the achievement of their clients’ investment objectives their primary goal.

FSI is the advocacy organization for IBDs and independent financial advisors. Member firms formed FSI to improve their compliance efforts and promote the IBD business model. FSI is committed to preserving the valuable role that IBDs and independent advisors play in helping Americans plan for and achieve their financial goals. FSI’s primary goal is to insure our members operate in a regulatory environment that is fair and balanced. FSI’s advocacy efforts on behalf of our members include industry surveys, research, and outreach to legislators, regulators, and policymakers. FSI also provides our members with an appropriate forum to share best practices in an effort to improve their compliance, operations, and marketing efforts.

Comment on the Proposed Rule

As noted above, FSI welcomes the opportunity to comment on the Proposed Rule. We have some concerns regarding the Proposed Rule and we urge FINRA to address them. Under the Proposed Rule, the following text would be added to Schedule A of the FINRA bylaws:

Section 14—Accounting Support Fee for Governmental Accounting Standards Board

(a) FINRA shall, in accordance with this Section, allocate, assess, and collect a GASB Accounting Support Fee to fund the annual budget of the Governmental Accounting Standards Board. The GASB Accounting Support Fee is based on the recoverable annual budgeted expenses provided to FINRA by the Governmental Accounting Standards Board, and amounts

⁴ Cerulli Associates at <http://www.cerulli.com/>.

⁵ These “centers of influence” may include lawyers, accountants, human resources managers, or other trusted advisors.

collected under this Section shall be remitted to the Financial Accounting Foundation.

(b) Except as provided in paragraph (c), each calendar quarter, each member shall pay an assessment to FINRA of its portion of one quarter of the annual GASB Accounting Support Fee amount that reflects the member's portion of the total par value of municipal securities transactions reported by members to the Municipal Securities Rulemaking Board under MSRB Rule G-14(b) in the previous calendar quarter.

(c) If, in a given calendar quarter, a member's GASB Accounting Support Fee assessment is less than \$25, the member will not be assessed a GASB Accounting Support Fee for that quarter. The amount not assessed to the member will be reallocated among the other members assessed a GASB Accounting Support Fee for that quarter based on each member's portion of the total par value of municipal securities transactions reported by members to the Municipal Securities Rulemaking Board under MSRB Rule G-14(b) in the previous calendar quarter.⁶

FINRA has proposed to allocate the fee on a quarterly basis in a manner that reflects a member's portion of the total par value of municipal securities transactions reported by FINRA members to the MSRB in the previous calendar quarter. FINRA has also proposed an exemption for member firms with a quarterly assessment of less than \$25. Those firms would not be charged any fee for that quarter and the amount originally assessed to that firm will be reallocated among all firms subject to the fee in accordance with the rule.

In the Proposed Rule, FINRA indicates that two commenters to RN 11-38 urged FINRA to increase the threshold from \$25 to \$1000.⁷ In response to this request, FINRA stated that a threshold of \$25 would exempt approximately 55 percent of member firms from the fee, while a threshold of \$1000 would exempt approximately 90 percent.⁸ FINRA goes on to state that the \$25 threshold would achieve a "fair and reasonable balance between exempting those members that do a small amount of trading in municipal securities and ensuring that other members are not shouldering a disproportionate amount of the GASB Accounting Support Fee...."⁹

We urge FINRA to increase the threshold for exemption from the fee. Specifically, we urge FINRA to consider increasing the threshold for exemption from the fee from \$25 to \$250. A threshold of \$250 would provide relief to a greater number of member firms with de minimis involvement in municipal trading than would the \$25 threshold, and would appropriately place the burden of supporting the annual budget of the GASB primarily on those firms that are substantially involved in municipal trading. In the alternative we urge FINRA to provide clarification as to why alternative threshold levels between \$25 and \$1000 were not considered or discussed in the Proposed Rule.

⁶ Proposed Rule, *supra* note 2, at 3-4.

⁷ 77 Fed. Reg. 1119, 1123 (Jan. 9, 2012), available at <http://www.finra.org/web/groups/industry/@ip/@reg/@rulfil/documents/rulefilings/p125365.pdf>.

⁸ 77 Fed. Reg. 1119, 1124 (Jan. 9, 2012)

⁹ *Id.*

Conclusion

We remain committed to constructive engagement in the regulatory process and welcome the opportunity to work with the SEC and FINRA to enhance investor protection and broker-dealer compliance efforts.

Thank you for your consideration of our comments. Should you have any questions, please contact me at 770 980-8488.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. T. Bellaire". The signature is fluid and cursive, with a large initial "D" and "T" followed by "Bellaire".

David T. Bellaire, Esq.
General Counsel and Director of Government Affairs