



VOICE OF INDEPENDENT FINANCIAL SERVICES FIRMS  
AND INDEPENDENT FINANCIAL ADVISORS

## VIA ELECTRONIC MAIL

March 29, 2012

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

RE: SR-FINRA-2012-018 - Proposed Rule Change to Amend NASD Rules 1012 (General Provisions) and 1017 (Application for Approval of Change in Ownership, Control, or Business Operations) to Adopt New Standardized Electronic Form CMA

Dear Ms. Murphy:

On February 28, 2012, the Financial Industry Regulatory Authority (FINRA) filed with the Securities and Exchange Commission SR-FINRA-2012-018 (proposed rule), a proposed rule change that would amend NASD Rules 1012 and 1017 in order to adopt a new standardized Form CMA. FINRA neither solicited nor received any written comments on the proposed rule change. On March 8, 2012, the SEC published the proposed rule change in the Federal Register, seeking comment from the public.

The Financial Services Institute<sup>1</sup> (FSI) welcomes the opportunity to comment on the Proposed Rule. Our comments are outlined 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

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<sup>1</sup> 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 100 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.

variable insurance products; take a comprehensive approach to their clients' financial goals and objectives; and provide investment advisory 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.<sup>2</sup> 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.<sup>3</sup> 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.

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<sup>2</sup> Cerulli Associates at <http://www.cerulli.com/>.

<sup>3</sup> These “centers of influence” may include lawyers, accountants, human resources managers, or other trusted advisors.

### Comment on the Proposed Rule

As noted above, FSI welcomes the opportunity to comment on the proposed rule, which offers the following changes to current NASD rules. First, NASD Rule 1012 would be amended by adding a new subsection (a)(2) that would require member firms seeking approval for a change in ownership, control or business operations to file an application in accordance with the requirements set forth under Rule 1017.<sup>4</sup> Second, amendments to Rule 1017, in turn, would require members to file an application that includes new Form CMA.<sup>5</sup> FSI supports these proposed amendments.

Under the current system, member firms that are seeking approval for a change in ownership, control or business operations are required to determine what information is relevant for the purposes of completing the application. This lack of clarity regarding what information is relevant or required in the application can lead to insufficient information being provided by the member and delays in the processing of the application by FINRA.

With the proposed rule, member firms will be given substantial clarity through the use of a standardized form, new Form CMA. This Form will streamline the process by soliciting from members the basic information needed in order to evaluate an application for change of ownership, control or business operations, while also permitting member firms to include information that is particular to the nature of the firm and the change being contemplated. Furthermore, the new Form CMA will be available online, doing away with the current system that requires delivery of continuing membership applications by first-class mail, overnight courier, hand-delivery or fax.<sup>6</sup>

FSI has long been an advocate of increasing the use of the internet to facilitate compliance with FINRA membership requirements, particularly in the area of investor disclosures. The benefits that would accrue by using the internet to provide investors with required disclosures would also apply with respect to member firms submitting required information to FINRA, namely, lower compliance costs due to reduction in the time to prepare the necessary information.

Because the proposed amendments will provide FINRA member firms with greater clarity regarding the information that is required to be submitted in connection with a change in ownership, control or business operations, and will also reduce compliance burden and cost through the use of an internet-based standardized application, we support this proposed rule and urge the SEC to approve it.

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<sup>4</sup> 77 Fed. Reg. 14052, 14052 (March 8, 2012).

<sup>5</sup> Id.

<sup>6</sup> 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 202 803-6061.

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