

VIA ELECTRONIC MAIL

September 3, 2013

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

**Re: Proposed Rule Change to Amend FINRA Rule 9217 (Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)) to Include Additional Rule Violations Eligible for Disposition Under FINRA's Minor Rule Violation Plan
File Number SR-FINRA-2013-033**

Dear Ms. Murphy:

On August 7, 2013, the Securities and Exchange Commission (SEC) published its request for public comment on proposed amendments to FINRA Rule 9217 (Violations Appropriate for Disposition Under Plan Pursuant to SEA Rule 19d-1(c)(2)) to include additional rule violations eligible for disposition under FINRA's Minor Rule Violation Plan (Proposed Rule).¹

The Financial Services Institute² (FSI) appreciates the opportunity to comment on this important proposal. In general, FSI supports this proposed change because it wisely expands the types of rules FINRA may consider for disposition under its Minor Rule Violation Plan (MRVP).

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 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 advisers are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their financial goals and objectives.

¹ Release No. 34-70131, 78 Fed. Reg. 49,313; available at

<http://www.finra.org/web/groups/industry/@ip/@reg/@rulfil/documents/rulefilings/p321576.pdf>.

² The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisers, and their independent contractor registered representatives. FSI has more than 100 Broker-Dealer member firms that have approximately 138,000 affiliated registered representatives serving more than 14 million American households. FSI also has more than 35,000 Financial Advisor members.

In the U.S., approximately 201,000 independent financial advisers – or approximately 64% percent of all practicing registered representatives – operate in the IBD channel.³ These financial advisers are self-employed independent contractors, rather than employees of the IBD firms. These financial advisers 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 advisers are typically “main street America” – it is, in fact, almost part of the “charter” of the independent channel. The core market of advisers affiliated with IBDs is comprised of clients who have tens and hundreds of thousands as opposed to millions of dollars to invest. Independent financial advisers 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.⁴ Independent financial advisers 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 advisers 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 advisers. 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 advisers play in helping Americans plan for and achieve their financial goals. FSI’s primary goal is to ensure 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.

Comments

FSI appreciates the opportunity to comment to the SEC on the Proposed Rule. FSI supports the Proposed Rule in that it expands the types of rules FINRA may consider for disposition under FINRA’s MRVP. The MRVP allows FINRA to impose a fine of up to \$2,500 on a member or associated person if FINRA determines they have violated an eligible rule. To the extent members are found to have violated eligible rules, FSI supports the appropriateness of imposing a sanction or fine that is proportionate to the minor nature of the violation. However, FSI believes that some of the minor rule violations as outlined by FINRA in the rule proposal should not be subject to any disciplinary action at all, even under the MRVP. For instance, FINRA cited an example of “isolated violations where certain business clocks fall out of synch due to software glitches or other technical reasons.” FSI asserts that minor violations such as the example given, which are isolated as opposed to systematic and are neither willful nor intentional, should not qualify as rule violations. Where a rule violation is isolated, FINRA should inform the firm of the violation so the firm may undertake efforts to fix the issue. FINRA should only consider the issue a rule violation if it is not addressed and therefore becomes systematic as well as intentional or willful.

³ Cerulli Associates at <http://www.cerulli.com/>.

⁴ These “centers of influence” may include lawyers, accountants, human resources managers, or other trusted advisers.

Conclusion

We are committed to constructive engagement in the regulatory process and, therefore, welcome the opportunity to work with FINRA and the SEC on this and other important regulatory efforts.

Thank you for considering FSI's 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.
Executive Vice President & General Counsel