



National Association of
Insurance and Financial Advisors

April 18, 2014

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

Via E Mail (rule-comments@sec.gov)

Re: File Number SR-FINRA-2014-010 (Disclosure and Reporting Obligations Related to Recruitment Practices)

Dear Ms. Murphy:

The National Association of Insurance and Financial Advisors (NAIFA) appreciates the opportunity to provide you with comments with respect to the Securities and Exchange Commission's consideration of the Financial Industry Regulatory Authority's ("FINRA") proposed rule 2243 (the "Proposed Rule") regarding the disclosure of recruitment compensation practices.

Founded in 1890 as The National Association of Life Underwriters (NALU), NAIFA is one of the nation's oldest and largest associations representing the interests of insurance and investment professionals from every Congressional district in the United States. NAIFA members assist consumers by focusing their practices on one or more of the following: life insurance and annuities, health insurance and employee benefits, multiline, and financial advising and investments. In addition to holding active state insurance producer licenses, approximately two-thirds of NAIFA members are also licensed as registered representatives of a broker-dealer, and one-quarter of NAIFA members are dually licensed as both registered representatives and investment advisor representatives. NAIFA's mission is to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members.

NAIFA supports the general principles of pertinent, easy-to-read disclosures to investors as well as providing reasonable disclosures to investors of material conflicts of interest. However, NAIFA has several areas of concern regarding the Proposed Rule.

First, as a general proposition NAIFA is concerned that focusing on one aspect of the advisor/firm/investor relationship--the incentive compensation received by a registered representative from the new broker-dealer when the registered representative changes firms--will be disruptive to the investor/advisor relationship while not providing any additional protection to the investor. This type of emphasis will cause investors to focus their attention solely on compensation issues rather than on more relevant matters such as the net costs to the investor of working with one broker-dealer firm versus another firm, the relative advantages of one firm over another with respect to the platform, products and services offered, the performance of the investor's portfolio in relation to the investor's risk profile, and the investor's overall satisfaction with his or her registered representative.

There are many valid reasons why a registered representative may choose to move from one firm to another. The fact that certain incentives were received by the registered representative in connection with such a move should not, in and of themselves, call into question the motivation behind such a move or serve as an indication that any such move was made for any reason other than the best interests of the representative's clients. Simply put, the payment of recruitment compensation to registered representatives who change firms is not an inherent material conflict of interest, and we are concerned that the Proposed Rule's focus on such compensation will create the erroneous perception that a material conflict of interest exists whenever recruitment compensation is received. For these reasons, NAIFA asks the Commission to reconsider whether the adoption of such a rule by FINRA would be in the best interests of investors.

As stated above, NAIFA supports FINRA and the SEC's efforts to provide investors with helpful, easily-understood disclosures that will help mitigate the impact of material conflicts of interest. However, a new rule should be proposed for the purpose of solving an identified problem. NAIFA is unclear as to the specific existing problem that FINRA is trying to address with the Proposed Rule. We have seen no discussion of FINRA examinations or enforcement actions being focused on recruitment compensation issues, and are not aware of any investor communications bringing this issue to the attention of investors.

Finally, there is no indication that FINRA has done a rigorous cost/benefit analysis of the potential impact of the Proposed Rule on FINRA member firms and/or their registered representatives which would support the statement by FINRA that it does not believe the Proposed Rule will result in "undue operational costs...to comply" for FINRA members and their representatives. Since compliance with the Proposed Rule could result in significant financial/resource expenditures in order to comply with the Proposed Rule and its reporting/disclosure requirements, a final rule should not be approved until an appropriate analysis of the costs and benefits of the Proposed Rule has been conducted.

With respect to specific concerns regarding particular elements of the Proposed Rule, NAIFA has the following comments:

1. Section .05(b) of the Supplementary Material in the Proposed Rule states that "transition assistance" is included among the types of "upfront payments" that are to be disclosed under the Proposed Rule. However, assistance in the course of a move from one firm to another, such as moving expenses and the cost of furniture, staff and the reimbursement of termination fees which might arise in connection with moving accounts to the new firm are more in the nature of "cost of doing business" expenses and are inherently different from other forms of incentive compensation described in the Proposed Rule. Allowing member firms to "net out" costs incurred directly by their registered persons per Section .04 of

the Supplementary Material does not alleviate our concerns on this issue. Reimbursement for these types of expenses and assistance should not be included in the scope of the Proposed Rule.

2. The requirement under section 2243 (b)(3) of the Proposed Rule that disclosure under the rule be provided for one year following the registered person's association with the new firm is too lengthy a time period for requiring the specified disclosure. Based upon common industry practice, the time frame for the required disclosure should be reduced to between three and six months.
3. NAIFA is concerned about the intended scope and coverage of Section 2243 (b) (2) of the Proposed Rule, which discusses efforts to induce a former client to transfer assets to the new firm in the absence of "individualized contact". Requiring recruitment compensation disclosures under the Proposed Rule in the absence of individualized contact with a former client, where the only solicitation or inducement is in the form of a general business announcement or mass advertisement, is overly broad and runs counter to the generally-accepted character of such announcements and advertisements.
4. The Proposed Rule requires the new firm to disclose, among other things, whether transferring assets to the new firm will result in account termination or other costs to the customer (Proposed Rule Section 2243 (a)(3)) or if any of the assets are not transferrable to the new firm (Proposed Rule 2243 (a)(4)). As a general rule, this type of information is in the possession of the previous firm and is not readily available to the new firm. The alternative presented in Section .03 of the Supplementary Material (having customers ask their current firm about these matters) does not really address the issue of this information not being available to the new firm.
5. The Proposed Rule's required disclosure of ranges of compensation raises significant concerns regarding the privacy interests and rights of registered representatives. Many advisors are actively involved in numerous community activities in their cities and towns, and are often friends and neighbors as well as financial representatives of their clients. The amount of compensation one earns is among the most sensitive of personal information, and revealing this

information to a neighbor and client can lead to an uncomfortable situation and end up being detrimental to both the personal and professional relationships between the advisor and client. In addition, the Proposed Rule does not contain any restrictions, limitations or roadblocks to the distribution of this information beyond the intended recipient. In the current atmosphere of wide use of various forms of social media (which are often used without much thought being given to the impact or consequences of the content that is posted), this creates a very real risk of possible embarrassment or worse for advisors.

If the decision is made to proceed with some form of rule addressing the issue of recruitment compensation practices, then NAIFA recommends that the alternative approach referenced in FINRA Notice 13-02 would be a more suitable and effective approach: a general disclosure by the firm or registered representative to the effect that he/she will receive enhanced compensation in connection with the transfer of his/her employment, along with a statement that additional information regarding such compensation is available upon request. This would provide a short and easily read statement to clients in general, while allowing those clients who wish to receive more detailed information to do so.

Thank you for your consideration of NAIFA's comments on the Proposed Rule.

Sincerely,

/s/ Gary A. Sanders

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Vice President, Securities and State
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