

BUCKMAN, BUCKMAN & REID, INC.

Follow-Up Comments on Implementation of Proposed CARDS Program

Management and Staff of Buckman, Buckman & Reid, Inc. respectfully submit the following in continued strong opposition to the newly proposed Comprehensive Automated Risk Data System (CARDS), as set forth in Regulatory Notice 13-42, and more recently in Regulatory Notice 14-37. We also have listened closely to the comments of Executive Vice President Susan Axelrod in her recent podcast of “A Few Minutes With FINRA”, hosted by FINRA’s Chip Jones. We have examined the available descriptive information carefully, and we have also taken note of the numerous industry submissions to FINRA thus far on this matter, the vast majority of which are overwhelmingly negative regarding the adoption and implementation of CARDS by FINRA. There are a number of very serious objections to continuing down this uncharted path.

I. New SEC “Consolidated Audit Trail” System also Overburdensome and Potentially Redundant with Massive Data Requirements of CARDS

SEC’s CAT Sytem; Grossly Redundant? Recently adopted SEC Rule 613 imposes on the industry broad-reaching regulatory requirements that market transactional data relating to NMS securities be reported to a central repository by 8:00 am the following morning. This systemic requirement has been delayed several times, but is on the verge of separate implementation. Susan Axelrod offered assurances that there will be no overlap in data required to be submitted under both systems, but these assurances remain unsubstantiated. Massive amounts of market data will be required under both CAT and CARDS, with, again, questionable/unproven (indeed unarticulated) benefits to either investor protection or the good order of the markets. Where is the record of cross-analysis of these two systems? Where is there even a hint of cost-benefit analysis for either system? (See separate related discussion, below.) This entire area seems to invoke recollection of “The Emperor’s New Clothes”, with all regulatory observers blindly agog with mandatory awe at the capabilities of these new systems – NONE OF WHICH HAVE BEEN DEMONSTRATED, OR EVEN SPECIFICALLY ARTICULATED.

II. Processing Large Volumes of Data Without Purpose is Expensive Error

MetaData for Its Own Sake? The newly coined IT term MetaData, or “Big Data” is all the rage now, with virtually no one able to define or describe just how such huge amounts of data, to be maintained in government repositories, will be used productively in the interests of protecting investor interests and the good order of the markets. How? Exactly? It does not seem that either the SEC or FINRA have thought through exactly what productive uses the contemplated gathering of such huge volumes of data will result in. There are lofty generic goals bandied about on both websites, but the rubber never seems to meet the road, and it is more and more apparent that no one really has any serious idea about how this data will be used to meet such lofty goals. There does not seem to be a roadmap under any of the “metadata” grand schemes. Where specifically is FINRA going with CARDS, and how specifically will it get there? No one has asked these fundamental questions, and the CARDS concept is substantially, if not fatally, flawed as a result.

III. Principal Objections Previously Submitted Stem from Commonly Shared Concerns

- 1) **Cost.** There is no doubt whatsoever that there will be significant costs imposed on firms at all levels in connection with the proposed implementation of CARDS. The costs will be generated in the quest for system enhancements and modifications, probably in a series of shock waves, as

both clearing firms and introducing firms alike struggle with and choke on successive layers of increasingly burdensome administrative requirements as confusion and chaos dominate the early phases of implementation. Despite the best of intentions, the gargantuan costs, fees, charges, and pass-through expenses – whether currently acknowledged by the regulatory agencies or not -- are predictably prohibitively expensive.

- 2) **Questionable Effectiveness in Attaining Stated Purposes.** Noble in its stated purposes, FINRA puts substantial credence in the supposition that huge volumes of questionably relevant data would somehow operate to the benefit of the legitimate interests of investors and the good order of the markets. There is absolutely no basis for that assumption whatsoever. Look at the huge volume of data already collected by FINRA in the course of examination preparation, and the relatively low return experienced in that regard. This does not refer to situations involving investigation of specific identified instances of potential regulatory violations, but rather the broad-based “data-mining” exercises inflicted on firms during the normal course of routine examinations. CARDS would appear to be an over-reaching extension of such unproductive efforts.
- 3) **Concerns Regarding Data Collection.** Several commentators have pointed out the difficulties in providing all the required data in the volume, format, and comprehensive nature anticipated by FINRA. There will likely be very significant differences in compatibility of systems, document formats, and respective corporate practices (depending on the advice of respective legal counsel, etc.), all of which mean decreased efficiency and increased costs up and down the process. These factors will be most pronounced in the early stages of implementation, but they can reasonably be anticipated to be with us for years to come.
- 4) **Concerns Regarding Data Security (Threats to Investor Privacy).** Others have expressed their concerns in this regard in great detail, and FINRA has reacted to these concerns in terms of limiting the specifics of account information which they request, but the risk of privacy violations remains real, and, again, only adds yet another increased cost of maintaining and operating the CARDS system industry-wide. FINRA seems to have attempted to split up requests into stages, with earlier stages having substantially less personally identifying information (“PII”) than in later stages. What is the real difference; isn’t the risk of security compromise essentially the same?
- 5) **Objections to “Big Brother” Concentration of Power to FINRA.** To many of us, FINRA already exercises what seems at times to be quasi-dictatorial and overly intrusive powers regarding member firms on a regular basis, but the CARDS system would raise the specter of “Big Brother” to a whole new level. Nowhere in the available information regarding the CARDS system is there a discussion of the limits to be structured into the system itself, and who, if anyone, would oversee the adoption, implementation, and maintenance of the system going forward. Adoption and implementation of CARDS would truly auger in a “Brave New World” of potential regulatory excess. In this regard, Susan Axelrod has stated *that the industry may expect fewer ad hoc requests to individual firms*, both on an individual inquiry basis, as well as prior to regular examinations by FINRA staff. Really? When has that ever happened in the past? FINRA’s feet should be held to the fire on this purported ameliorative point, offered to diffuse objections to what will certainly be a very substantial increase in volume of data and information requested from already overburdened firms and their staffs.

- 6) **Grossly Disproportionate Impact on Small Introducing Firms.** Perhaps of greatest concern to the smaller firms responding to the request for comments is the hugely disproportionate impact which incurring all of these costs will have on smaller firms. Despite Susan Axelrod's soothing assertions that Phase One of the implementation will only affect some 200 or so carrying clearing firms in directly requesting existing data and information, responding to these mammoth requests will predictably involve significant upgrades and modifications to existing IT systems of these huge financial institutions, covering wide swaths of newly configured data requests. Is it not reasonable to expect that these clearing firms will simply pass on whatever their increases in staffing, systems hardware and software, insurance, etc., etc., to their introducing firms? We all know that the burden of all these new costs will "roll downhill" onto the backs of firms already seriously challenged in terms of ever-increasing business costs including payroll expenses, system maintenance costs, and health care. The crushing concern of correspondent firms is that the financial burdens of implementing CARDS will fall in a grossly disproportionate way onto the backs of those least able to shoulder them: small firms.

While FINRA may have given some consideration to a select few of the many industry objections to CARDS, a common theme in virtually all of the comments submitted on behalf of the industry seems to have been completely ignored: apparently no one has conducted (or even considered conducting) a cost-benefit analysis of the proposed implementation of CARDS. In all of the Regulatory Notice language and in FINRA's podcasts on the subject, it is striking in its absence. Why not consider whether what is planned, and which may or may not actually happen in the fashion FINRA currently assumes, will be worth the tremendous cost to be borne by the industry? We continue to urge FINRA to delay implementation until a more definite and informed body of information is assembled and processed in this regard. FINRA appears to have completely ignored the degree of cost to be imposed on the industry, compared with the beneficial results perhaps so naively anticipated by regulatory internal discussion groups. Again, as we stated in our earlier comments, continued failure to do so would be a dramatic lapse of standard business practice, not to mention common sense.

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Our message to FINRA continues to be the same as that so strongly expressed from the vast majority of industry participants, particularly virtually every small firm, in strongly opposing the implementation of CARDS by FINRA. As we stated in our earlier submission, its implementation should be stopped in its tracks before it wreaks even a fraction of the unintended havoc so clearly forewarned in these numerous, and now repeated, submissions.

*Andrew Heath
Chief Compliance Officer
Buckman, Buckman & Reid, Inc.*