



Wells Fargo Advisors
Regulatory Policy
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March 27, 2017

Via E-mail: *pubcom@finra.org*

Ms. Marcia E. Asquith
Executive Vice President, Board and External Relations
FINRA
1735 K Street, NW
Washington, DC 20006-1500

RE: Regulatory Notice 17-06: Communications with the Public – FINRA Requests Comment on Proposed Amendments to Rules Governing Communications with the Public

Dear Ms. Asquith:

Wells Fargo Advisors¹ (“WFA”) appreciates the opportunity to comment on the Financial Industry Regulatory Authority’s (“FINRA”) Proposed Amendments to Rules Governing Communications with the Public, set forth in Regulatory Notice 17-06 (the “Proposal”).²

WFA is a dually registered broker-dealer and investment advisor that administers approximately \$1.5 trillion in client assets. It employs approximately 15,086 full-service financial advisors in branch offices in all 50 states and 3,899 licensed bankers in retail bank branches across the United States. WFA and its affiliates help millions of customers of

¹“Wells Fargo Advisors” is the trade name for Wells Fargo Clearing Services, LLC (“WFCS”), a dually-registered broker-dealer and investment adviser, member FINRA/SIPC, and a separate non-bank affiliate of Wells Fargo. “First Clearing” is the trade name for WFCS’s clearing business, providing services to unaffiliated introducing broker-dealers. WFCS is affiliated with Wells Fargo Advisor Financial Network (“FiNet”), a broker-dealer also providing advisory and brokerage services. For the ease of this discussion, this letter will use WFA to refer to all of those brokerage operations.

² Regulatory Notice 17-06, Communications with the Public – FINRA Requests Comments on Proposed Amendments to Rules Governing Communications with the Public (February 2017).

http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-17-06.pdf

varying means and investment needs obtain the advice and guidance they need to achieve their financial goals. Furthermore, WFA offers access to a full range of investment products and services that retail investors need to pursue these goals.

I. BACKGROUND

In April of 2014, FINRA launched a retrospective review of its communications with the public rules³ to assess their effectiveness and efficiency. In December of that year, FINRA published a report⁴ on its review concluding that while the communications rules have been effective at addressing the problems they were intended to mitigate, stakeholders identified a number of areas where it was believed the investor protection objectives and economic impacts do not align or where the rules could be made more effective or efficient.

II. CURRENT PROPOSAL

FINRA is proposing to amend Rule 2210 to create an exception to the rule's prohibition on projecting performance. This proposed exception would permit a firm to distribute a customized hypothetical investment planning illustration that includes the projected performance of an asset allocation or other investment strategy, but not an individual security, subject to specified conditions. The exception would be available for all firms, including firms that operate only an online platform, and could be used with both current and prospective customers.⁵

The Proposal will also establish specific supervisory requirements for the permitted illustrations. A firm could use a template to generate the permitted illustration, which would require a registered principal to approve the template before use or distribution. If a firm does not employ a template, registered principal review would be required for each illustration before use or distribution.⁶

III. DISCUSSION

WFA supports FINRA's proposed amendment to Rule 2210 to allow an exception to the rule's prohibition on projecting performance. We believe the proposed amendment will allow firms to better inform investors about recommended investment strategies, including the underlying assumptions upon which recommendations are based. WFA notes that this exception will especially benefit those investors that may only have access to such projections through investment advisors. That is, the exception will serve clients by leveling the playing

³ FINRA Regulatory Notice 14-14, Retrospective Rule Review – FINRA Requests Comment on the Effectiveness and Efficiency of Its Communication with the Public Rules, *available at*:

<http://www.finra.org/sites/default/files/NoticeDocument/p479810.pdf>

⁴ FINRA Retrospective Rule Review Report: Communications with the Public, December 2014.

<http://www.finra.org/sites/default/files/p602011.pdf>

⁵ See *supra* note 2, p.3

⁶ *Ibid.*

field so that they can receive consistent projections whether from a broker-dealer or investment adviser.

A. FINRA Should Consider Expanding the Proposed Exception

WFA believes further exceptions to the rule's prohibition on projecting performance should be considered. Specifically, WFA requests that FINRA consider expanding the rule to allow firms to provide clients non-customized asset allocation projections based on firm capital market assumptions.

WFA feels that forward-looking capital market assumptions illustrating a projected growth rate, volatility measures, yield and/or downside risk (with appropriate disclosures) are vital information for an investor in gauging current as well as future potential risk, and help promote a client's understanding of their portfolio. Accordingly, we ask that FINRA expand the exceptions available to firms to allow use of non-customized asset allocation projections based on firm capital market assumptions which will enable clients to better understand and assess potential risks of the investment strategy.

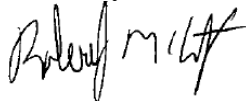
B. WFA Seeks Clarification on Supervision of this Proposal for Electronic Communications

The Proposal outlines specific supervisory requirements for the permitted illustrations. FINRA advises that if a firm chooses to use an approved template to generate the permitted illustration, these illustrations would have to be reviewed in a manner similar to correspondence under FINRA Rule 3110.⁷ Does FINRA envision any changes to a firm's supervision of electronic communications under Rule 3110 as a result of this Proposal, such as obtaining additional supervisory approval whenever the template is used? In other words, for permitted illustrations submitted through electronic communications, would a firm have to undertake additional requirements to comply with the Proposal, or does FINRA feel that current supervisory processes suffice for the changes outlined in the Proposal?

IV. CONCLUSION

WFA appreciates the opportunity to provide feedback to FINRA's Proposal. If you would like to discuss this issue further or need additional information, please contact me at (314) 242-3193 or robert.j.mccarthy@wellsfargoadvisors.com.

Sincerely,



Robert J. McCarthy
Director of Regulatory Policy

⁷ *Ibid.*