

Corporate & Financial Weekly Digest

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FINRA Requests Comment on Proposal to Require Disclosure Statement to Retail Investors

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The Financial Industry Regulatory Authority released a notice requesting comment on its proposal that would require member firms at or prior to commencing a business relationship with a retail customer to provide a written statement to such customer describing the types of accounts and services it provides, potential conflicts associated with such services and any limitations on the duties the firm otherwise owes to retail customers.

Before the Dodd-Frank Wall Street Reform and Consumer Protection Act was enacted, FINRA was already considering whether to implement a heightened standard of care with respect to broker-dealers. FINRA's staff concluded that retail customers would benefit from an up-front disclosure document that sets forth in plain English a firm's accounts and services, its associated conflicts of interest and any limitation on duties owed to its customers. FINRA's disclosure statement would serve a purpose similar to that of a Form ADV, which is required under the Investment Advisers Act to be provided to each advisory client.

With the enactment of the Dodd-Frank Act, FINRA believes its disclosure concept is even more appropriate, if not a necessity. The Dodd-Frank Act requires the Securities and Exchange Commission to conduct a study of broker-dealers' and investment advisers' obligations with respect to disclosure of conflicts of interest and authorizes the SEC to establish a fiduciary standard of care for broker-dealers. FINRA, in anticipation of any rulemaking mandates from the SEC resulting from such studies and to enhance retail investors' understanding of the business, relationships and conflicts of their brokers, is seeking comment on its proposal.

Specifically, FINRA's new rule would require a firm, at or prior to commencing a business relationship with a retail customer, to provide a written statement that sets forth the following information:

- types of brokerage accounts and services the firm provides;
- disclosures designed to permit existing and prospective retail customers to evaluate (a) the scope of services provided by the firm, (b) the scope of products offered, (c) if applicable, that the firm may not offer all products of a certain class or type and that it may be the sponsor or originator of certain products and may determine in some cases to

act as a distributor or placement or sales agent for a fee from the issuer or sponsor of the product, and (d) all fees associated with each brokerage account and service offered to retail customer;

- disclosure as to the financial or other incentives that a firm or its registered representatives have to recommend certain products;
- disclosure of conflicts that may arise between a firm and its customers; and
- limitations on the duties a firm owes to its customers.

The comment period expires on December 27.

Click [here](#) to read the full text of FINRA Regulatory Notice 10-54.

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