



May 1, 2017

By Electronic Mail to rule-comments@sec.gov

Brent Fields
Secretary
Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549-1090

Re: SR-FINRA-2017-007: Proposed Rule Change to Adopt Consolidated FINRA Registration Rules, Restructure the Representative-Level Qualification Examination Program and Amend the Continuing Education Requirements

Dear Mr. Fields:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to comment on SR-FINRA-2017-007 (the “Proposal”), which proposes amendments to FINRA’s registration rules, examination program, and continuing education requirements. The Proposal presents significant improvements to FINRA’s registration and examination rules that will inure to the benefit of the investing public, FINRA, and its member firms. SIFMA commends FINRA for undertaking a review of its registration and examination rules.

SIFMA encourages FINRA to consider including certain clarifications with respect to the Proposal and to continue its consideration of additional changes consistent with the objectives underlying the Proposal.

¹ SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over \$2.5 trillion for businesses and municipalities in the U.S., serving clients with over \$18.5 trillion in assets and managing more than \$67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

I. EXECUTIVE SUMMARY OF COMMENTS

A. *SIFMA Supports & Applauds FINRA's Review Rule Efforts*

SIFMA lauds FINRA's broader efforts to review and update its rules. SIFMA believes this process should facilitate the identification of outdated and inefficient rules and interpretations while also recognizing and balancing investor protection concerns. The revisions under the Proposal exemplify the benefits of FINRA's rule review process when it incorporates a studied approach that accounts for the real-world implications of regulations without compromising important investor protections and industry standards.

The proposed changes to the registration framework and examination program would increase opportunities for current and prospective financial service professionals as well as recognize existing efficiencies while maintaining strong qualification requirements. FINRA should be commended for its thoughtful approach to achieving this balance.

The Proposal has its roots in several prior FINRA proposals: FINRA Regulatory Notices 09-70² and 15-20³. As SIFMA previously commented in response to those proposals, Regulatory Notices 09-70 and 15-20 represented important changes to FINRA's registration and examination regime. SIFMA appreciates FINRA's response to SIFMA's comments on these prior proposals.⁴

SIFMA also applauds FINRA for its solicitation and consideration of member input on these important issues. The result is a proposed registration and examination program that, for the most part, minimizes complexity and maximizes efficiencies. We believe investors, FINRA, and member firms will

² See <http://www.finra.org/sites/default/files/NoticeDocument/p120490.pdf> [last visited April 27, 2017].

³ See http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-20.pdf [last visited April 27, 2017]. See also SIFMA comment letter on Regulatory Notice 15-20, available at http://www.finra.org/sites/default/files/notice_comment_file_ref/15-20_SIFMA_comment_0.pdf [last visited April 27, 2017].

⁴ See SIFMA comment letter on Regulatory Notice 09-70, available at <http://www.finra.org/sites/default/files/NoticeComment/p121068.pdf> [last visited April 27, 2017]; SIFMA comment letter on Regulatory Notice 15-20, available at http://www.finra.org/sites/default/files/notice_comment_file_ref/15-20_SIFMA_comment_0.pdf [last visited April 27, 2017].

benefit from FINRA applying a similar level of analysis, and transparency, to its other rule proposals and interpretations.

B. *SIFMA's Comments on the Proposal*

SIFMA broadly supports the Proposal, but also offers specific comments with respect to the following key aspects of the Proposal:

- ***Permissive Registrations***: The proposed expansion of permissive registrations presents an invaluable method for financial service firms to both cultivate a broader understanding of the securities laws in their organizations and to foster greater mobility and opportunities for personnel.⁵
- ***Licensing Examinations***: The proposed amendment to the qualification examination system is likely to make FINRA's examination program less onerous, less costly, and more efficient. SIFMA supports FINRA's evaluation of the principal-level examinations and encourages FINRA to propose a streamlined examination structure for principals.

An alignment of the effective periods for the core Securities Industry Examination ("SIE") and specialized "top-off" examinations would be consistent with FINRA's efforts to reduce unnecessary inefficiencies and would not compromise the qualification standards.⁶

- ***Waiver Process***: FINRA's proposed seven-year exam waiver for associated persons who go on to work for financial service industry affiliates ("FSA") avoids much of the unnecessary complexity of a similar proposal included in Regulatory Notice 09-70. SIFMA strongly supports this aspect of the Proposal.

After effectiveness, SIFMA suggests that FINRA monitor whether the FSA waiver structure presents any unnecessary complexities or results in inconsistent outcomes. To avoid confusion with other terms in the financial industry, FINRA should amend the FSA acronym for the waiver process.⁷

⁵ See Section II of this comment letter.

⁶ See Section III of this comment letter.

⁷ See Section IV of this comment letter.

- **Principal Registrations**: FINRA should review the need for the minimum experience requirement and, at a minimum, clarify how that standard would impact existing supervisory obligations. FINRA rules currently recognize that Financial and Operations Principals (FINOPS) are not required to also pass the Series 99 examination. It is unclear, however, whether this exclusion would apply to the principal registration categories created under the Proposal.

SIFMA supports FINRA's evaluation of the structure of principal-level examinations and encourages the development of a proposal to modify the principal-level examinations.⁸

- **Implementation**: SIFMA believes the proposed March 2018 implementation date may not be appropriate. The implementation date should account for a variety of factors, including: the date that the proposed rules are actually finalized; common on-boarding and training time-tables at member firms; and the incorporation and testing of necessary amendments to the CRD system.⁹

II. **PERMISSIVE REGISTRATIONS**

Proposed FINRA Rule 1210.02 would increase, significantly, the scope of permissive registrations by permitting any associated person to obtain a permissive registration with a member firm. As alluded to in the Proposal, this change would eliminate a structure that, in some cases, inconsistently accounts for the amount and type of activity conducted by associated persons.

The proposed rule will foster the development of creative methods to account for constantly evolving business and personal needs. Member firms will have an increased ability to shift personnel as economic forces affect business decisions. The resulting efficiencies will benefit member firms as well as their clients. Further, the existing limitations on permissive registration are likely to affect life events and family planning choices. The proposal would significantly reduce the impact of registration and licensing issues on financial service professionals.

⁸ See Section V of this comment letter.

⁹ See Section VI of this comment letter.

FINRA Rule 1210.02, when combined with FINRA Rule 1210.03, supports the development of longer training periods and career mobility programs at member firms. Firms could introduce a broader set of associated persons to the firms' core businesses through client interactions and exposure to important aspects of a firm's business over extended periods of time. This would not only support sound practices, when, such associated persons became responsible for client accounts; but it is also an important step towards building the next generation of financial advisors.

III. EXAMINATION PROGRAM

A. *In General*

The proposed modifications to the examination program for representatives are the result of a long-running dialogue between FINRA and industry stakeholders. The result of this process, proposed FINRA Rule 1210.03, is a strong example of regulation that balances investor protection and operational and economic realities. From an economic perspective, the proposal recognizes important efficiencies by centralizing examination of core concepts into the SIE. The revised structure also would support, if not encourage, mobility within member firms. It would be easier for firms to shift resources and provide increased opportunities for growth to existing personnel.

A key value of the revised examination program is allowing a broader set of the population to establish qualifications and prove an ability to understand relevant financial concepts. This does not run counter to the goal of the examination program – instead, it supports it. FINRA should be strongly commended for removing unnecessary hurdles on the pathway of opportunity for the next generations of financial service professionals.

B. *SIE Expiration Period*

The Proposal notes FINRA will be considering, as part of a separate proposal, the possibility of aligning the expiration periods of the SIE and the representative- and principal-level registrations. Proposed FINRA Rule 1210.08 would establish a four-year (4) expiration period for the SIE, but the expiration period for representative- and principal-level registrations remains two (2) years.

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SIFMA supports FINRA's approach to considering the extension of the two-year expiration period as part of a separate proposal as it is important to not delay implementation of the currently proposed revisions. SIFMA strongly believes that an alignment of the expiration periods for the SIE and the specialized examinations would be consistent with FINRA's studied approach to identifying and supporting efficiencies. Further, there are numerous reasons to extend the expiration period of the representative- and principal-level registrations. SIFMA and its members look forward to the opportunity to discuss these issues in depth with FINRA.

IV. FINANCIAL SERVICES INDUSTRY AFFILIATE WAIVER PROCESS

SIFMA thanks FINRA for undertaking to modify the registration rules so that financial services professionals can more easily take advantage of opportunities within global financial services organizations. The waiver process proposed under FINRA Rule 1210.09 avoids many of the unnecessary complexities included in the "retained associate" structure discussed in Regulatory Notice 09-70.

Proposed FINRA Rule 1210.09 would allow individuals registered with FINRA member firms to terminate their registrations and be designated eligible for a Financial Services Affiliate waiver (the "FSA waiver"). Assuming a person satisfies the conditions of the FSA waiver, he or she would not have to satisfy the requalification requirements upon re-registering with a FINRA member. As noted above, the current proposal avoids the complexity associated with the retained associate concept proposed in Regulatory Notice 09-70.

SIFMA strongly supports the adoption of the FSA waiver process as proposed. SIFMA suggests a non-substantive adjustment to the acronym associated with the FSA waiver process should be made to reduce the likelihood of confusion with pre-existing terminology.

SIFMA believes an on-going dialogue between FINRA and industry stakeholders after adoption and implementation of the FSA waiver process will help to identify any complexities and inconsistent results associated with the new waiver process.

A. *Non-Substantive Amendment to FSA Acronym*

The FSA acronym may lead to confusion because it is identical to the acronym used for the former British financial service regulator – the Financial Services Authority. The Financial Services Authority no longer exists as a regulatory agency. The Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) have assumed the duties previously undertaken by the Financial Services Authority. Although the Financial Services Authority no longer exists, there is a history of regulatory announcements and a general course of dealing, particularly among firms located in Britain or that have affiliates located in Britain, that continue to associate the FSA acronym with the Financial Services Authority.

SIFMA suggests that FINRA consider using “FSIA” instead of “FSA” considering the Proposal refers regularly to “financial services industry affiliates.”¹⁰

B. *On-going Dialogue Will Be Essential to Effective and Efficient Waiver Process*

Although SIFMA supports the adoption of the currently proposed waiver process, SIFMA believes that FINRA and industry stakeholders should monitor the application of the waiver process and communicate any issues therein to ensure that the waiver process is both effective and efficient. This approach would not only avoid unnecessary delay in implementing an important process but it would also help to better identify real issues, if any, with the application of the waiver process.

V. MATTERS OF PRINCIPAL REGISTRATION

The Proposal includes several items addressing changes to the principal registration requirements. Proposed FINRA Rule 1210.04 would increase the number of days that a formerly registered representative may function as a principal before being required to pass the appropriate qualification examination(s). SIFMA supports this aspect of the proposal. However, the minimum experience requirement included in the proposed rule could unnecessarily complicate the temporary principal registration structure.

¹⁰ See Pages 33-35 of the Proposal.

SIFMA believes FINRA should clarify certain aspects of the new principal designations of Principal Financial Officer and Principal Operations Officer. Finally, SIFMA is encouraged that FINRA is undertaking an evaluation of the principal-level examination.

A. *Minimum Experience Requirement*

Proposed FINRA Rule 1210.04 would increase the number of days to 120, but would also implement a minimum experience level requirement. The increased period is better suited to account for practical considerations such as logistical concerns and allowing the representative sufficient time to study for the examinations while also carrying out important supervisory responsibilities. In fact, granting additional time for the temporary principal designation will better ensure that a packed study/work schedule does not compromise supervisory responsibilities.

Under existing requirements a current or formerly registered representative may serve in a principal capacity for a period of 90 days before passing the necessary qualification examination(s). There is no minimum experience requirement presently. The proposal indicates that FINRA now believes that a minimum experience requirement should exist regardless of the length of the temporary period.

SIFMA believes that a regulation requiring a minimum experience level may be unnecessary because member firms have an interest in having only sufficiently qualified persons serve as principals. Absent evidence that firms are regularly seeking to temporarily designate persons as principals without the adequate amount of experience, FINRA should leave this determination to the members themselves. Existing supervisory obligations should be sufficient to force firms to make reasonable and appropriate assessments on this issue.

The proposed minimum experience requirement and the existing supervision rules would be separate regulatory obligations. A strict application of the minimum experience requirement may be inconsistent with existing supervisory requirements. Absent the ability to “check the box” for minimum experience, firms would have to consider the broader implications of the supervision rules in designating temporary principals. FINRA, therefore, should either remove the specific minimum experience requirement or clarify whether or not this requirement effectively serves as a “safe harbor” in connection with a firm’s decision to appoint a supervisor.

B. *Principal Financial Officer and Principal Operations Officer Designations*

Proposed FINRA Rule 1220(a)(4)(B) would require members to designate a Principal Financial Officer and a Principal Operations Officer. Persons designated in either role for a firm must qualify and register as Financial and Operations Principals (FINOPs) or Introducing Broker-Dealer FINOPs, as appropriate for the member firm.

SIFMA members have noted that the responsibilities of persons carrying these new designations would overlap with those of an Operations Professional that is required to pass the Series 99 examination. Currently, all FINOPs are exempted from having to pass the Series 99. It would be helpful for FINRA to confirm that this exemption would continue to apply as to persons designated as Principal Financial Officers and Principal Operations Officers because of their qualification as FINOPs or Introducing Broker-Dealer FINOPs.

C. *Principal-Level Examination Structure*

As discussed above, FINRA's proposed changes to the registration and examination regime applicable to representative-level registrations are commendable. A footnote in the Proposal states that FINRA is also evaluating how to effect modifications to the principal-level examinations. SIFMA is encouraged that FINRA is proactively studying this issue. FINRA should aggressively study this issue and propose modifications in the short term. Doing so will carry many of the benefits associated with improved efficiencies and opportunities associated with the changes at the representative-level.

SIFMA and its members have invaluable insight on this issue and are prepared to support FINRA's efforts to assess and develop appropriate and necessary modifications to the principal-level examination structure.

VI. IMPLEMENTATION OF PROPOSED CHANGES

The Proposal represents a significant enhancement of the registration and examination regime. As with all material changes, the timing of the changes is very important. In the Proposal, FINRA mentions March 2018 for the effectiveness of the proposed rules. SIFMA believes that FINRA should account for numerous factors in establishing the effective date of the proposed changes and, thereby, amend the effective date be no earlier than the Fall of 2018.

The effectiveness date should account for the time necessary for implementing necessary changes to the CRD system and for FINRA and its member firms to test related system changes. The Proposal discusses the need to develop changes to the CRD system to coordinate with matters such as permissive registrations and the FSA waiver. Those changes will take, what appears to be, an unknown amount of time. Further, FINRA members will need the time to develop and test coordinating systems to satisfy their supervisory and reporting obligations. However, that process cannot begin in earnest until the proposed rules are finalized and adopted. Since that point in time is still indeterminate, FINRA should allow for at least 12 months after the proposed rules are adopted.

In addition to allowing sufficient time following the adoption of the proposals, SIFMA suggests that the implementation date account for common recruiting and onboarding schedules. For example, firms typically on-board summer analyst classes in the Spring. Therefore, it would be most effective to make the proposals effective in the Fall to ensure that firms with summer analyst programs have the opportunity to test their processes and systems before periods of high demands on the registration and training programs.

VII. CONCLUSION

SIFMA appreciates the opportunity to comment on the Proposal. SIFMA commends FINRA for its efforts towards modernizing the registration and examination program. SIFMA believes the comments included in this letter are consistent with FINRA's efforts to update these rules to realize regulatory efficiencies and align the rules' costs and investor protection benefits. We look forward to a continuing dialogue with FINRA and working together on this Proposal.

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If you have any questions or would like additional information, please contact Kevin Zambrowicz, Managing Director & Associate General Counsel, SIFMA, at (202) 962-7386 (kzambrowicz@sifma.org), or our counsel, Ronak Patel, Kelly Hart, at (512) 495-6444 (ronak.patel@kellyhart.com).

Very truly yours,

A handwritten signature in black ink, appearing to read "K. Zambrowicz". The signature is stylized with a large initial "K" and a long, sweeping underline.

Kevin Zambrowicz
Managing Director &
Associate General Counsel

cc: Evan Charkes, Co-Chair, SIFMA Compliance & Regulatory Policy
Committee

Mary Beth Findlay, Co-Chair, SIFMA Compliance & Regulatory Policy
Committee

Ronak Patel, Kelly Hart