



NASAA

July 30, 2010

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Via email to pubcom@finra.org

Re: Regulatory Notice 10-25 (Registration and Qualification Requirements for Certain Operations Personnel)

Dear Ms. Asquith:

The North American Securities Administrators Association, Inc. ("NASAA")¹ appreciates the opportunity to comment on the above-referenced Regulatory Notice. NASAA supports the goal of strengthening investor protection by requiring the registration of individuals responsible for the back office functions of securities firms. The broad exemptive provisions contained in the notice, however, may serve to undermine the goal of strengthening the investor protection mechanisms contemplated by the Regulatory Notice.

Summary of Regulatory Notice

As explained in Regulatory Notice 10-25, FINRA would impose registration, testing, and continuing education requirements on individuals who are engaged in a supervising activity relating to a securities firm's sales and trading support and/or in the handling of customer assets. Generally, the goal is to enhance regulation of a member's back office operation. The following persons would be required to register as Operations Professionals: senior management with responsibility over the covered functions; supervisors, managers, or other persons responsible for approving or authorizing work in direct furtherance of the covered functions; and, persons with the authority to commit the firm's capital in direct furtherance of the covered functions or to commit the firm to any contract or agreement in direct furtherance of the covered functions. Currently, there is no separate registration category for back office personnel.

¹ NASAA is the association of the 67 state, provincial, and territorial securities regulatory agencies of the United States, Canada, and Mexico. NASAA serves as the forum for these regulators to work with each other in an effort to protect investors at the grassroots level and to promote fair and open capital markets.

Comments

NASAA supports licensing, testing, and continuing education requirements for individuals who perform a member's operations functions. Along with playing an integral role in a firm's business, these individuals supervise firm functions that include handling client funds, accounts, and transactions. Therefore, we believe that a licensing, testing, and continuing education program geared to the regulations and procedures in the operations process would enhance investor protection. NASAA also supports FINRA's conclusion that the new Operations Professional registration category should extend to senior management of the affected operations areas, supervisors and related persons responsible for approval or authorization of work in the affected operations areas, and those with the authority to commit the firm's capital or to contract on the firm's behalf.

While we are supportive of implementing a testing and continuing education requirement for back office operations personnel, the proposed exceptions to the Operations Professional registration examination requirement are overly broad. The various exceptions are so numerous as to dilute the regulatory intent of the proposal. FINRA currently administers 35 exams.² According to the Release, an individual with any one of 18 exams (over half of the 35 administered by FINRA) would qualify for an exception to the Operations Professional examination requirement. Moreover, an individual should not be able to opt-in to the Operations Professional registration category, without an exam, if they do not have the requisite back office experience.

Although NASAA has supported exceptions to registration requirements in the past, we have done so when the new qualification examination requirements are promulgated with the understanding that those exempted are already performing the activities that the examination would test and their experience might substitute for the examination. Such is not the case in this instance.³ For example, under this proposal, any individual holding an investment company products registration (Series 6) could opt-in to the Operations Professional registration category without any additional testing. It makes little regulatory sense for an individual only qualified to sell mutual funds and variable annuities to be able to become an Operations Professional and supervise any one of the fifteen functional categories included in the FINRA proposal without the benefit of more testing or relevant experience. In addition, although the general securities examination (Series 7) tests a broader range of knowledge than the Series 6, its focus is likewise substantially inapplicable to the specialized duties of an operations principal.

² Although administered by FINRA, the Series 63, 65, and 66 are state licensing exams, and are not included in this number. For a list of FINRA administered exams, see <http://www.finra.org/Industry/Compliance/Registration/QualificationsExams/p011096>.

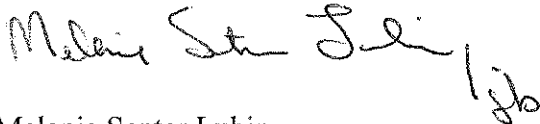
³ NASAA would not be opposed to a *limited* number of exceptions linked to experience in back office operations.

Conclusion

In conclusion, while we commend FINRA for taking steps to strengthen the regulation of back office functions, we urge FINRA to reevaluate its approach insofar as it allows the broad exemptive provisions under the proposal. We suggest that FINRA simply eliminate the majority of the exceptions to the Operations Professional examination requirement, and instead grant a limited number of exam exceptions to those individuals who are already performing the back office activities that the examination would test.

Should you have any questions regarding the comments herein please contact the undersigned by phone at 410-576-6365 or email at mlubin@oag.state.md.us.

Sincerely,

A handwritten signature in black ink that reads "Melanie Senter Lubin" with a stylized flourish at the end.

Melanie Senter Lubin,
Maryland Securities Commissioner and
Chair, NASAA CRD/IARD Steering Committee