

## VIA ELECTRONIC MAIL

January 3, 2023

NASAA Corporate Office ([nasaacomment@nasaa.org](mailto:nasaacomment@nasaa.org))

### **Re: NASAA Investment Adviser Representative Examination Validity Extension Program Model Rule**

Dear Investment Adviser Representative Continuing Education Committee:

On December 2, 2022, the Investment Adviser Representative Continuing Education Committee (“Committee”) of the North American Securities Administrators Association (“NASAA”) released a Request for Public Comment Regarding Proposed NASAA Investment Adviser Representative Examination Validity Extension Program Model Rule (the “EVEP Rule”).<sup>1</sup>

The proposed model rules would, for investment adviser representatives (“IARs”) extend the validity periods of the Series 65/ Uniform Investment Adviser Law Examination (“Series 65 Examination”) and the investment adviser representative portion of the Series 66/ Uniform Combined State Law Examination (“Series 66 Examination”). In doing so, NASAA would be aligning examination validity with recent changes that it adopted to examination validity for broker-dealer agents and IARs.<sup>2</sup> Those changes were intended to align NASAA’s model rules with the Financial Industry Regulatory Authority’s (“FINRA’s”) Rule 1240, relating to continuing education requirements implementing FINRA’s Maintaining Qualifications Program (“MQP”).

The Financial Services Institute (“FSI”) is pleased to support this important proposal and appreciates the opportunity to comment.

#### **Background on FSI Members**

FSI is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has successfully promoted a more responsible regulatory environment for over 80 independent financial services firm members and their 130,000+ affiliated financial advisors – which comprise approximately 45% of all producing financial advisors. We effect change through involvement in FINRA governance as well as constructive engagement in the regulatory

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<sup>1</sup> Request for Public Comment on a Proposed NASAA Model Rule for Investment Adviser Representative Examination Validity Extension Program. <https://www.nasaa.org/wp-content/uploads/2022/12/NASAA-Request-for-Public-Comment-re-IAR-Exam-Validity-Model-Rule-12-2-2022.pdf>

<sup>2</sup> The Examination Requirements for Broker-Dealer Agents Model Rule and the Examination Requirements for Investment Adviser Representatives Model Rule, adopted September 18, 2022. <https://www.nasaa.org/65309/nasaa-members-adopt-exam-validity-extensions-model-rules/?qoid=newsroom>

and legislative processes, working to create a healthier regulatory environment for our members so they can provide affordable, objective advice to hard-working Main Street Americans.<sup>3</sup>

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate \$35.7 billion in economic activity. This activity, in turn, supports 408,743 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly \$7.2 billion annually to federal, state, and local government taxes.<sup>4</sup>

### **Discussion**

In May of 2021, FSI commented<sup>5</sup> on FINRA's Regulatory Notice 20-05 Continuing Education Program Transformation, generally supporting the proposal and the goals of the Proposed Rules and how they provided for the "additional benefits of being responsive to changing demographics and needs of those entering the industry as well as evolving investor demands and goals." We echo the same support for the NASAA EVEP Rule.

Specifically, FSI supported FINRA's proposal allowing previously registered individuals to maintain their qualification for their terminated registration categories by participating in an annual continuing education program. Further, we recognized the importance of FINRA coordinating with the states noting that "Without maintaining registration at the state-level, permitting a previously-registered representative or principal registration category to maintain their qualification for a terminated registration category may be ineffectual."

In June of 2022, NASAA proposed model rules<sup>6</sup> to align with FINRA's MQP and FSI was pleased to comment in favor of the proposal.<sup>7</sup> In the comments we submitted at that time, we noted that the new policy would "reflect demographic trends and the growing desire and need for personal and professional flexibility." We further noted that "the proposal recognizes and adapts to current and future needs without compromising investor protection."

For the same reasons, FSI now supports the proposed EVEP rule. We continue to believe the flexibility provided by MQP and EVEP not only reflect demographic trends and flexibility, but by doing so also helps promote diversity in the financial industry that will benefit investors and the industry alike.

We also believe the proposed EVEP Rule will provide that flexibility without any degradation of investor protection. To avail oneself of the five-year window, an IAR, like a broker-dealer agent would need to elect participation in the EVEP and keep current with continuing education requirements throughout the period when they are not registered.

Aligning IAR examination validity with broker-dealer agent examination validity rules under EVEP is a matter of fairness and efficacy for IARs, registered investment advisers, and regulators. It is also an important in order to avoid business disruption that could be detrimental to investors. According to FINRA, as of 2021 80 percent of investment adviser representatives

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<sup>3</sup> For more information, please visit [financialservices.org](https://www.financialservices.org)

<sup>4</sup> Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2020).

<sup>5</sup> [https://www.finra.org/sites/default/files/2020-05/20-05\\_FSI\\_comment.pdf](https://www.finra.org/sites/default/files/2020-05/20-05_FSI_comment.pdf)

<sup>6</sup> See Note 2 above.

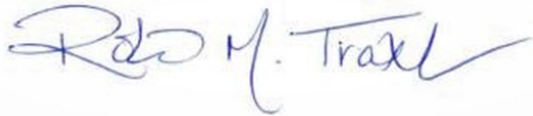
<sup>7</sup> <https://www.nasaa.org/wp-content/uploads/2022/06/Comment-Letter-NASAA-Exam-Validity-7-22-2022.pdf>

were also registered as broker-dealer representatives.<sup>8</sup> Without alignment, individuals in the EVEP who are registered as both IARs and broker-dealer agents would find themselves subject to different registration requirements.

### **Conclusion**

For the foregoing reasons, FSI supports the Proposed NASAA Investment Adviser Representative Examination Validity Extension Program Model Rule. We appreciate NASAA's careful consideration of these changes and the opportunity to provide FSI's perspective. We thank you for considering our comments. Should you have any questions, please contact my colleague Dan Barry at (202) 517-6464, or dan.barry@financialservices.org.

Respectfully submitted,



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Senior Vice President, Policy & Deputy General Counsel

Cc: Linda Cena  
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<sup>8</sup> 2022 FINRA Industry Snapshot, at page 5. <https://www.finra.org/sites/default/files/2022-03/2022-industry-snapshot.pdf>