



Solutions For Broker Dealers By Techmate

February 21, 2014

FINRA; Office of the Corporate Secretary
1735 K Street, NW Washington, DC 20006

Dear Sirs or Madames,

Since 1984 my company has progressively expanded its provision of database, business processing, system access, workflow and imaging solutions to introducing broker dealers. For better or worse, we have watched broker dealer closures and consolidations in recent years that have left us with fewer but larger broker dealer clients. If FINRA does not pause and think NTM 13-42 through more carefully than presented in its initial form, you are going to once again press your “small” and “intermediate” category of member firms with increasingly onerous regulatory burdens that do not achieve your stated goals of “allows FINRA to analyze data in new ways that better protect investors and ensure market integrity.”

REQUIREMENT FOR REPORTING TO AND THROUGH CLEARING FIRMS

For starters, you press the issue that the introducing broker dealers will have to provide data to their clearing firms, which will in turn provide data to FINRA. You do not open the door for the broker dealers providing the data directly to FINRA until item five of your “Request for Comments”.

Where does this leave the estimated 2,073 broker dealers that have no clearing firm relationship? (Statistics courtesy of Fishbowlstrategies.com)

Or what about the high percentage of the 2,047 broker dealers that appear to have clearing arrangements but put a majority of their client accounts and transactions directly with the mutual fund, VA and other product sponsors?

What about tripling the risk of identity theft by forcing introducing broker dealers to push their data to the clearing firm, which in turn pushes the data to FINRA? (Will the clearing firm and FINRA accept full liability for any identity theft that might occur after the data leaves the custody of the originating broker dealer?)

QUESTIONS:

Will you exempt firms that have no clearing relationship from the outset?

Or, will you force firms to establish clearing arrangements just for the purpose of providing data to FINRA?... (You do mention engaging third party agents, such as my company, but then it appears you are still focused on provision of data to clearing firms and not directly to FINRA.)

Or, will you exempt broker dealers that do less than half their business through clearing firms?
...or less than 20%...pick a number?

Or, will you require broker dealers to move all their accounts into their clearing firms? (Frankly, I'm not sure the clearing firms are going to want to accommodate many of these accounts since they do not hold much future for new business and clearing firms DO charge account maintenance fees...I do not see that expense reckoned into your "E. Economic Impact".)

Where will that leave investment products and account types that cannot be accommodated by clearing firms?

Are you ready for another storming of the exits where broker dealers say goodbye and/or operate as registered investment advisors?

DATA MAPPING

On page six, heading E, you address issues of the clearing firms possibly not even having data fields to accept certain data from the introducing broker dealers. That begs the question, "Does FINRA have the data fields necessary to accept the data?"

Has FINRA identified the data fields desired? (Reference to data in the notice is very vague.)

Has FINRA expanded its research beyond the two clearing firms alluded to and determined if these firms are gathering common data elements or is FINRA going to make all reporting firms comply with just two clearing firms opinion of how data should be captured, stored and presented?

DIRECT REPORTING FROM INTRODUCING BROKER DEALERS

In the event CARDS is a foregone conclusion that we will all have to live with, why doesn't FINRA just cut to the chase and make plans from the outset to accept data feeds directly from the introducing broker dealers. This would allow companies like mine to create a single, common data feed for CARDS that our clients could utilize at little or no additional cost. (Note: The staff and resource cost of providing the data will be sufficiently burdensome on the introducing broker dealer without software vendors tagging them for system development costs.)

If you proceed with the plan to use the clearing firms as intermediaries, vendors will have to create data feeds unique to each clearing firm's standards. In our case, we will have to accommodate NFS/Fidelity, Pershing, RBC, Southwest, First Southwest, COR, JP Morgan, First Clearing, Apex and others. As you can surmise, the cost of building and implementing a single, common format extraction specific to FINRA is far more palatable than accommodating the whims of various clearing firm's formats. If, in the end, the clearing firms have to provide data in a single format for FINRA, why don't you just publish that format from the start and call it a day?

SECURITY

You acknowledge on page six paragraph three “the value and sensitivity of information collected”.

The only data that is truly “**valuable and sensitive**” is the customer identification...**Solution**, do not gather it in the first place.

Other comments raise concerns that you are overreaching when you gather personal data about investors. You could allay these concerns at the outset by limiting client “identification” to a single broker dealer originated “account number” that would in no way compromise the identity of the client. This way your database would contain the account activity necessary for your stated purposes but contain absolutely nothing of value to an identity thief. If you decide there is an issue on an account, you simply make a request of the broker dealer for additional information for that specific account number.

INVESTOR PROTECTION AND MARKET INTEGRITY

The last paragraph on page two identifies “churning, excessive commissions, pump and dump schemes, markups, mutual fund switching” as examples of “red flags of practice misconduct” that will be revealed.

For starters, the majority of your members (2,073) do not have a clearing arrangement and in turn do not have the capacity to participate in “churning, excessive commissions, pump and dump schemes, markups” because they have no ability to execute trades in the products behind these types of “misconduct”.

Most of us in this industry at any given level want to see “investor protection and market integrity”, because without “trust” we will not have a marketplace to begin with. To this end, streamlining the compliance process can be of value to all involved, I just don't see CARDS (as written) as a solution. Perhaps a return to the drawing board with input from more than two clearing firms is in order.

Yours sincerely,



Rod Lueck
303-356-5962