



November 25, 2014

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

RE: Comment on Regulatory Notice 14-37 *Comprehensive Automated Risk Data System*

Dear Ms. Asquith:

FINRA has requested comment on a concept proposal to develop a new Comprehensive Automated Risk Data System ("CARDS"), a rule-based program that would allow FINRA to collect on a standardized, automated and regular basis, account information, as well as account activity and security identification information that a firm maintains as part of its books and records. FINRA's stated goal for CARDS' first phase is to increase FINRA's ability to use automated analytics on current and historic firm data to identify problematic sales practice activity, limited to the collection of information to only that data that resides at carrying or clearing firms. FINRA has also identified a second phase of CARDS that would add data specifications to collect "Select Account Profile Data Elements" from fully-disclosed introducing firms for all the firms' introduced securities accounts. And, while FINRA is looking to additional future phases to focus on non-brokerage related data, it has indicated that rulemaking will be required. As discussed herein, along with our previous comment letter to FINRA dated March 20, 2014, M Securities believes that the proposal for CARDS presents significant challenges to firms due to its ambitious scope and massive scale.

#### **I. Cost v. Benefit**

Before moving forward with any phase of CARDS, FINRA should conduct a thorough cost-benefit analysis covering the projected costs of the entire CARDS to member firms (both clearing firms and introducing firms), the security and data privacy risks involved with CARDS, the costs that firms will incur to work on correcting errors or rejected files and to resubmit the information in a timely manner. Additionally, FINRA should conduct a cost-benefit analysis on alternative approaches that may alter some features of the proposal yet still provide FINRA with the ability to conduct analysis and improve examination efficiency.

While FINRA anticipates that CARDS will reduce the number of information requests firms receive from FINRA, we believe that the result may be the opposite. Given the amount of data that FINRA will be able to access and analyze, it is likely to result in additional information requests because computerized algorithms can collect and analyze only numbers and data, not the real world context of such information. This will likely involve “false positives” that firms will have to spend time and resources responding to, particularly when firms are not given the opportunity to examine the data prior to it being provided to FINRA. FINRA is encouraged to commit to provide data and analytics with respect to sweeps, data inquiries and examination duration so that firms and the public can determine whether CARDS has, in fact, made regulatory oversight more efficient.

FINRA should be complimented for stating that it will retire INSITE and the Automated Exam Program once CARDS is implemented. FINRA is encouraged to continue analyzing existing systems and work with the industry to identify duplicative reporting systems that may be obsolete in light of CARDS, which should continue through an implementation period. Subsequent to implementation, it would be extremely beneficial for FINRA to continue analyzing its regulatory systems in light of CARDS, and at regular intervals, to identify additional duplicative systems or requirements that may be retired.

## **II. Data Privacy & Security**

M Securities is pleased that FINRA has concluded that the CARDS proposal will not require the submission of information that would identify to FINRA the individual account owner, particularly, account name, account address or tax identification number (“personal identifying information”). However, the exclusion of personal identifying information does not alleviate data security and privacy concerns because CARDS will contain account numbers, which can be matched to personal information at the firm level. FINRA will effectively have an investor’s entire financial snapshot consolidated in one central system, making it an extremely attractive target for hackers and fraudsters.

FINRA is encouraged to provide firms with the Service Organization Controls (SOC) 2 and 3 reports that it stated it would obtain prior to the CARDS implementation date as well as any corresponding data encryption standards. Additionally, FINRA should subject aged CARDS data to a routine destruction schedule that is disclosed to firms.

Due to the high security and data privacy risks, FINRA should make clear and ensure through written agreements with the firms and appropriate disclosures that, in the event of a data security breach or any such compromise of data, FINRA will indemnify the firms (both clearing and introducing) for any liability incurred as a result.

### **III. Data Standardization**

CARDS, in the current proposal, will not capture data from firms that engage in non-brokerage related business with product providers. We do not recommend that CARDS include non-brokerage related business data due to the various complexities in reporting this information that FINRA has already identified. Nevertheless, it is important to point out that FINRA may lack a holistic view of customer holdings and activity that is likely to result in an increase in requests or exams based on incomplete information. FINRA, as previously commented in this letter, should conduct a cost-benefit analysis that justifies the expenses and expected outcomes of such an initiative in consideration for what information CARDS will and will not be able to analyze.

### **IV. Impact on Sweeps**

FINRA has stated that CARDS will reduce the burden on firms by resulting in fewer sweeps, more streamlined and targeted examinations and perhaps even fewer examinations. We commend FINRA for including this reduction as a goal of CARDS. If sweeps become necessary despite CARDS, FINRA should commit to providing firms with a clear statement as to why CARDS data is insufficient to resolve the inquiry. FINRA should also publish more robust information on the number and size of sweeps, the exam cycle, and other relevant information that may be useful in evaluating the extent to which CARDS has lessened or increased burdens on firms.

### **V. Alternative Method**

M Securities believes CARDS, as currently proposed, will increase and not reduce the current costs and burdens to firms of overlapping regulatory systems, defeating one of the main objectives of CARDS. As outlined by FINRA, CARDS has been designed as an exception reporting tool to perform what we believe is a core front-line supervisory function of firms – reviewing and analyzing account-related activities to identify potential red flags of sales practice misconduct and other regulatory issues. M Securities proposes as an alternative that FINRA should make the CARDS software available on a decentralized basis to all firms to operate under their own implementation and control. Under this approach, each firm could use CARDS and provide periodic reports to FINRA regarding what problems the firm uncovered and what actions were taken by the firm to resolve such problems.

Under a decentralized approach, firms could utilize CARDS (in conjunction with their clearing firms) with the perspective of their own unique needs and business models and then allocate firm resources to the areas of the firm (e.g., registered representatives, branches) that CARDS identifies as in need of additional training and supervision. Firms are in a better position than FINRA to recognize and eliminate false positives, sort trivial infractions from substantive ones and provide the quickest and most efficient response to actual problems. Further, providing

CARDS to firms could be particularly beneficial for smaller firms that cannot afford to design and build such a system to aid their supervisory and compliance efforts. Finally, the alternative use of CARDS would eliminate the well-founded concerns of firms with respect to the security and data privacy risks of CARDS as proposed by FINRA.

While we assume FINRA may reserve the right to impose the requirement of a direct CARDS data feed for firms that are consistently problematic, we believe FINRA should abandon its premise that the homogenous imposition of what amounts to a massive exception reporting system is automatically in the best interests of the firms and the best use of FINRA personnel.

## **VI. Questions for Comment**

M Securities appreciates the opportunity to provide comments in response to FINRA's regulatory notice and would welcome an opportunity to provide additional comments in the future as FINRA considers this important matter.

Sincerely,



Carrie L. Fleisher

Vice President

Chief Risk & Compliance Officer