

I am writing to offer comments about the efficacy and efficiency of the current rules governing communications with the public, and offer suggestions to improve the efforts going forward. I have had the privilege of attending the FINRA Advertising Conference the past two years and applaud the staff for putting forth excellent programs both years. I heard it explained very clearly in both conferences that the foundation of the rules is to ensure fairness and balance in all communications with the public. I wholeheartedly agree with that goal and hope we continue to keep that front and center in all related rules and best practices. I do, however, find some provisions to be an unintended distraction from the foundational principle of ensuring fairness and balance. In a more poetic sense I feel that we have to focus too much on specific trees and lose sight of the forest.

The rules for collection, pre or post approval by a principal, and archiving of communications are economically burdensome and increasingly more challenging. The viral expansion of the social media and electronic communication tools make the collection and archiving of every communication impossible. Print advertising was controllable, paper correspondence was challenging but doable, personal websites and email monitoring stretched the member firms' compliance capacities to the point of significantly shifting the cost-benefit outcome of operating to a less beneficial result. Use of tools like Mail Chimp, Constant Contact, and other mass email distribution channels are cost-effective for the purveyor, but use a distribution point that escapes the classic email capture archiving architecture. Webchat, Instant Messaging and cell phone texting are often outside any means a member firm has to capture and monitor such communications. Facebook, LinkedIn, Twitter, MySpace, Instagram, etc. simply render the task of collection, monitoring and archiving beyond reach, and the environment will continue to evolve with the introduction of new media formats. It's time to look for alternate means to ensure fairness and balance in such communications.

Firms currently have to concentrate too much of their limited resources on capture and archiving and yet they still sit vulnerable to citation for violations because it has become simply impossible to capture and archive everything. The skilled principles spend too much time sifting through communications that are mostly compliant with the principles of fairness and balance. Have we focused them too much on an ineffective defense? I can't help but our efforts to the French military's defensive strategy in the late 1930's. It was expensive and impressive but highly ineffective. The French did not find out until it was too late just how easy it was for Hitler's forces to circumvent the Maginot Line. Let's put our compliance efforts to better use.

I propose we focus more on public education and best practices for remediation of violations to the principles of fairness and balance. First let's put more effort into educating the registered representative community on the standards for good communication with the public. Second, let's have member firms devise policies and procedures for dealing with improper communications as they find them. Third let's encourage periodic investigative practices in place of absolute collection and archiving. Fourth let's have firms provide information to their customers about their right to fair, balanced and compliant communications and provide them a means to contact compliance support if ever they believe they were targeted with improper communications. And finally, let's mount an industry-wide effort to educate the public about what to look for in communications and how to root out and report improper communications.

I would happily participate in further discussions on any of the five recommendations noted above. In regard to items four and five, above, I encourage open dialogue with industry trade

associations like SIFMA, FSI, ICI and IRI to create and investors' bill of rights specific to communications with the public. Our capital markets have been one of the great engines for growth and wealth creation in the history of modern civilization. We should remind the public of the good that comes from healthy capital markets and, at the same time, demonstrate to the public how FINRA, as a member-driven, self regulatory organization, works to ensure that the public may participate in the capital markets without abusive, unfair or misleading inducements.

Thank you for your time and consideration.

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