

VIA ELECTRONIC MAIL

December 1, 2014

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

RE: FINRA Regulatory Notice 14-37: Request for Comment on a Rule Proposal to Implement the Comprehensive Automated Risk Data System

Dear Ms. Asquith:

FINRA published Regulatory Notice 14-37 (“RN 14-37”) on September 30, 2014 requesting comment on a proposed rule to implement the Comprehensive Automated Risk Data System (“CARDS”). Commonwealth Financial Network (“Commonwealth”) appreciates the opportunity to comment on CARDS. We are very supportive of FINRA’s overall mission of investor protection, and we appreciate FINRA’s attempts to address the wide-spread criticism voiced by broker-dealers, clearing firms, industry associations and the general public in response to Regulatory Notice 13-42.

Nevertheless, Commonwealth remains deeply concerned that the potential impact of a massive data security breach, a substantial increase in the number of inquiries that would be directed to firms in response to the extraordinary volume of data to be collected by CARDS, and the staggering costs that will be incurred by firms in order to comply with the proposal, overwhelmingly outweigh the suggested benefits to investors with the implementation of CARDS, as it is proposed today. We therefore urge FINRA to make material and meaningful changes to specific aspects of the proposal as discussed more fully below, or to pursue other means to accomplish its goals.

Commonwealth is an independent broker-dealer and SEC-registered investment adviser with home office locations in Waltham, Massachusetts and San Diego, California. The firm has more than 1,600 producing registered representatives (“advisors”) who are independent contractors conducting business throughout the United States.

Data Security

We applaud FINRA’s decision to omit from the data to be collected by CARDS the personal identifying information of an investor’s name, account address and tax identification number, and to limit investor date of birth information to the year of birth only. We also commend FINRA’s commitment to implementing security and privacy controls, including obtaining Service Organization Controls (SOC) 2 and 3 reports and taking other steps to protect the security, integrity, confidentiality and privacy of investor data. While these steps are critical, there is a long list of sophisticated and well-funded public, private and governmental institutions that, despite taking all

reasonable and sophisticated efforts, have still been the subject of a data security breach. We remain concerned that CARDS will be a prominent, serious and consistent target for cyber criminals. Despite FINRA's best efforts, were a security breach of CARDS to occur, it would lead to widespread investor anxiety about the security of their data, a loss of overall confidence in the integrity of the markets and a high likelihood of resultant market volatility, and a considerable and prolonged negative impact on FINRA's reputation as a self-regulatory organization whose core mission is investor protection.

Should FINRA proceed with CARDS despite these concerns, it should obtain SOC 2 and 3 reports on a continual basis annually, rather than just prior to the implementation of CARDS. FINRA should also clarify as a matter of record that it will be solely responsible to investors for any harm that may result from a CARDS data security breach, and it should agree to indemnify and hold broker-dealers harmless for any costs or damages that firms may incur as result of a security breach.

Account Profile Data

The second phase of CARDS would require firms to transmit to FINRA "Select Account Profile Data Elements", which data will include for each account, among other things, the investor's time horizon, investment objective, risk tolerance and net worth; the servicing representative(s) compensation allocation and the serviced-by representative group flag; the branch CRD number and the registered representative(s) CRD number(s); and an "account participant related to employee" and "employee of another broker-dealer" flags.

Suitability Data

As FINRA is aware, each broker-dealer has the ability to develop and define their own suitability terms in the conduct of their respective businesses. The terms and definitions of an investor's time horizon, investment objective, risk tolerance and net worth are not standardized or uniform, and in fact vary widely throughout the industry. In recognition of this fact, FINRA proposes to provide "a standardized file specification for transmitting data", and "it would also provide firms with the ability to report specified data elements in free format text fields, including suitability information and product and security descriptions."

It is unlikely that many firms will undertake a process to revise their suitability terms and definitions to accommodate FINRA's standardized file specifications. In order to use FINRA's standardized file specifications, firms would need to update their client account profiles – in paper form and/or in electronic form – which would require those firms to repaper all of the existing account profiles they have on record, as well as implement paper and/or system changes to accommodate FINRA's standardized file specifications.

As an alternative, FINRA proposes to provide firms with the ability to report suitability information and product and security description data elements in free format text fields. If firms opt for this alternative it is extremely unlikely that FINRA would have the ability to efficiently and effectively evaluate and leverage the massive volume of unique suitability and product description terms and

descriptions that it would receive in free text file format for the many millions of accounts held at broker-dealers. Rather, any attempt by FINRA to process such a massive amount of free format text field data on an account by account basis will surely result in a substantial increase in the number of inquiries that would be directed to firms by FINRA staff.

FINRA's proposal would also limit the collection of data to clearing firms, and any inclusion of direct account data will require additional rulemaking. Since approximately 30% of Commonwealth's accounts are held in direct "application-way" accounts, the account level transaction and position data that FINRA will receive will not provide a thorough or accurate picture of the overall investment portfolio allocation of many Commonwealth clients from which FINRA could draw reasonable and informed conclusions about account suitability. We know that many other firms, particularly independent broker-dealers, maintain even higher percentages of direct accounts away from their clearing firms. The greater the number of a firm's accounts that are held direct, the less meaningful the suitability profile information will be for FINRA. The amount and nature of an investor's direct account assets are critical to determining overall account suitability. Due to the narrow focus of CARDS on clearing firm accounts only, FINRA will often not capture all of an investor's account positions that are necessary and relevant in order to draw meaningful conclusions about whether a client's assets are being handled in accordance with the client's account suitability profile. This will almost certainly result in numerous and time consuming false flags that FINRA will need to review and it will lead to the initiation of many unnecessary inquiries to firms.

In support of collecting account suitability profile data, FINRA has stated in RN 14-37 that CARDS "would provide a more holistic view of customer accounts, thereby allowing FINRA to better pinpoint where suitability risks might exist by identifying groups of customers holding high-risk products, branch offices with concentrations of such products and registered representatives selling those products." In fact, FINRA will be able to accomplish these goals without relying on the receipt of any free format suitability text field data. The inefficient receipt of suitability data in free format text files, combined with FINRA's narrow focus on clearing firm account data without regard to the direct account data necessary to form reasonable conclusions about suitability, will result in unnecessarily burdensome and time consuming information requests that will be sent to broker-dealers, with little if any material benefit for investors.

Servicing Representative, CRD and Employee-Related Data

Among the Select Account Profile Data Elements that FINRA proposes to collect from firms are the compensation allocations for the servicing representative, a serviced-by representative group flag, the registered representative's CRD number as well as his or her associated branch CRD number, and an account participant related to employee and employee of another broker-dealer flags. Providing such detailed data to FINRA will not be as straight forward as it may seem.

Many firms, including Commonwealth, associate more than one servicing representative to the same account. Moreover, it is not uncommon for the same servicing representatives to have varying compensation allocations, on an account by account basis. The time and effort that firms will need

to employ, whether manually or via systems development resources, to accommodate transmission of compensation allocation data to FINRA will be significant.

While firms could likely transmit the servicing representative(s) CRD numbers to FINRA, development at either the clearing firm or the introducing firms will be necessary to accommodate this data element, as firms do not generally associate CRD data directly with account profiles today. Adding the associated branch CRD number to the data files, particularly in cases where the servicing representatives do not operate from the same branch, will be even more challenging for firms and will also require additional development resources. If firms are able to provide the account level servicing representative(s) CRD numbers to FINRA, we recommend that FINRA use its own resources to access the Web CRD system, and develop its own internal processes to link each servicing representative to their branch CRD number, rather than requiring firms to undertake this additional development expense in order to provide FINRA with data to which it already has access.

Finally, the inclusion of “account participant related to employee” and “employee of another broker-dealer” flags will also be challenging. While firms likely collect this data as part of the account profile, the means by which and the extent to which this data is maintained electronically in a format that will enable firms to transmit the data to FINRA will vary widely by firm. At best, providing this data will involve potentially substantial firm development resources, and at worst it will require firms to manually search their account profile records to compile and transmit this data to FINRA.

Costs

Substantial and costly systems development will need to be undertaken by firms in order to comply with CARDS. As an introducing broker-dealer, the specific aspects of phase 2 of CARDS as discussed above will present significant and costly burdens for Commonwealth, with little if any benefit provided to FINRA or to investors. It is clear that any initial and continued maintenance costs that will be required to be borne by firms in order to comply with CARDS will be substantial. This fact, combined with the inclusion of account profile suitability data and some of the other data elements discussed above, will not only threaten the overall efficiency and effectiveness of CARDS, but will also cause firms to incur substantial system development and regulatory inquiry response costs that are not necessary for FINRA’s overall mission for CARDS to be successful.

Therefore, we urge the Office of the Chief Economist at FINRA to take meaningful steps to collect and analyze the data and other information it has received and will receive related to the costs, benefits, and challenges inherent in any implementation of CARDS. Such analysis should be made available to firms and to the public for review and comment *before* FINRA proceeds with any CARDS implementation.

Commonwealth urges FINRA to consider the potentially devastating impact that a security breach could have on investors, the integrity of the markets, and on FINRA's reputation as a self-regulatory organization. FINRA must be certain that the benefits from the implementation of CARDS will far outweigh the costs that will be incurred both by FINRA and broker-dealers, as well as the potential for wide-spread harm that could result from a data security breach. For the reasons discussed above, FINRA should also consider delaying, substantially modifying or completely withdrawing its proposed phase 2 of CARDS. We urge FINRA to make material changes to specific elements of the proposal as discussed above, or to pursue other means to accomplish its goals.

Respectfully,
COMMONWEALTH FINANCIAL NETWORK

A handwritten signature in cursive script that reads "Paul J. Tolley".

Paul J. Tolley
Senior Vice President
Chief Compliance Officer