

By Electronic Delivery (rule-comments@sec.gov)

July 7, 2016

Robert W. Errett
Deputy Secretary
Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549

**RE: File Number SR-FINRA-2016-018
Notice of Filing of a Proposed Rule Change to Amend FINRA
Rules 2210, 2213, and 2214 Relating to Communications
with the Public**

Dear Mr. Errett:

FOLIOfn Investments, Inc. ("Folio") appreciates the opportunity to comment on proposed amendments to the Financial Industry Regulatory Authority's ("FINRA") rules governing communications with the public as outlined in SR-FINRA-2016-018. Folio continues to support FINRA's efforts to better align the investor protection benefits and the business process and economic impact of its rules on member firms. Folio offers the recommendations and comments below in consideration of FINRA's efforts in this area.

New Member Communications

Folio supports FINRA's proposal to change the filing requirement for new member firms in FINRA Rule 2210(c)(1)(A) from a pre-use to a post-use requirement, but believes other rules and requirements currently in place are sufficient to offer the important investor protections contemplated by the existing and proposed filing requirement for new FINRA member firms. For example, Folio suggests FINRA and the U.S. Securities and Exchange Commission ("Commission") consider whether FINRA's new member application ("NMA") process pursuant to NASD Rule 1013 gives sufficient opportunity for an applicant to demonstrate its ability to comply with the communications with the public requirements prior to the conclusion of the application process as well as the sufficiency of its implemented infrastructure for supervision and compliance on a continuing basis. The NMA process is an expensive and rigorous barrier to entry and, arguably, is designed to eliminate applicants that are unable to comply with the regulatory requirements. Instead of a blanket mandatory filing requirement for all new members regardless of the level of securities industry experience held by compliance and supervisory personnel, FINRA could, instead, impose the requirement on a more limited basis where the staff determines it is warranted.

Specifically, in those instances, FINRA could consider requiring some or all retail communications to be filed by a particular new member as a condition to membership approval, if, for example, the new member firm applicant did not have compliance or supervisory personnel with at least five years of experience directly related to sales practice requirements that would be responsible for reviewing and approving the new member firm's retail communications. Such a requirement would be applicable to those new members who have supervisory and/or compliance personnel with limited experience with the FINRA communications with the public requirements or have only recently entered the securities industry. With such an approach, FINRA could be assured that those new member firms with less experience continue to receive the guidance provided through the filing process when necessary, while reducing the burden on members that have professionals with more experience in this area – effectively supervisory and compliance personnel that a long-standing FINRA member firm would rely upon for its own compliance efforts.

In the event FINRA and the Commission believe the requirement for all new members to make mandatory filings for a one-year period is nonetheless essential to the protection of investors, Folio suggests making the requirement more narrowly tailored by limiting the communications that must be filed to those that, in FINRA's experience, are likely to pose the greatest risk. Specifically, Folio suggests FINRA exclude communications from the mandatory filing requirement for new members that are generic retail communications. FINRA is proposing to no longer require any member to file generic investment company retail communications on the basis that such communications generally do not present the same risks of potentially misleading information. Folio suggests that the same theory holds true for all retail communications that are generic in nature and do not make comparisons between securities products while communicating valuable information to investors. Similarly, non-predictive narrative descriptions should be excluded. In expanding the scope of the template filing exclusion to allow member firms to add or modify non-predictive narrative descriptions without filing a revised template, FINRA states that it "believes that the costs associated with filing narrative updates exceeds the investor benefits associated with FINRA staff's review of these updates." Folio suggests this is true regarding all non-predictive narrative retail communications that merely describe market events or provide factual descriptions.

Regardless of whether the firm is a new member or one that has been in business for 20 years, there are certain materials that FINRA has deemed sufficiently "high risk" to warrant filing by all members and, as such, those materials would continue to be filed by both new members and long-standing members. Folio, however, believes that FINRA can even more efficiently balance its mission to advance investor protection against the potentially onerous burden

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of its rules on new member firms by further considering whether a blanket filing requirement for new members is necessary to achieve its goals.

Generic Investment Company Communications

As noted above, FINRA proposes to revise the filing requirement in FINRA Rule 2210(c)(3)(A) to cover only communications that promote a specific registered investment company or a family of registered investment companies. Folio supports this proposal and believes that the amendment to exclude generic investment company communications from filing requirements and thereby encourage members to communicate additional valuable information to investors without bearing the costs associated with filing is a welcomed change. Folio commends FINRA for moving in this direction.

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Folio further commends FINRA for undertaking its retrospective rule review. Not only do the proposed rule amendments encourage members to continue communicating with investors in a constructive way, they will also allow FINRA staff to focus regulatory oversight efforts on the communications that pose the most significant risk to investors.

Folio appreciates the opportunity to comment on FINRA's proposed rule amendments. If you should have any questions or would like to discuss the firm's comments, please do not hesitate to contact me at [REDACTED] or [REDACTED].

Sincerely,



Erica A. Green
Vice President & General Counsel
FOLIOfn Investments, Inc.