



March 21, 2014

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

Re: Regulatory Notice 13-42 - FINRA Requests Comment on a Concept  
Proposal to Develop the Comprehensive Automated Risk Data System

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ROBERT REMAR  
TREASURER

Dear Ms. Asquith:

We write to express our concern over the proposed Comprehensive Automated Risk Data System (CARDS), Regulatory Notice 13-42. The Financial Industry Regulatory Authority (FINRA) plays an important role in safeguarding the market and in doing so monitoring the behavior of brokers and investment firms. FINRA, however, should not be monitoring the financial pursuits and personal information of American consumers. Notice 13-42, issued in December, describes a system designed to sweep up vast amounts of Americans' personal financial data. While broad, unrestrained collection of personal financial data might provide helpful information to the agency in its mission of policing inappropriate behavior in the financial industry, it is not at all clear how this program would use and protect sensitive personal information of wholly innocent Americans who are not subject to the reach of FINRA and about whom there is no particularized evidence of wrongdoing. In the absence of comprehensive safeguards limiting the collection, retention, and use of such data, the concept proposal presents significant privacy concerns.

As proposed, the CARDS program could create a huge pool of Americans' personal financial data, a database vulnerable to unwarranted government inspection. The system would mandate the collection of sensitive financial and personal information about specific consumers, such as their net worth, investment objectives, employment information, and age. It would also collect near real time transaction histories of the purchase of financial products and services. Information would be collected and updated daily and would be subject to routine monitoring by FINRA.

We are pleased to learn that FINRA updated the CARDS proposal to bar the collection of customer names and some other personal information about consumers. Notwithstanding that positive development, we question whether such measures are sufficient for two reasons. First, the CARDS proposal is confusing and ambiguous on the intended use of the information. Second, the proposal fails to address the risk of data breach. While removing

certain identifiers may reduce some of the privacy dangers associated with a data breach, given the large volume of information, a significant privacy risk remains. Specifically, research has demonstrated that even nominally de-identified information can frequently be re-identified when crossed referenced with other public databases. This danger seems particularly acute in the case of detailed financial information.

Although the notice specifies what information would be collected, it fails to explain in sufficient detail how this sensitive information would be used or whether it would be shared with other non-government or government actors. According to the proposal, CARDS data would be used for a number of purposes include analyzing transactions for fraud detection and anti-money laundering. The CARDS proposal does not say whether its focus would remain strictly with the regulation of brokerages and broker dealers.

Instead, the proposed data collection mandate seems similar to mass collection of data in other contexts. FINRA's standardization and wholesale collection of this information raises the possibility that it will review everyone's information and then decide what is suspicious or warrants further investigation. Such mass surveillance runs counter to deeply held American values. The personal actions of Americans shouldn't be subject to government investigation unless the person is suspected of illegal conduct.

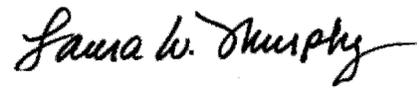
Other rudimentary questions remain unanswered in the proposal. Will the Securities and Exchange Commission and other agencies have open access to this information? What types of analytics will form the basis for suspicion and how will they be verified for accuracy? Will the information be available for discovery by private litigants? How long will FINRA retain the data?

Yet another concern is the security of the information collected by the CARDS program. A database containing the type of information described in the proposal would be a honeypot for identity thieves. Combined with other available databases, information from the system could certainly be re-identified and used to target consumers. Recent breaches at Target, Neiman Marcus, and the University of Maryland have shown the vulnerability of databases to interested hackers. A breach of the proposed system would have disastrous consequences for individuals. Before implementing CARDS, FINRA should provide significantly more detail on how it would intend to store and protect the sensitive data it seeks to collect.

While FINRA has a role in protecting the financial markets, this cannot be done at the expense of Americans' privacy. We urge that further rulemaking examine the need for this data and describe more robust and clearly established controls over customers' personal information. Ordinary individual investors should be able to conduct their financial business without unwarranted

government intrusion or fear of identity theft. And FINRA's focus should remain squarely on regulating brokerage firms, not ordinary Americans.

Sincerely,

A handwritten signature in black ink that reads "Laura W. Murphy". The signature is written in a cursive style with a long, sweeping tail on the "y".

Laura W. Murphy  
Director

A handwritten signature in black ink that reads "Christopher Calabrese". The signature is written in a cursive style with a long, sweeping tail on the "e".

Christopher Calabrese  
Legislative Counsel