

April 9, 2019

FINRA Issues Guidance Re: Customer Communications on Departing Registered Reps

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Last week FINRA issued guidance (Regulatory Notice 19-10) with respect to communications with customers about registered representatives (“RRs”) who have left a broker-dealer (the “Notice”). [\[1\]](#)

With increased frequency, RRs are leaving wirehouses to join independent broker-dealers or leaving broker-dealers entirely to instead exclusively provide investment advice through an investment adviser. Customers often want to follow their RR to their new firm.

The implementation of the Protocol for Broker Recruiting (the “Protocol”) in 2004 provided an orderly methodology for departing RRs to retain customer account information and use it to contact customers about their change to a new firm.[\[2\]](#) Since 2016, several wirehouses have withdrawn from the Protocol, presumably based on their perception that the Protocol makes it “too easy” for RRs to take books of business when they leave. As a result, many RRs are once again restricted in their ability to retain customer contact information upon departure, making it difficult for RRs to notify their customers that they’ve moved or offer services to those customers at their new firm [\[3\]](#) The Notice suggests that, in light of these trends, FINRA has become concerned about the ability of customers to make timely and informed decisions about where to maintain their assets after their RR moves.[\[4\]](#)

The Notice states that: “[A] member firm should communicate clearly, **and without obfuscation**, when asked questions by customers about the departing registered representative....[and] when asked by a customer .. [provide the] ...phone number, email address or mailing address of the departing representative” (emphasis added). [\[5\]](#)

In summary, FINRA expects its members, upon the departure of a registered representative, to:

- Promptly and clearly communicate to affected customers how their accounts will continue to be serviced; and
- Provide timely and complete answers to questions about a departing RR.[\[6\]](#)

We recommend that FINRA member firms work with regulatory and compliance counsel to craft customer communications that comply with FINRA's standards while informing the customers about the firm's role in serving the customers in the past, and the continuing resources the firm offers to customers that choose to stay.

If you have questions about the Notice or broker-dealer regulation generally, please feel free to contact us directly.

[1] FINRA, Regulatory Notice 19-10 (April 5, 2019), <https://www.finra.org/industry/notices/19-10>.

[2] The Protocol "protects [RRs] who seek to move from one signatory 'firm' to another." FAQs, The Broker Protocol, <https://www.thebrokerprotocol.com/index.php/faqs>. When moving between two firms that are both participants in the Protocol, an RR is "permitted to take the name, address, phone number, email address, and account title for every client that [he or she] personally serviced at the firm, subject to certain limitations for partnerships and retirement agreements. [RRs are] not permitted to take any other documents or information concerning the [customers'] accounts . . ." *Id.*

[3] Bruce Kelly, *Step One: Withdraw from the Broker Protocol*, InvestmentNews, Nov. 10, 2018, <https://www.investmentnews.com/article/20181110/FREE/181119988/step-one-withdraw-from-the-broker-protocol>.

[4] FINRA, *supra* note 1.

[5] *Id.*

[6] *Id.*