

FINRA Seeks Clean Sweep of Abusive Cross-Selling Practices

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In late October, the Financial Industry Regulatory Authority (FINRA) announced a sweep examination of broker-dealers targeting cross-selling programs similar to those that recently resulted in Wells Fargo's payment of an \$185 million settlement. FINRA sent targeted exam letters to several broker-dealers, requesting extensive information for the period from January 1, 2011 through September 30, 2016. FINRA explained that the sweep aims to determine the incentives broker-dealer employees are given to:

- promote bank products of a parent or other affiliated company to broker-dealer retail customers;
- add features such as securities-based loans, credit or debit cards, or checking accounts to such customers' accounts; and
- open additional broker-dealer accounts for such customers.

The sweep letters request a strikingly broad range of information relating to cross-selling programs, including: employee compensation and discipline, metrics used to track and evaluate employee performance, revenues flowing from parents or other affiliates, training materials and seminars, and customer complaints. Accordingly, for the firms that received demand letters, these are burdensome requests. Overall, the breadth of the sweep seems to reflect FINRA's oft-repeated interest in the totality of firm "culture," as it relates to cross-selling practices. See "FINRA to Assess Member Firms' Cultures," *Expect Focus* Vol. II, 2016. According to reports, a FINRA official declined to comment on the specific number or size of firms that received letters pursuant to the sweep, but did state that "[i]n light of recent issues related to cross-selling, FINRA is focused on the nature and scope of broker-dealers' cross-selling activities and whether they are adequately supervising these activities by their registered employees to protect investors."

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