



June 3, 2011

Gary Johnson  
Managing Director

**BY EMAIL TO:** rule-comments@sec.gov

Elizabeth M. Murphy, Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090  
**Re:** SR-FINRA-2011-018

Dear Ms. Murphy:

Pershing LLC (Pershing) appreciates the opportunity to comment on the proposed consolidated Financial Industry Regulatory Authority ("FINRA") rule governing investment company securities (FINRA Rule 2341). Pershing collaborated with SIFMA and supports the comments articulated in the letter to you dated May 31, 2011 from Kevin Carroll, Managing Director and Associate General Counsel of SIFMA. Notwithstanding this, Pershing has one additional comment which we were unable incorporate into the SIFMA letter prior to its mailing which is the impetus for this follow-up letter.

As background, Pershing is a provider of clearing and financial services outsourcing solutions to Broker/Dealers (commonly referred to as "Introducing Firms"). Pershing is a registered Broker/Dealer and member of FINRA, MSRB, SIPC, NYSE and various other exchanges. Pershing serves over 800 Introducing Firms. Pershing makes available a vast array of products (including mutual funds), services, systems and solutions to aid Introducing Firms in meeting the financial needs of their clients (i.e., the "investor"). Based upon the nature of contractual relationship between Pershing and its Introducing Firms, Pershing, **except under extremely rare circumstances**, does not directly interact with investors and does not recommend products, services, systems and solutions to investors.

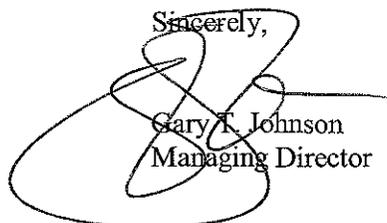
Within proposed FINRA Rule 2341 under the section titled "**Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Firms, Participants, or Others,**" it states that when an Introducing Firm shares with a Clearing Firm cash compensation originating from an investment company which has not been disclosed in the investment company's prospectus, the Introducing Firm has the exclusive obligation to disclose the cash compensation to the investor. This is based upon the fact that the Introducing Firm is making the investment recommendation and the specific recommendation could be influenced by the receipt of cash compensation, thereby creating a conflict of interest. Conversely, the Clearing Firm is exempt from the disclosure obligation since it is not making a recommendation and no conflict of interest exists.

Following this same logic, Pershing proposes that if a Clearing Firm receives cash compensation from an investment company (e.g., receipt of operational reimbursements for performing operations functions on behalf of an Introducing Firm), **none of which is shared with the Introducing Firm**, the Clearing Firm would also be exempt from the disclosure obligation to the investor since it is not making an investment recommendation, which alleviates any conflict of interest. In further support of this proposed exemption, the mutual funds available for purchase and sale on Pershing's platform are selected exclusively in response to the needs and demands of the Introducing Firms it serves and their investors. Pershing has the industry's largest selection of mutual funds with sufficient diversity to satisfy all investor suitability scenarios. As well, Pershing receives no compensation from the investment companies with which it has contracted exclusively resulting from making mutual funds available on its platform (i.e., shelf space compensation). Finally, we propose that the Introducing Firm also not have a disclosure obligation under this scenario since it is not receiving any such cash compensation.

One Pershing Plaza, Jersey City, NJ 07399  
T 201 413 3135 F 201 413 5264 gajohnson@pershing.com  
www.pershing.com

Thank you for giving Pershing the opportunity to comment on the proposed FINRA Rule 2341. If you have any questions regarding this comment letter, please contact Gary Johnson at (201) 413-3135 (gajohnson@pershing.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Gary T. Johnson", is written over the typed name and title. The signature is stylized and somewhat abstract, with a large loop at the bottom left and a horizontal line extending to the right.

Gary T. Johnson  
Managing Director