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December 4, 2020

Via ELECTRONIC Mail (pubcom@finra.org)

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 20-34: Comment on FINRA's Proposed Amendments to Rule 2165 and Retrospective Rule Report

Dear Ms. Mitchell:

Please accept this submission as MML Investors Services, LLC's ("MMLIS") comment in response to FINRA's Regulatory Notice 20-34: Proposed Amendments to FINRA Rule 2165 and Retrospective Rule Report ("RN 20-34" or the "Notice.")

MMLIS is MassMutual's retail broker-dealer and is headquartered in Springfield, Massachusetts. The firm's approximately 8,500 registered representatives offer a variety of investment products and services to retail clients, including mutual funds and variable products.

Background

RN 20-34 summarizes the feedback that FINRA received from firms related to its August 2019 Regulatory Notice seeking feedback from firms regarding their observations of the recent implementation of two FINRA rules designed to protect senior investors – Rules 2165 and 4512. Rule 2165 permits a broker-dealer to place a temporary hold on a specified adult's account if the member reasonably believes that financial exploitation has occurred, is occurring, has been attempted or will be attempted. The rule defines specified adult as "(A) a natural person age 65 and older or (B) a natural person age 18 and older who the member reasonably believes has a mental or physical impairment that renders the individual unable to protect his or her own interests."[1] Under the current rule, a firm may place a temporary hold on disbursements for up to 25 business days.[2]

As a result of the feedback received from firms and various other groups in response to the Regulatory Notice and a separate survey, FINRA has proposed two key changes to Rule 2165. First, FINRA proposes to amend Rule 2165 to give firms the ability to extend a temporary hold for an additional 30 days when a firm has reported the matter to a state agency or a court of competent jurisdiction. Second, FINRA proposes to extend the scope of the safe harbor under the rule to enable firms to place temporary holds on a

[1] FINRA Rule 2165.
[2] *Id.*

transaction in securities "where there is a reasonable belief that the customer is being financially exploited."[3]

Comment from the Firm

MMLIS commends and fully supports FINRA on its most recent rule proposal. As the firm outlined in its comment letter dated October 8, 2019 in response to RN 19-27, firms will require additional tools to assist them in their efforts to protect senior investors from exploitation as the investing public ages. The firm advocated for – and continues to believe – that Rule 2165's safe harbor should be extended to apply to transactions in securities. As referenced in that letter, exploitation in variable annuities can be challenging and devastating to an investor as the investor can incur significant financial harm through the loss of an income producing benefit, loss of a death protection benefit, unanticipated tax consequences, or large surrender charges when inappropriate transactions are executed. FINRA's extension of the safe harbor to transactions will go a long way towards avoiding the harm that these investors could face if they encounter a bad actor, particularly in scenarios that are compounded by market volatility.

Similarly, MMLIS is supportive of FINRA's proposal to extend the period of time for the temporary hold to allow for an additional 30 days where the firm has reported the matter to a state regulatory agency or court of competent jurisdiction. As we noted in our prior letter, there have been occasions where the firm has not been able to reach a state regulator who understands and is willing to consider granting an extension to the initial hold period. In these instances, state securities regulators are unclear as to their role in the Rule 2165 process and are wary to grant extensions. Or in the alternative, the state regulator who receives the report has resource constraints and it takes weeks to reach someone who is willing to discuss the matter with the firm. This extension of time will not only grant the firm additional time to continue to educate the investor regarding the scam, but also will allow the firm to fully educate the state agency on the issues and hopefully facilitate a resolution that will protect and benefit the investor in the end.

Conclusion

MMLIS appreciates the opportunity to provide its comment to this proposal to amend Rule 2165. If you should have any further questions regarding this comment, please do not hesitate to contact me.

Best regards,

Courtney R. Reid

Courtney Rogers Reid
Lead Counsel, Broker-Dealer and Investment Adviser Practice Group
[Redacted]

Cc: Brett Lassoff

[3] FINRA Regulatory Notice 20-34