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FINRA Guidance: When a Broker Leaves

Last year, FINRA issued Regulatory Notice to Members 19-10 (NTM 19-10), which instructs FINRA member firms regarding suggested conduct following the departure of a registered representative. Specifically, member firms should: (1) promptly and clearly communicate to customers how their accounts will continue to be serviced; and (2) if requested by the customer, provide customers with timely and complete answers, if known, to questions about a departing registered representative.

The likely catalysts for NTM 19-10 were the long-standing tactics employed by member firms to retain business when a registered representative resigned to join a competitor firm. These tactics include, but are not limited to: member firms falsely informing customers that their assigned registered representative left the business altogether; providing false or misleading information regarding the representative's reason for his or her resignation; or even taking steps to prevent customers from communicating with their former registered representatives by refusing or failing to provide accurate contact information.

To curtail misconduct of this nature, NTM 19-10 encourages member firms to implement policies and procedures that require the firm and its employees to communicate clearly with customers who inquire as to the whereabouts of their departed financial advisor and as to the advisor's new contact information. Further, and consistent with the spirit of FINRA Rule 2010 which requires that all industry members conduct business with high standards of commercial honor and that they maintain just and equitable principles of trade, NTM 19-10 establishes that FINRA expects that the information provided by firms about a departing registered representative be "fair, balanced, and not misleading."

While most member firms already employ standard protocols following the resignation of a registered representative, NTM 19-10 should act as a reminder that member firms should periodically assess and update their protocols and procedures in order to ensure that they are not only effective, but also compliant with relevant FINRA rules and Notices. NTM 19-10-although not addressed to registered representatives-still contains essential information that registered representatives should be aware of in order to understand

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their own rights, as well as a member firm's obligations following a departure from the firm.

Shumaker has extensive industry experience and has not only counseled thousands of registered representatives in transitioning from firm-to-firm, but has also counseled many member firms in implementing and evaluating policies and procedures relevant to handle the resignation of registered representatives.