



October 10, 2023

**VIA ELECTRONIC SUBMISSION**

Vanessa A. Countryman  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, D.C. 20549-1090

**Re: File Number S7-12-23 Conflicts of Interest Associated with the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers**

Dear Ms. Countryman:

Commonwealth Financial Network (“Commonwealth”) appreciates the opportunity to comment on proposed rules that would require the elimination or neutralization of certain conflicts of interests associated with the use of “covered technologies” (including predictive data analytics (“PDAs”) and similar technologies by Broker-Dealers and Registered Investment Advisers pursuant to the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940, as set forth in *Conflicts of Interest Associated with the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers*, Release No. IA-6353; File No. S7-12-23 (July 26, 2023). Commonwealth has significant concerns with the Proposal, and herein offers commentary on why this proposal should be withdrawn and any dialog with the industry undertaken prior to proposal of alternative rules.

**Commonwealth’s Business Model and Supervisory Structure**

Commonwealth is an independent broker/dealer and an SEC-registered investment adviser with home office locations in Waltham, Massachusetts, and San Diego, California, and more than 2,500 registered representatives who are independent contractors conducting business in all 50 states. Commonwealth’s total affiliate population operates out of over 3,700 locations, including over 600 registered secondary offices, and over 300 non-branch locations.

**Our primary concerns with the proposed rules**

First and foremost, the proposed rules are extremely broad, impacting far more than the predictive data analytics/artificial intelligence concerns noted in the Proposing Release. The proposed rules do not recognize the significant benefits many of the resources caught in the broad definition of “covered technology” provide to investors. In fact, the expansive definition of “covered technology” would impose an immense burden on firms to identify and analyze all manner of materials that might be used in an investor interaction. The requirement of annual testing and re-testing, given the overly broad definitions, increases this burden.

The proposed rules would negatively impact numerous aspects of advisor/investor interactions, both brokerage and advisory, by limiting the number of resources Commonwealth and its advisors can utilize without incurring significant expense. These resources provide investors with education and assistance with financial planning, retirement planning and investing generally. Because of the costs associated with the conflict analysis and mitigation required, many firms will undoubtedly limit resources that currently benefit investors. Many of these resources have been successfully utilized by firms and investors for years without regulatory concern.

Current regulation would be superseded by the proposed rules, including Regulation Best Interest and the investment advisory fiduciary duty and would, in part, conflict with past SEC guidance surrounding how firms address conflicts of interest. We believe the current regulatory structure is sufficient to cover the technology risks cited in the Proposing Release. Current laws require both broker dealers and investment advisers to provide recommendations or advice in the best interest of the investor, regardless of how it was produced. In addition, the proposed rules conflict with the long-standing presumption that potential investors can determine whether to invest when adequate information is provided.

### **Concurrence with Other Industry Comments**

Commonwealth agrees and supports the comments made by the Securities Industry and Financial Markets Association (“SIFMA”) and the Financial Services Institute (“FSI”).

### **Conclusion**

Thank you for the opportunity to comment on the proposed rule. It would have a significant negative impact on Commonwealth, advisors, and clients. We appreciate your consideration of the impact on our business and look forward to seeing the proposed rules withdrawn and additional work done with firms and trade groups prior to proposal of alternative rules.

Sincerely,



Cynthia D. Jeffries  
VP, Compliance  
Commonwealth Financial Network®