

Proposed Rule 3290 would require a registered person to provide prior written notice of his/her participation in any business activity outside the “normal” business relationship between the registered person and the Finra member BD. Based on our experience in recent years, the definition of “outside business” has apparently expanded greatly, to include volunteer work with charities and churches, holding political office and coaching youth athletic teams, just to name a few. The “outside business” in many of these cases pays no monetary compensation to the registered person. As a result, the BD is now forced to monitor and keep track of an increasing number of so-called outside business commitments by a registered rep. The rule proposal seems to draw a line between a BD being able to review and approve the Rep’s participation in the outside business, without having the BD become a “nosy” interloper into the actual business itself. To ask a BD to understand, review and possibly approve the underlying business activities would be nearly impossible to do.

We engage registered reps that are also active as accountants, tax preparers, lawyers, insurance agents, and investment advisors. It is especially difficult for a BD to pro-actively go “inside” any of those businesses. It also would involve the BD and create the very likely possibility of violating privacy laws for those other businesses.

I think it makes sense to retain two separate rules with respect to outside businesses and selling securities “away” from the BD. I believe there is a material difference between the review and approval of a Rep who wishes to participate in an outside business, as an owner or employee, of that business, and the sale of securities. If and when the Rep wants to raise money for that same business by selling securities to the public, the BD should be able review and approve (or disapprove) that particular fund-raising activity, separate and apart from the prior review and approval of “participation”.

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