

Stephen A. Kohn

April 3, 2018

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1734 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 18-08

Dear Ms. Mitchell.

In speaking for myself, the owner of a Small Broker/Dealer (“B/D”), I applaud FINRA’s retrospective review of Rule 3270 (Outside Business Activities of Registered Persons) and Rule 3280 (Private Securities Transactions of an Associated Person). It’s been a long time coming. I am sure that I am also speaking for many, many small B/D’s who face this “Rule” dilemma, daily.

Rules 3270 and 3280 place a monumental supervisory burden on Broker/Dealers whose Registered Representatives, in addition to being licensed at the B/D, are dually registered with a non-related Registered Investment Advisory (“RIA”).

This may seem like an uncomplicated task. However, the Rules now require the B/D to carry all of the non-related RIA activity on its books and records or, at the very least, review all trading activity of the dually registered representative. This, in itself, is absurd since it poses a duplication of supervisory responsibility, to the detriment of the B/D, since the RIA is supervising that very activity in the normal course of business.

And, one step further and more important, to adequately supervise the Reps’ RIA business, the B/D must have access to non-public, personal information related to the Reps’ RIA accounts to determine various levels of suitability for each investment made on behalf of the investor. Absent written, investor permission, could this be a violation of Bank Secrecy statutes or Personal Privacy, at the very least?

Additionally, the sheer volume of data created by a dually registered person that the B/D must carry on its books, under the existing rules, is mind boggling. The regulatory burden becomes even more draconian in the event that the Broker/Dealer does not participate (charge a fee) in the Reps’ fee-based business.

The possible, resultant new Rule 3290, in my opinion, **clarifies the supervisory responsibility of dually registered representatives.** (Many, many Reps registered with FINRA member B/D’s to conduct commissionable business, are also registered with non-related RIA’s to conduct their discretionary, fee-based business.)

It makes perfect sense that each entity with which the Rep/IA is registered, should carry the supervisory responsibility for the business for which it is being compensated.

FINRA Rule 3290 clarifies where supervisory responsibility lies and I again applaud the consolidation and pray for its implementation.

Respectfully,

Stephen Kohn
CEO/President