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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2026 - * 001
Amendment No. (req. for Amendments *)

Filing by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * ☑ Amendment * ☐ Withdrawal ☐

Section 19(b)(2) * ☑ Section 19(b)(3)(A) * ☐ Section 19(b)(3)(B) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed Rule Change to Adopt FINRA Rule 3290 (Outside Activities Requirements)

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Matthew Last Name * Vitek

Title * Associate General Counsel

E-mail * matthew.vitek@finra.org

Telephone * (240) 386-6490 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Financial Industry Regulatory Authority has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 01/13/2026

By Joseph Savage
(Name *)

(Title *)
Vice President & Associate General Counsel

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Joseph Savage
Digitally signed by Joseph Savage
Date: 2026.01.13 13:25:45 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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FINRA-2026-001 Exhibit 2a.pdf
FINRA-2026-001 Exhibit 2b.docx
FINRA-2026-001 Exhibit 2c.pdf

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

☐ Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

☐ Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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FINRA-2026-001 Exhibit 5 .docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "SEA" or "Exchange Act"),[1] the Financial Industry Regulatory Authority, Inc. ("FINRA") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to adopt FINRA Rule 3290 (Outside Activities Requirements) and to delete existing FINRA Rules 3270 (Outside Business Activities of Registered Persons) and 3280 (Private Securities Transactions of an Associated Person). The amended requirements focus on outside activities appropriately within members' purview that potentially present heightened risks for members and the public. In so doing, the amended requirements bolster members' review of these activities while reducing unnecessary burdens.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.

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1 15 U.S.C. 78s(b)(1).

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

Existing Rules

Proposed new FINRA Rule 3290 would replace existing Rules 3270 and 3280. Current Rule 3270 prohibits a registered person from being an employee, independent contractor, sole proprietor, officer, director or partner of another person, or being compensated, or have the reasonable expectation of compensation, by any other person as a result of any business activity outside the scope of the relationship with his or her member ("outside business activity" or "OBA"), unless he or she has provided prior written notice to the member.

Once notified pursuant to Rule 3270, the member must consider whether the proposed OBA will: (1) interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers or (2) be viewed by customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered. Based on the member's review of such factors, the member must evaluate the advisability of imposing specific conditions or limitations on a registered person's OBA, including where circumstances warrant, prohibiting the activity.

The member also must assess whether a registered person's activity properly is characterized as an OBA or whether it should be treated as a "private securities transaction" ("PST") subject to the requirements of current Rule 3280. A PST is a securities transaction outside the regular course or scope of an associated person's employment with a member.

Rule 3280 provides that, prior to participating in any PST, an associated person (which includes both registered and non-registered persons) must provide written notice to the member with which he or she is associated, describing in detail the proposed transaction and the associated person's proposed role, and indicating whether the associated person has received or may receive selling compensation in connection with the transaction. If the PST does not involve selling compensation, the member must provide prompt written acknowledgement of the notice and may, at its discretion, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction. If the PST involves selling compensation, the member must inform the associated person in writing whether it approves or disapproves the associated person's participation in the transaction. If the member approves the associated person's participation in the PST for selling compensation, the member must record the transaction on its books and records and supervise the associated person's participation as if the transaction were executed on behalf of the member.

Moreover, through a series of Notices to Members issued in the 1990s, FINRA applied these PST obligations to outside investment adviser ("IA") activities.[2] These Notices to Members state that an associated person's outside IA activities constitute "participation in" PSTs if he or she did more than simply recommend the securities transactions (i.e., an IA's effecting or placing an order would constitute "participation in" a PST under these Notices to Members).

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[2] See Notice to Members 94-44 (May 1994); Notice to Members 96-33 (May 1996).

Overview of Proposed Amendments

FINRA is proposing Rule 3290 to address the non-securities business activities and securities transactions that are outside the scope of individuals' association with a member. The proposed amendments would focus the rule on investment-related activities to reduce unnecessary burdens while maintaining the core investor protections of existing Rules 3270 and 3280.

Proposed Rule 3290 would replace the two current rules—Rules 3270 and 3280—with one rule and is intended to enhance efficiency without compromising protections for investors and members relating to outside activities. Importantly, many of the requirements and treatment under Rules 3270 and 3280 would remain the same or be substantially similar under proposed Rule 3290. For instance, consistent with Rules 3270 and 3280, proposed Rule 3290 would maintain:

- the dichotomy of covering registered persons' investment-related outside non-securities activities and associated persons' outside securities transactions;
- the requirement that persons provide prior written notice of investment-related outside activities and outside securities transactions to members;
- the requirement that a member, upon receiving a notice, assess, among other things, whether the activity will interfere with or otherwise compromise the person's responsibilities to the member or the member's customers or be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered;

- the requirement that members provide prior written approval or disapproval only for outside securities transactions for selling compensation;
- the recordkeeping requirements for investment-related outside non-securities activities under Rule 3270.01;
- the supervision and recordkeeping obligations under Rule 3280(c)(2) when a member approves an associated person's participation in a PST for selling compensation; and
- the definition of "selling compensation" in Rule 3280(e)(2).

Proposed Rule 3290 also would codify FINRA staff's positions on the application of the rule with respect to acting as a portfolio manager or investment committee member for certain entities; activity pursuant to a contractional relationship between a member and an unaffiliated entity; certain outside securities activity at banks and other financial institutions; and formal allocation agreements between members.

As compared to Rules 3270 and 3280, proposed Rule 3290 would enhance regulatory efficiency relating to outside activities requirements by:

- focusing on those outside investment-related activities appropriately within the members' purview that are a potential risk to members and the public – maintaining investor protection while decreasing burdens on members by eliminating the reporting and assessment of lower-risk activities;

- providing several exclusions from the rule's coverage for lower-risk activities, including activity conducted at an affiliate of a member, certain personal real estate activities and personal investments in non-securities;
- revising the approach to outside unaffiliated IA activity from requiring supervision and recordkeeping of this activity to requiring written notice and upfront assessment obligations for such activity; and
- providing the ability for FINRA staff to grant an exemption from the provisions of the rule subject to certain conditions.

Investment-Related Activities

Proposed Rule 3290 focuses on outside investment-related activities that may pose a greater risk to members and the public. This would both maintain investor protection and decrease burdens on members by eliminating the reporting and assessment of lower-risk non-investment related activities that create white noise (e.g., refereeing sports games, driving for a car service, bartending on weekends). This focus would allow members to dedicate resources to activities presenting higher risk, particularly the risk that customers or the public would view the activities as part of the member's business and thus under its supervision (e.g., selling fixed annuities, commodities or private placements away from the member).

Proposed Rule 3290(f)(3) defines "investment-related activity" as pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance. The term includes, but is not limited to, acting as or being associated with a broker-dealer ("BD"); issuer; insurance agent or company; investment company; IA; futures commission merchant;

commodity trading advisor; commodity pool operator; municipal advisor; futures sponsor; bank; savings association; or credit union. The term also includes personal securities transactions (sometimes referred to as "buying away"),[3] other than transactions in accounts that are made known to the member under, or otherwise delineated in, Rule 3210 (e.g., securities held at other members, as well as transactions in certain securities, such as mutual funds, Section 529 plans and variable annuities).[4]

Registered and Associated Persons' Prior Written Notice Obligations

Proposed Rule 3290 maintains existing requirements regarding prior written notice. As is required today, under proposed Rule 3290(a), a registered person who

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3 When an individual makes a personal securities investment away from the employing member, and the transaction is not otherwise covered by Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions), the securities transaction is considered "buying away," which is subject to Rule 3280. See, e.g., Jay Frederick Keeton, 50 S.E.C. 1128, 1129-30 (1992) (finding a violation of Rule 3280's predecessor rule where respondent made undisclosed and unapproved purchases in three partnerships); Dep't of Enforcement v. Friedman, Complaint No. 2005000835801, 2010 FINRA Discip. LEXIS 10, at *19 (FINRA NAC July 26, 2010), aff'd, Exchange Act Release No. 64486, 2011 SEC LEXIS 1699 (May 13, 2011) (explaining that "[Rule 3280] applies to both purchases and sales of securities"); see also NASD Notice to Members 75-34 (April 1975) (stating that the rule concerning private securities applies to all securities transactions by an associated person "whether on behalf of themselves or on behalf of customers and others"). The most common "buying away" transactions are personal investments in private placements.

4 FINRA Rule 3210 requires that an associated person must obtain the prior written consent of his or her employer when opening an account, as specified by the rule, at another member or other financial institution. The other member must, upon written request by the employer member, transmit duplicate copies of confirmation and statements, or the transactional data, with respect to an account subject to Rule 3210. The requirements of Rule 3210 do not apply to transactions in unit investment trusts, municipal fund securities, Section 529 plans and variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940 or to accounts that are limited to transactions in such securities, or to Monthly Investment Plan type accounts.

intends to participate in an outside activity and, under proposed Rule 3290(b), an associated person (including a registered person) who intends to participate in an outside securities transaction, must provide prior written notice to the member. The written notice must describe in detail the proposed activity or transaction, the person's proposed role therein and whether the person will receive selling compensation.[5] Under proposed Rule 3290(a), a registered person would be required to provide an updated prior written notice to the member if there is a material change to the outside activity. Similarly, under proposed Rule 3290(b)(2), an associated person would be required to provide an updated prior written notice to the member if there is a material change to an outside securities transaction.

As is true under the current rules, the proposed notice requirements differ depending on whether the notice is of an outside activity, an outside securities transaction not for selling compensation, or an outside securities transaction for selling compensation.[6] Under proposed Rule 3290(a), a single notice is used for an outside activity, while under proposed Rule 3290(b), a separate notice is required for each

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5 This language comes from Rule 3280 and was favored for, among other reasons, consistency purposes over the language in Rule 3270—the notice must be "in such form as specified by the member." The definition of "selling compensation" in proposed Rule 3290 comes from the current definition in Rule 3280.

6 Under Rule 3270, a registered person may use a single notice for the proposed outside activity. Rule 3280 requires an associated person to provide prior written notice to the member for each proposed securities transaction, unless an exception applies. See In re Klaus Langheinrich, Exchange Act Release No. 34107, 1994 SEC LEXIS 3623, at *6 (May 25, 1994) (explaining that Rule 3280 "requires that an associated person must give specific prior notice of each transaction if the associated person will receive selling compensation. A single notice will suffice only in the case of a series of related transactions in which no selling compensation has been or will be received").

outside securities transaction unless an exception applies that allows the use of a single notice (e.g., a series of related securities transactions not involving selling compensation).

Members' Responsibilities Upon Receiving Notice

Under proposed Rule 3290(c), upon receiving written notice of a registered person's outside activity or, under proposed Rule 3290(d), an associated person's outside securities transaction, the member must assess whether it:

- Is properly characterized:
    - A person submitting a notice of an activity may, mistakenly or intentionally, mischaracterize it (i.e., submitting a notice of an outside activity when it is an outside securities transaction or an outside securities transaction for selling compensation).
    - Under this provision, a member must analyze whether the activity is properly characterized to determine its obligations, which vary depending on the proper designation of the proposed activity, as discussed below.
- Involves the customer of such associated or registered person.
- Will interfere with or otherwise compromise the person's responsibilities to the member or the member's customers.
- Will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.

These assessment factors are consistent with the existing requirements under Rule 3270 for an OBA, with the addition that the member must consider whether the activity or transaction involves the customer of such associated or registered person. While Rule

3280 does not include these explicit assessment factors when considering a PST, FINRA understands that many members perform a similar analysis today.

A member's obligations after conducting an assessment would be the same under proposed Rule 3290 as they are under existing rules. As with the existing rules, the member would have differing obligations depending on the activity.

- For a registered person's outside activity, under proposed Rule 3290(c)(2), the member must consider imposing specific conditions or limitations on the outside activity, including where circumstances warrant, prohibiting the activity. However, there is no acknowledgement or approval obligation, and the member is not required to supervise the activity.[7]
- For an associated person's outside securities transaction not for selling compensation, under proposed Rule 3290(d)(2), the member must provide the associated person prompt written acknowledgement of such notice and may, at the member's discretion, require the associated person to adhere to specified

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[7] The only requirement under proposed Rule 3290 for a member to engage in supervision regards approved outside securities transactions for selling compensation. However, nothing in the proposal would alter the well-settled principle that members must consider "red flags" indicating problematic activities. See, e.g., Dep't of Enforcement v. Fox Fin. Mgmt. Corp., Complaint No. 2012030724101, 2017 FINRA Discip. LEXIS 3, at *17-18 (FINRA NAC Jan. 6, 2017) (stating that the "supervisory duties imposed under NASD Rule 3010 include a responsibility to investigate and act upon 'red flags' that reveal irregularities or the potential for misconduct" and finding that the firm failed to investigate and act upon red flags indicating that an outside business activity in fact involved private securities transactions); Dep't of Enforcement v. Merrimac Corp. Securities, Inc., Complaint No. 2009017195204, 2015 FINRA Discip. LEXIS 4, at *9 (FINRA NAC Apr. 29, 2015) (affirming the imposition of sanctions for the firm's failure to adequately consider red flags of outside business activities and private securities transactions, for example, by neglecting "to investigate after it learned of allegations on a website that one of the outside businesses was a Ponzi scheme and was suffering serious financial difficulties").

conditions in connection with the associated person's participation in the transaction. However, there is no approval obligation, and the member is not required to supervise the activity.[8]

- For an associated person's outside securities transaction for selling compensation, under proposed Rule 3290(d), the member must make a reasonable determination of whether to approve, approve subject to specific conditions or limitations, or disapprove each proposed securities transaction and must notify the associated person in writing of such determination. If approved, the member must record the securities transaction for selling compensation on its books and records and supervise the person's participation in the transaction as if executed on behalf of the member.

Exclusions

Proposed Rule 3290 contains several exclusions from the rule's coverage, including exclusions that are consistent under current Rule 3280. First, proposed Rule 3290(g)(1) provides a new exclusion for an associated person's (including a registered person's) activity on behalf of a member or its affiliate. This includes IA activity at a member that is registered as both a BD and an IA ("dually registered firm"), and IA, insurance or banking activity conducted at an affiliate. Activity performed on behalf of a dually registered firm is not considered activity performed away from the member. The exclusion for activity conducted at an affiliate recognizes members' and their control persons' ability to implement meaningful controls across business lines.

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[8] See supra note 7.

Second, proposed Rule 3290 revises the member obligations imposed via a series of Notices to Members issued in the 1990s for IA activities performed by associated persons at an unaffiliated IA.[9] These obligations have caused significant confusion and practical challenges, including, for example, privacy challenges to a member seeking account information for clients of an unaffiliated IA through which a member's associated person may be acting in an IA capacity. In addition, IAs generally are directly regulated by either the SEC or the states, and subject to a fiduciary obligation to their clients.

Under proposed Rule 3290.03, an associated person's activity at an IA registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions) would be considered an outside activity and not an outside securities transaction. Therefore, the associated person would be required to provide prior written notice of such activity and the member would have upfront assessment obligations, but would not be required to supervise or record the activity.

Third, consistent with Rule 3280, proposed Rule 3290(g)(2) excludes outside securities transactions among immediate family members for which there is no selling compensation.

Fourth, consistent with Rule 3280, proposed Rule 3290(g)(3)(A) excludes outside securities transactions subject to Rule 3210 (e.g., securities in an account held at another member) and transactions delineated in Rule 3210 (e.g., mutual funds, Section 529 plans, variable annuities).

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9 See supra note 2.

Fifth, proposed Rule 3290(g)(3)(B) provides an additional exclusion for personal investments in non-securities and proposed Rule 3290(g)(3)(C) provides a new exclusion for the purchase, sale, rental or lease of a main home and up to two secondary homes that are: (1) solely owned by the associated person or the associated person and immediate family; (2) owned by the associated person as a sole proprietorship; (3) owned by a corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the associated person or the associated person and immediate family; or (4) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries. These exclusions recognize the lower risks to customers and members associated with these activities and the inefficiency of members' having to expend significant resources reviewing them.

Clarifications

Proposed Rule 3290 codifies FINRA staff's positions on requirements in several areas. For instance, an issue that has arisen is whether and to what extent Rules 3270 and 3280 apply to portfolio managers and investment committee members for registered investment companies (e.g., mutual funds, exchange traded funds, unit investment trusts, or registered closed-end funds), unregistered investment companies, business development companies, real estate investment trusts and entities that are recognized as tax exempt. The proposed rule clarifies that an associated person would need to provide prior written notice for such activity. However, if, after providing notice, the associated person engages in such activity, the member would not be required to supervise and maintain records for the activity, unless the associated person is selling such entities'

shares for selling compensation and such activity is not otherwise excluded under the proposed rule.

Proposed Rule 3290.01 also clarifies that, if an individual is associated with more than one member and is engaged in an outside securities transaction for selling compensation, the members may develop a written allocation agreement regarding regulatory obligations. FINRA provided this guidance in Notice to Members 96-33.

Furthermore, proposed Rule 3290 clarifies the application of the proposed rule to certain non-affiliated activity including activity that qualifies under the Gramm-Leach-Bliley Act ("GLBA")[10] or SEC Regulation R.[11] For non-affiliates, consistent with current requirements, under proposed Rule 3290.04, an associated person's activity that is pursuant to a contract between a member and another entity (e.g., banking or insurance networking arrangement) would not be subject to proposed Rule 3290 if such activity is

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10 With GLBA, Congress eliminated banks' general exception from the definition of "broker" or "dealer" in the Exchange Act. In place of the general exception, GLBA amended Section 3(a)(4)(B) of the Exchange Act to provide 11 carve-outs to allow banks to engage in certain securities activities without being considered a "broker" under the securities laws. A bank would be considered a broker for any securities activities that fall outside of the exceptions and, accordingly, subject to regulation under the Exchange Act or be required to "push out" the activities to a broker-dealer.

11 On September 24, 2007, the SEC and the Board of Governors of the Federal Reserve System jointly adopted final rules, known collectively as Regulation R, to clarify, and in certain cases expand upon, the statutory exceptions for banks' securities activities under the Exchange Act, as amended by GLBA. See Exchange Act Release No. 56501 (September 24, 2007); 72 FR 56514 (October 3, 2007); see also Exchange Act Release No. 47364 (February 14, 2003); 68 FR 8686 (February 24, 2003).

conducted on behalf of the member and it is within the scope of the associated person's relationship with the member.[12]

Similarly, under proposed Rule 3290.05, an associated person's securities activity on behalf of a non-affiliate entity that is not covered by a contract between the member and such entity but that qualifies under the GLBA or Regulation R's exceptions to broker or dealer registration requirements would be considered an outside activity and not an outside securities transaction. Thus, this activity would have a prior written notice and upfront assessment requirement but would not be subject to supervision and recordkeeping.

General Exemptive Authority

To address fact-specific scenarios, proposed Rule 3290 includes general exemptive authority allowing FINRA staff, pursuant to the FINRA Rule 9600 Series,[13] to conditionally or unconditionally grant an exemption from any provision of proposed Rule 3290 for good cause shown, after taking into account all relevant factors and provided that such exemption is consistent with the purposes of proposed Rule 3290, the protection of investors, and the public interest.[14] While the scope of proposed Rule 3290 applies to a wide range of outside investment-related activities, there may be situations where it ostensibly applies but the specific facts justify an exemption. Accordingly, FINRA

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12 As is currently required, such activity would be subject to broker-dealer supervision under FINRA Rule 3110.

13 The Rule 9600 Series provides the procedures for members that seek exemptive relief as permitted under specified rules. See Rules 9610 through 9630.

14 FINRA is also proposing to amend Rule 9610 to add proposed Rule 3290 to the list of rules under which a member may seek exemptive relief.

believes it would be useful and appropriate to have the flexibility to provide relief from a particular provision of proposed Rule 3290 under specific factual circumstances.[15]

As noted in Item 2 of this filing, if the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[16] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule is designed to maintain the important longstanding goal of protecting the investing public when a member's registered or associated persons engage in potentially problematic activities that are unknown to the member but could be perceived by the investing public as part of the member's business. The proposed rule change would clarify and streamline Rules 3270 and 3280 into proposed Rule 3290 and would maintain the core investor protections of the existing rules, addressing the non-securities business activities and securities transactions that are outside the regular scope of individuals' association with a member. But importantly, the proposed rule narrows the focus to investment-related activities to reduce unnecessary burdens on members by

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15 FINRA notes that the proposed rule change would not impact members that are funding portals but would impact all other members including members that have elected to be treated as capital acquisition brokers ("CABs"), given that the CAB rule set incorporates the impacted FINRA rules by reference.

16 15 U.S.C. 78o-3(b)(6).

eliminating the reporting and assessment of low-risk activities. This focus would allow members to dedicate resources to activities presenting higher risk, particularly the risk that customers or the public would view the activities as part of the member's business.

FINRA believes that by enabling members to redirect supervisory and compliance resources away from low-risk activities that pose minimal investor protection concerns toward higher-risk investment-related activities, the proposed rule change serves the public interest by promoting more effective risk-based oversight and strengthening protection where it matters most. Accordingly, FINRA believes that the proposed rule would enhance the efficiency and effectiveness of outside activities requirements and thus investor protection.

4. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. All members would be subject to the proposed amendments.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet FINRA's regulatory objectives.

Economic Baseline

The economic baseline is current Rules 3270 and 3280, in addition to related guidance and current practices. As discussed above, Rule 3270 applies to registered

persons while Rule 3280 applies to associated persons, whether registered or not. All such individuals and members are subject to these rules, irrespective of the members' business model, client base and product type. These rules set the minimum standards for reporting outside activities to members, but members may apply stricter criteria and prohibit or limit particular activities.

The number of individuals subject to both rules (i.e., the number of approved FINRA-registered persons) is 635,055, registered with 3,224 members. In addition, non-registered associated persons are subject to Rule 3280 but not Rule 3270. While FINRA does not know the exact number of non-registered associated persons, we estimate that there are about 500,000 such persons, composed of, among others, non-registered fingerprinted individuals ("NRFs") and non-registered owners and officers.[17] Both registered and non-registered persons can be affiliated with more than one member firm.

In 2017, FINRA conducted a retrospective review of Rules 3270 and 3280 that included a survey of members.[18] Approximately 80 percent of the members that responded to the 2017 survey stated that they have received at least one written notice in

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17 Figures as of March 31, 2025. The number of NRFs figure could be both over inclusive and under inclusive. For instance, the number of NRFs may overestimate the number of non-registered associated persons as FINRA rules do not require reporting the termination of an NRF's association with a member. Conversely, there may be other non-registered associated persons who are neither fingerprinted nor listed on Form BD who may not be captured in this figure (e.g., certain individuals in compliance and legal departments, certain individuals who perform back-office functions).

18 The anonymized survey was conducted as part of a retrospective review of both Rule 3270 and Rule 3280. The survey was sent to all member firms in October 2017, and 1,024 member firms responded. Among the firms that responded to the by-laws size question, about half were small firms and the rest were mid-size and large firms.

the last five years pursuant to Rule 3270. Approximately 40 percent of the registered persons of those members provided written notices. Based on Form U4 information, nearly 50 percent of currently registered persons report one or more other businesses (outside their relationship with the member), covering almost 98 percent of members. Registered persons reported a broad range of non-investment-related activities.[19]

Rule 3280 requires associated persons to provide prior written notice before participating in any manner in PSTs. In the 2017 survey, approximately 40 percent of the responding members stated that they had received at least one written notice in the prior five years pursuant to Rule 3280. Approximately 19 percent of the associated persons with those members provided written notices.

Economic Impacts

Relative to the baseline of current requirements, the proposed rule change retains similar distinctions and obligations present in Rules 3270 and 3280, but reduces burdens in a number of ways and streamlines requirements. The proposed rule change limits the scope of non-securities related outside activities reportable by registered persons to those that are investment related. Activities that are not investment related are common and varied (e.g., refereeing sports games, driving for a car service, bartending on weekends). Removing reporting requirements for such activities would relieve both registered persons and members from costs associated with this reporting and its review. Members

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[19] Question 13 ("Other Business") in Form U4 requires providing various details about outside activities, including whether it is an investment-related activity. While the question does not perfectly align with the activities reportable under Rule 3270, answers may be indicative of the prevalence and range of outside activities. However, the information provided is not structured, and it is difficult to assess the share of reported outside activity that is investment related. The proposed rule change does not impact reporting on Form U4.

may also benefit from focusing the freed compliance resources on those outside activities that are more likely to raise investor protection concerns. There is likely little risk that non-investment-related activities could be perceived by the investing public as part of the member's business.

The proposed rule change also provides several exclusions regarding activity on behalf of the member or its affiliates, as well as exclusions for personal investments in non-securities and certain personal real estate activity. Moreover, the proposed rule change does not apply to an associated person's activity that is pursuant to a contract between a member and another entity if such activity is conducted on behalf of the member. In addition, the proposed rule change clarifies the applicability of the rule to an associated person's banking activity that is subject to GLBA or Regulation R. These changes in the proposed rule change reduce burdens while maintaining investor protections.

Under both the proposed rule change and currently for investment-related outside activities, registered persons must provide their firms with prior written notice of the proposed activity and members must review the proposed activity using specified criteria. The proposed rule change standardizes the assessment that members must conduct across all types of reportable activities, upon receiving notice, of registered persons' outside activities and associated persons' outside securities transactions, borrowing from the approach used in Rule 3270. The proposed rule change adds the consideration of whether the activity involves the customers of the registered or associated person.

Relative to the baseline of the current requirements, the proposed rule change provides clearer and more consistent standards for reviewing both outside activities and

outside securities transactions, reducing regulatory uncertainty and the associated legal costs to determine when and how the rules apply. FINRA understands that many members already impose the proposed or equivalent requirements. To the extent that members are applying similar or higher standards today, there would be no material impact. For members with lower or less consistent standards, this change would lead to more consistent review and perhaps additional restrictions. For the associated persons in firms that currently follow lower or less consistent standards, there may be a cost imposed in terms of business opportunities delayed, limited or prohibited by the member to the extent that some previously permissible activity is no longer allowable. Investors that interact with these associated persons may face increased search costs for those goods or services as a result.

The proposed rule change reduces regulatory burdens regarding affiliated and unaffiliated IA activities.[20] Affiliated IA activities are excluded from the rule. For unaffiliated IA activities, registered persons would only need to provide prior written notice. In the case of unaffiliated IA activity, members would not need to approve, supervise or recordkeep the activity, but could impose conditions, limitations or prohibitions on the activity. One potential risk of this approach is that customers could be harmed if supervision by an affiliate or unaffiliated IA is less effective than supervision

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[20] Less than three percent of registered representatives associated to less than 17 percent of members have unaffiliated investment advisory activity. Less than one percent of NRFs engages in unaffiliated IA activity. These figures are based on an analysis of Form U4, Form BD and NRF information, restricting the analysis of affiliates to broker-dealers and registered investment advisors. Thus, these numbers represent an upper bound to unaffiliated activity. See supra note 17 for caveats on estimates of the number of NRFs.

by the member.[21]

For associated persons employed by more than one member, the proposed rule change codifies previous guidance offering the option of formal allocation agreements for outside securities transactions for selling compensation between the members such that at least one of the members agrees to oversee the outside securities transactions. This provision allows for potential efficiency gains for members that may have been unaware of such previous guidance. Associated persons who are overseen by a single member through an allocation agreement may also benefit from lower burdens and simplified oversight. About 1.6 percent of all registered persons work for more than one member, impacting 72.8 percent of members.[22] If the registered person is associated with multiple unaffiliated members, it could facilitate agreements. The proportion of NRFs associated with more than one member is higher, at about two percent, although the proportion of impacted members is lower at 25 percent.[23]

Both members and IAs compete for individuals with similar skill sets. The current rules and the proposed rule change impose a regulatory burden for members that is not matched by equivalent requirements in the IA industry. Relative to the baseline of the current requirements, the focus on investment-related activities in the proposed rule

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21 Most non-BD affiliate activity is overseen by other regulators (e.g., the SEC and states for IA activities, various federal banking regulators for bank activities, and state insurance commissions for insurance activities).

22 Figures as of March 31, 2025. Registered persons that work for multiple members tend to hold operations professional (series 99) and financial and operations principal (series 27) registrations, particularly among those that are registered with more than five members.

23 Figures as of March 31, 2025. These percentages might overestimate or underestimate the actual proportion. See supra note 17.

change reduces, but does not eliminate, this regulatory burden. The competitive impacts of the proposed rule change on members and their associated persons depend on the business model of the member and the policies that the member adopts. To the extent that associated persons may seek employment with members based on their policies regarding outside activities, some members may face pressure to use a light touch in their assessment of outside activities and the associated determinations. The different treatment of outside activities for non-registered associated persons versus registered persons can create, on the margin, incentives for some non-registered associated persons to remain unregistered depending on the facts and circumstances. Under the proposed rule change, the exclusion of outside activities that are not investment related may reduce or eliminate that incentive to remain unregistered for some associated persons.

In summary, the proposed rule change could increase the efficiency and effectiveness of member compliance resources by clarifying the obligations of a member and associated persons, focusing attention on the activities more likely to lead to investor harm, and providing clearer and more consistent standards for the assessment that members must conduct, upon receiving notice, of registered persons' outside activities or associated persons' outside securities transactions. Such changes maintain investor protection, but may also have some effect on the investment-related opportunities offered to them. The reduction in legal and compliance costs may also have a positive competitive impact relative to segments of the securities industry that lack equivalent requirements for outside activities.

Alternatives Considered

In developing rule proposals, FINRA recognizes that their design and implementation may impose direct and indirect costs on different market participants, including members, associated persons, regulators, investors and the public. Among the alternatives considered:

- A principles-based approach in lieu of the prescriptive approach set forth in the proposed rule change, which would provide members with more flexibility in developing the systems and the protocols to assess OBAs and PSTs. However, FINRA believes that the approach presented here better balances the costs and benefits of governing outside investment-related activities while providing regulatory effectiveness, clarity and consistency.
- Applying outside activities requirements to all associated persons (rather than using the existing bifurcated approach of applying PST requirements to associated persons and OBA requirements to registered persons) or adding a requirement for prior written approval for all outside activities. Either one of these changes would have further streamlined the application of the rule, but potentially would increase regulatory costs for associated persons and members, in particular smaller firms.
- A broader scope for the activities covered by the proposed rule change, to include outside financial services activities beyond investment-related activity, such as acting as an accountant, treasurer or comptroller. The current definition of "investment-related activity" focuses on outside activities that are most likely to lead to investor confusion, conflicts of interest for the registered person and potential investor harm.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In March 2025, FINRA published Regulatory Notice 25-05 (the "Notice"), requesting comment on the proposed rule change (the "Notice Proposal"). FINRA received 216 comments in response to the Notice, 72 of which were individualized letters and 144 of which were one of three form letters. A copy of the Notice is attached as Exhibit 2a. A list of the commenters in response to the Notice is attached as Exhibit 2b, and copies of the comment letters received in response to the Notice are attached as Exhibit 2c.[24]

Commenters had different views regarding several aspects of the Notice Proposal. A summary of the comments and FINRA's response is provided below.

Broad Support for Streamlining Rules

There was broad support from commenters for streamlining the existing rules (Rules 3270 and 3280) into a new consolidated rule that focuses on activities that pose the greatest risks to investors.[25] However, several commenters opposed the proposal's objective and advocated for maintaining the status quo, in which all outside business activities are reported and outside investment advisory activity involving selling compensation, including such activity with affiliates, are supervised by member firms.[26]

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24 All references to commenters are to the comment letters as listed in Exhibit 2b. See Exhibit 2b for a list of abbreviations assigned to commenters.

25 See letters from ASA, Eversheds, FSI, IRI, LPL, Monument, Robinhood, SIFMA and St. John's Law.

26 See letters from Massachusetts and PIABA.

Scope of "Investment-Related Activity"

While there was broad support for streamlining the existing rules, there was not agreement regarding the proper scope of activities that firms should be required to assess. Several commenters favored narrowing the scope of activity subject to the rule's notice and assessment requirement. Some of these commenters recommended focusing on securities-related activities, rather than on broader categories of financial assets including crypto, real estate, and insurance.[27] In contrast, other commenters favored broadening the scope to capture a wider range of activities.[28]

As an initial matter, FINRA notes that several commenters that requested FINRA narrow the definition of "investment-related activity" may have misunderstood the supervisory and recordkeeping requirements under the proposed rule and mistakenly believed such obligations would apply to non-securities activity.[29] They would not. As discussed above, the supervisory and recordkeeping requirements would only apply if an associated person engages in an approved outside securities transaction for selling compensation.

FINRA believes the scope of the definition of "investment-related activity" strikes the right balance regarding disclosure of activities that may pose a greater risk to the investing public and members and should be retained. Such scope would both maintain

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27 See letters from Broadstone, GVC, LPL, Monument, Robinhood, WEG 1, Githens and IRI.

28 See letters from Cornell Law, NASAA, Massachusetts and St. John's Law.

29 See FINRA Statement to Correct Misinformation About FINRA's Outside Activities Proposal (May 5, 2025), https://www.finra.org/media-center/newsreleases/2025/finra-statement-correct-misinformation-about-finras-outside.

investor protection and decrease burdens on members by eliminating the reporting and assessment of low-risk activities that create white noise (e.g., refereeing sports games, driving for a car service, bartending on weekends).

Limiting the definition to securities transactions would inappropriately exclude activities that present higher risks to customers and firms, particularly the risk that customers or the public would view the activities as part of the member's business. Specifically, when customers see their registered representative offering non-securities investment-related services (e.g., selling non-security crypto assets, fixed annuities, or commodities away from the member), they may reasonably believe that these activities are part of the member's business, which increases risks of customer confusion and harm, and legal and reputational risk for the registered representative's firm.

By encompassing both securities and non-securities investment-related activity, the proposed definition of "investment-related activity" would allow members to dedicate compliance resources to reviewing their registered persons' activities in these higher-risk activities.

Conversely, broadening the definition to capture a wider range of activities would further increase burdens on members on low-risk activities that create white noise, including those activities where a customer or the public would not reasonably view the activities as part of the member's business.

Bifurcated Approach Regarding Registered and Associated Persons

Similar to the bifurcated approach in Rules 3270 and 3280, in which registered persons disclose a broader range of outside activities than associated persons, the proposed rule change provides for a bifurcated approach in which registered persons are

required to provide their firms with prior written notice of outside investment-related activities and associated persons are required to provide their firms with prior written notice of proposed outside securities transactions. Several commenters suggested that FINRA limit the rule to only apply to outside activities of registered persons, including with respect to outside securities transactions, in contrast to the current application under Rule 3280.[30]

FINRA believes that maintaining a bifurcated approach for registered persons' investment-related activities and associated persons' outside securities transactions is appropriate. When an associated person—registered or not—engages in a securities transaction outside their member firm, it implicates regulatory interests in the associated person's and their firm's compliance with applicable securities laws and regulations. When an associated person engages in a securities transaction away from their firm without providing prior written notice of the proposed transaction, a member cannot assess the risk that the transaction will interfere with or otherwise compromise the associated person's responsibilities to the member or the member's customers or will be viewed by the member's customers or the public as part of the member's business.

In addition, without this information, the firm would not be in a position to determine whether to, in the case of an outside securities transaction not for compensation, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction, or, in the case of an outside securities transaction for selling compensation, approve the proposed transaction, approve the proposed transaction subject to specific conditions or limitations

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30 See letters from ASA and SIFMA.

or disapprove the proposed transaction. This lack of visibility could result in significant legal and reputational risks for the member.

Members' Obligations Upon Receiving Notice

Under both proposed Rule 3290 and currently for investment-related outside activities, registered persons must provide their firms with prior written notice of the proposed activity and members must review the proposed activity using specified criteria. The Notice Proposal standardized the assessment that members must conduct, upon receiving notice, of registered persons' outside activities and associated persons' outside securities transactions, borrowing from the approach used in Rule 3270 with an addition—the consideration of whether the activity involves the member's customers.

Several comments raised concerns about the practical challenges of determining whether the activity involves the member's customers (as opposed to customers of the associated person or registered person).[31] FINRA agrees with these concerns and has amended this customer assessment in proposed Rule 3290 to apply only to the customer of such registered or associated person rather than to the member's customer. The member then would need to consider that information as one of the assessment factors upon receiving the written notice.

Exclusions Overview

The Notice Proposal contained several exclusions from the rule's coverage, including an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate, outside securities transactions subject to Rule 3210 and transactions delineated in Rule 3210.03, personal investments in non-securities and

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31 See letters from ARM, Robinhood and SIFMA.

certain real estate transactions. Commenters generally supported the proposed exclusions. However, some commenters asked for clarifications or expansions of certain exclusions. In addition, some commenters raised concerns with respect to personal investments in non-securities. Those comments are discussed below.

Affiliate Exclusion and Non-Affiliated Activity

The Notice Proposal excluded an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate (e.g., IA activity at a dually registered firm, and IA, insurance or banking activity conducted at an affiliate). "Affiliate" was defined as any entity that controls, is controlled by, or is under common control with the member. While commenters generally supported the affiliate exclusion, several commenters supported expanding it to cover certain contractual relationships with the member.[32]

In light of the feedback received, FINRA believes that the obligations under the proposed Rule 3290 should vary depending on the relationship between the member and another entity.

- For affiliates, the Notice Proposal excluded an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate. FINRA continues to believe this exclusion recognizes members' ability to implement meaningful controls across business lines and that the definition is in line with members' abilities. However, FINRA has deleted the "non-broker-dealer" language in proposed Rule 3290 to make clear that all affiliate activity is excluded.

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32 See letters from ASA, IRI, LPL and SIFMA.

- For non-affiliates, an associated person's activity that is pursuant to a contract between a member and another entity (e.g., banking or insurance networking arrangement) is not subject to the proposed rule change if such activity is conducted on behalf of the member as it is within the scope of the associated person's relationship with the member. Even though this activity has always been considered the activity of the member, FINRA has added supplementary material in proposed Rule 3290 to clarify the application of the proposed rule to this activity.
- An associated person's non-affiliate securities activity that is not covered by a contract between a member and another entity, discussed directly above, but that qualifies under GLBA[33] or SEC Regulation R's[34] exceptions to broker or dealer registration requirements is considered an outside activity and not an outside securities transaction. Thus, this activity would have a notice and assessment requirement but would not be subject to supervision and recordkeeping. FINRA has added supplementary material in proposed Rule 3290 to clarify the application of the proposed rule to this activity.

Personal Investments in Non-Securities Exclusion

The Notice Proposal contained an exclusion for an associated person's investments in non-securities. While two commenters provided support for the exclusion,[35] a number of commenters raised concerns with respect to personal

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33 See supra note 10.

34 See supra note 11.

35 See letters from Anonymous 2 and Sosa.

investments in crypto assets, suggesting that an associated person's personal investment in crypto assets would require member approval.[36]

FINRA believes there is a misunderstanding of this exclusion. Under the Notice Proposal and the proposed rule change, an associated person's personal investments in non-securities are excluded. Therefore, personal transactions in non-security crypto assets, such as bitcoin, are excluded from coverage under proposed Rule 3290. As such, there would not be a prior written notice requirement or an approval requirement for these transactions. If a personal crypto asset transaction involves a security, there would be a prior written notice and an acknowledgment requirement. However, unless the transaction involves selling compensation, there would be no approval requirement.

Real Estate Exclusion

The Notice Proposal also contained an exclusion for the purchase, sale, rental or lease of a main home or dwelling unit or personal-use rental property, as defined for purposes of the Internal Revenue Code. Several commenters asked for clarification of this exclusion,[37] with FSI suggesting that FINRA revise the exclusion to cover ownership involving the associated person or the associated person and "immediate family," as recently modernized in another FINRA rule.[38]

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36 See letters from Anonymous 3, Betz, Christoforo, Form Letter Type C, Forrester, Frazee, John 2, Messier, Pineyro, Ripperger, Ruffolo, Smith, Sosa, Sullivan and Sweeney.

37 See letters from ARM, Eversheds, FSI, Robinhood, SIFMA and Tobin.

38 FSI suggested referring to the definition of "immediate family" in Rule 3240(c), which defines it as parents, grandparents, mother-in-law or father-in-law, spouse or domestic partner, brother or sister, brother-in-law or sister-in-law, son-in law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person who resides in the same household as the registered

In response, FINRA has clarified the real estate exclusion to cover the purchase, sale, rental or lease of a main home and up to two secondary homes. For purposes of this provision, a secondary home would be a property that is used for residential purposes by the associated person for at least part of the year.

FINRA has also added clarifying language stating that the exclusion would apply if the property is: (1) solely owned by the associated person or the associated person and "immediate family"; (2) owned by the associated person as a sole proprietorship; (3) owned by a corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the associated person or the associated person and immediate family; or (4) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries. The term "immediate family" would use the recently revised definition.

Member Supervision of Unaffiliated IA Activities

The Notice Proposal maintained the status quo regarding members' recordkeeping and supervisory responsibilities for outside unaffiliated IA activity. There was widespread opposition to the requirement for broker-dealers to supervise outside IA activities conducted through unaffiliated IAs.[39] Commenters stated that this requirement

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person and the registered person financially supports, directly or indirectly, to a material extent. The term includes step and adoptive relationships.

39 See letters from 4J Wealth, ADISA, Anonymous 5, ARM, ASA, Becker, Form Letter Type A, Form Letter Type B, Githens, Integrated Solutions, IAA, IRI, LPL, PKS, Robinhood, SIFMA, Sigma, Solebury, Stavis, Tobin, WEG 1, WEG 2 and Woodworth.

is outside FINRA's jurisdiction,[40] creates duplicative oversight,[41] disregards the practical barriers of acquiring the data necessary to supervise effectively,[42] raises privacy concerns,[43] unfairly creates litigation risk,[44] and imposes significant burdens on BDs without commensurate benefits to investor protection.[45]

In contrast, only four commenters supported maintaining BD supervision and recordkeeping of unaffiliated IA activities.[46] In general, these commenters were concerned that eliminating such supervision and recordkeeping would increase the risk of investor harm in connection with activity occurring at an unaffiliated IA or of such harm being undetected.

FINRA recognizes that IA activity is subject to another regulatory regime, which creates the potential for regulatory duplication or inconsistencies. The imposition of broker-dealer supervisory obligations raises practical challenges, particularly for members that do not have an affiliated IA and are unlikely to have specialized knowledge of IA business practices and regulations, yet are currently required to supervise their

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40 See letters from Becker, Form Letter Type B, IAA and Solebury.

41 See letters from 4J Wealth, ARM, Anonymous 5, ASA, Becker, IRI, LPL, Robinhood, Stavis, Tobin, WEG 1, WEG 2 and Woodworth.

42 See letters from IRI and John 1.

43 See letters from 4J Wealth, ARM, Anonymous 5, Form Letter Type A, Form Letter Type B, Githens, IAA, KerberRose, LPL, PKS, Sigma, Solebury, Stavis, WEG 1, WEG 2 and Woodworth.

44 See letters from Anonymous 5, Broadstone and Sigma.

45 See letters from ADISA, Anonymous 5, Form Letter Type A, Becker, Robinhood, SIFMA, Sigma, Solebury, Stavis, WEG 1 and WEG 2.

46 See letters from FSI, Massachusetts, NASAA and PIABA.

associated persons' outside IA activities. These issues also create confusion about which regulatory standards should apply – BD or IA requirements – which has the potential to undermine effective supervision.

FINRA acknowledges that the supervision requirement may increase members' litigation risk because lawyers representing clients of unaffiliated IAs may use FINRA's supervisory requirement as the basis for asserting claims against BDs for misconduct occurring at unaffiliated IAs. FINRA notes that members are free to impose supervisory obligations on their associated persons as a condition to participating in outside unaffiliated IA activity, whether or not required by rule.

FINRA also acknowledges the concerns that commenters articulated about the practical difficulties and costs of supervising outside IA activities. In addition to the questions about what supervision is required, members may lack access to information necessary to meaningfully supervise outside unaffiliated IA activities, creating an untenable situation where members bear regulatory responsibility and potential liability without adequate means to fulfill their regulatory obligations. Furthermore, privacy concerns create substantial obstacles for members in obtaining and safeguarding personal information of unaffiliated IA clients and potentially raise risks for members under various privacy laws and rules.

For these reasons, FINRA has eliminated the requirement for members to engage in supervision and recordkeeping of outside unaffiliated IA activities in proposed Rule 3290. Such activity would be considered outside activity under proposed Rule 3290 that would continue to have prior written notice and upfront assessment obligations, but not recordkeeping and supervision obligations. FINRA has added supplementary material in

proposed Rule 3290 to clarify the application of the proposed rule to this activity.

General Exemptive Authority

FINRA received several comments that described various scenarios involving outside activities and requests for relief under the proposal.[47] Rather than address these very fact-specific scenarios in proposed Rule 3290, FINRA has added general exemptive authority allowing FINRA staff, pursuant to the Rule 9600 Series,[48] to conditionally or unconditionally grant an exemption from any provision of proposed Rule 3290 for good cause shown, after taking into account all relevant factors and provided that such exemption is consistent with the purposes of proposed Rule 3290, the protection of investors, and the public interest. While the scope of proposed Rule 3290 applies to a wide range of outside investment-related activities, there may be situations where it ostensibly applies but the specific facts justify an exemption. Accordingly, FINRA believes it would be useful and appropriate to have the flexibility to provide relief from a particular provision of proposed Rule 3290 under specific factual circumstances.[49]

Alignment with Form U4 Disclosures

Several commenters noted discrepancies between the proposed rule's notification requirements and the existing Form U4 disclosures, and urged FINRA to coordinate with the SEC and states to harmonize these requirements.[50] FINRA notes that Form U4 disclosures go beyond the scope of the proposed rule change but that FINRA would

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47 See letters from Cutson and GVC.

48 See supra note 13.

49 See supra note 14.

50 See letters from ARM, Eversheds, FSI, GVC, IRI, Robinhood and SIFMA.

endeavor to work with the SEC and states to harmonize the requirements where appropriate.

6. Extension of Time Period for Commission Action

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.[51]

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 2a. Regulatory Notice 25-05 (March 2025).

Exhibit 2b. List of comments received in response to Regulatory Notice 25-05.

Exhibit 2c. Copies of comments received in response to Regulatory Notice 25-05.

Exhibit 2d. Flow chart illustrating proposed Rule 3290.

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[51] 15 U.S.C. 78s(b)(2).

Exhibit 5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2026-001)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Adopt FINRA Rule 3290 (Outside Activities Requirements)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on , the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt FINRA Rule 3290 (Outside Activities Requirements) and to delete existing FINRA Rules 3270 (Outside Business Activities of Registered Persons) and 3280 (Private Securities Transactions of an Associated Person). The amended requirements focus on outside activities appropriately within members' purview that potentially present heightened risks for members and the public. In so doing, the amended requirements bolster members' review of these activities while reducing unnecessary burdens.

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

The text of the proposed rule change is available on FINRA's website at http://www.finra.org and at the principal office of FINRA.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Existing Rules

Proposed new FINRA Rule 3290 would replace existing Rules 3270 and 3280. Current Rule 3270 prohibits a registered person from being an employee, independent contractor, sole proprietor, officer, director or partner of another person, or being compensated, or have the reasonable expectation of compensation, by any other person as a result of any business activity outside the scope of the relationship with his or her member ("outside business activity" or "OBA"), unless he or she has provided prior written notice to the member.

Once notified pursuant to Rule 3270, the member must consider whether the proposed OBA will: (1) interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers or (2) be viewed by customers or the public as part of the member's business based upon, among other factors, the

nature of the proposed activity and the manner in which it will be offered. Based on the member's review of such factors, the member must evaluate the advisability of imposing specific conditions or limitations on a registered person's OBA, including where circumstances warrant, prohibiting the activity.

The member also must assess whether a registered person's activity properly is characterized as an OBA or whether it should be treated as a "private securities transaction" ("PST") subject to the requirements of current Rule 3280. A PST is a securities transaction outside the regular course or scope of an associated person's employment with a member.

Rule 3280 provides that, prior to participating in any PST, an associated person (which includes both registered and non-registered persons) must provide written notice to the member with which he or she is associated, describing in detail the proposed transaction and the associated person's proposed role, and indicating whether the associated person has received or may receive selling compensation in connection with the transaction. If the PST does not involve selling compensation, the member must provide prompt written acknowledgement of the notice and may, at its discretion, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction. If the PST involves selling compensation, the member must inform the associated person in writing whether it approves or disapproves the associated person's participation in the transaction. If the member approves the associated person's participation in the PST for selling compensation, the member must record the transaction on its books and records and supervise the associated person's participation as if the transaction were executed on behalf of the member.

Moreover, through a series of Notices to Members issued in the 1990s, FINRA applied these PST obligations to outside investment adviser ("IA") activities.[3] These Notices to Members state that an associated person's outside IA activities constitute "participation in" PSTs if he or she did more than simply recommend the securities transactions (i.e., an IA's effecting or placing an order would constitute "participation in" a PST under these Notices to Members).

Overview of Proposed Amendments

FINRA is proposing Rule 3290 to address the non-securities business activities and securities transactions that are outside the scope of individuals' association with a member. The proposed amendments would focus the rule on investment-related activities to reduce unnecessary burdens while maintaining the core investor protections of existing Rules 3270 and 3280.

Proposed Rule 3290 would replace the two current rules—Rules 3270 and 3280—with one rule and is intended to enhance efficiency without compromising protections for investors and members relating to outside activities. Importantly, many of the requirements and treatment under Rules 3270 and 3280 would remain the same or be substantially similar under proposed Rule 3290. For instance, consistent with Rules 3270 and 3280, proposed Rule 3290 would maintain:

- the dichotomy of covering registered persons' investment-related outside non-securities activities and associated persons' outside securities transactions;

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3 See Notice to Members 94-44 (May 1994); Notice to Members 96-33 (May 1996).

- the requirement that persons provide prior written notice of investment-related outside activities and outside securities transactions to members;
- the requirement that a member, upon receiving a notice, assess, among other things, whether the activity will interfere with or otherwise compromise the person's responsibilities to the member or the member's customers or be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered;
- the requirement that members provide prior written approval or disapproval only for outside securities transactions for selling compensation;
- the recordkeeping requirements for investment-related outside non-securities activities under Rule 3270.01;
- the supervision and recordkeeping obligations under Rule 3280(c)(2) when a member approves an associated person's participation in a PST for selling compensation; and
- the definition of "selling compensation" in Rule 3280(e)(2).

Proposed Rule 3290 also would codify FINRA staff's positions on the application of the rule with respect to acting as a portfolio manager or investment committee member for certain entities; activity pursuant to a contractional relationship between a member and an unaffiliated entity; certain outside securities activity at banks and other financial institutions; and formal allocation agreements between members.

As compared to Rules 3270 and 3280, proposed Rule 3290 would enhance regulatory efficiency relating to outside activities requirements by:

- focusing on those outside investment-related activities appropriately within the members' purview that are a potential risk to members and the public – maintaining investor protection while decreasing burdens on members by eliminating the reporting and assessment of lower-risk activities;
- providing several exclusions from the rule's coverage for lower-risk activities, including activity conducted at an affiliate of a member, certain personal real estate activities and personal investments in non-securities;
- revising the approach to outside unaffiliated IA activity from requiring supervision and recordkeeping of this activity to requiring written notice and upfront assessment obligations for such activity; and
- providing the ability for FINRA staff to grant an exemption from the provisions of the rule subject to certain conditions.

Investment-Related Activities

Proposed Rule 3290 focuses on outside investment-related activities that may pose a greater risk to members and the public. This would both maintain investor protection and decrease burdens on members by eliminating the reporting and assessment of lower-risk non-investment related activities that create white noise (e.g., refereeing sports games, driving for a car service, bartending on weekends). This focus would allow members to dedicate resources to activities presenting higher risk, particularly the risk that customers or the public would view the activities as part of the member's business

and thus under its supervision (e.g., selling fixed annuities, commodities or private placements away from the member).

Proposed Rule 3290(f)(3) defines "investment-related activity" as pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance. The term includes, but is not limited to, acting as or being associated with a broker-dealer ("BD"); issuer; insurance agent or company; investment company; IA; futures commission merchant; commodity trading advisor; commodity pool operator; municipal advisor; futures sponsor; bank; savings association; or credit union. The term also includes personal securities transactions (sometimes referred to as "buying away"),[4] other than transactions in accounts that are made known to the member under, or otherwise delineated in, Rule 3210 (e.g., securities held at other members, as well as transactions in certain securities, such as mutual funds, Section 529 plans and variable annuities).[5]

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4 When an individual makes a personal securities investment away from the employing member, and the transaction is not otherwise covered by Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions), the securities transaction is considered "buying away," which is subject to Rule 3280. See, e.g., Jay Frederick Keeton, 50 S.E.C. 1128, 1129-30 (1992) (finding a violation of Rule 3280's predecessor rule where respondent made undisclosed and unapproved purchases in three partnerships); Dep't of Enforcement v. Friedman, Complaint No. 2005000835801, 2010 FINRA Discip. LEXIS 10, at *19 (FINRA NAC July 26, 2010), aff'd, Exchange Act Release No. 64486, 2011 SEC LEXIS 1699 (May 13, 2011) (explaining that "[Rule 3280] applies to both purchases and sales of securities"); see also NASD Notice to Members 75-34 (April 1975) (stating that the rule concerning private securities applies to all securities transactions by an associated person "whether on behalf of themselves or on behalf of customers and others"). The most common "buying away" transactions are personal investments in private placements.

5 FINRA Rule 3210 requires that an associated person must obtain the prior written consent of his or her employer when opening an account, as specified by the rule, at another member or other financial institution. The other member must, upon written request by the employer member, transmit duplicate copies of

Registered and Associated Persons' Prior Written Notice Obligations

Proposed Rule 3290 maintains existing requirements regarding prior written notice. As is required today, under proposed Rule 3290(a), a registered person who intends to participate in an outside activity and, under proposed Rule 3290(b), an associated person (including a registered person) who intends to participate in an outside securities transaction, must provide prior written notice to the member. The written notice must describe in detail the proposed activity or transaction, the person's proposed role therein and whether the person will receive selling compensation.[6] Under proposed Rule 3290(a), a registered person would be required to provide an updated prior written notice to the member if there is a material change to the outside activity. Similarly, under proposed Rule 3290(b)(2), an associated person would be required to provide an updated prior written notice to the member if there is a material change to an outside securities transaction.

As is true under the current rules, the proposed notice requirements differ depending on whether the notice is of an outside activity, an outside securities transaction not for selling compensation, or an outside securities transaction for selling

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confirmation and statements, or the transactional data, with respect to an account subject to Rule 3210. The requirements of Rule 3210 do not apply to transactions in unit investment trusts, municipal fund securities, Section 529 plans and variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940 or to accounts that are limited to transactions in such securities, or to Monthly Investment Plan type accounts.

6 This language comes from Rule 3280 and was favored for, among other reasons, consistency purposes over the language in Rule 3270—the notice must be "in such form as specified by the member." The definition of "selling compensation" in proposed Rule 3290 comes from the current definition in Rule 3280.

compensation.[7] Under proposed Rule 3290(a), a single notice is used for an outside activity, while under proposed Rule 3290(b), a separate notice is required for each outside securities transaction unless an exception applies that allows the use of a single notice (e.g., a series of related securities transactions not involving selling compensation).

Members' Responsibilities Upon Receiving Notice

Under proposed Rule 3290(c), upon receiving written notice of a registered person's outside activity or, under proposed Rule 3290(d), an associated person's outside securities transaction, the member must assess whether it:

- Is properly characterized:
    - A person submitting a notice of an activity may, mistakenly or intentionally, mischaracterize it (i.e., submitting a notice of an outside activity when it is an outside securities transaction or an outside securities transaction for selling compensation).
    - Under this provision, a member must analyze whether the activity is properly characterized to determine its obligations, which vary depending on the proper designation of the proposed activity, as discussed below.
- Involves the customer of such associated or registered person.

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[7] Under Rule 3270, a registered person may use a single notice for the proposed outside activity. Rule 3280 requires an associated person to provide prior written notice to the member for each proposed securities transaction, unless an exception applies. See In re Klaus Langheinrich, Exchange Act Release No. 34107, 1994 SEC LEXIS 3623, at *6 (May 25, 1994) (explaining that Rule 3280 "requires that an associated person must give specific prior notice of each transaction if the associated person will receive selling compensation. A single notice will suffice only in the case of a series of related transactions in which no selling compensation has been or will be received").

- Will interfere with or otherwise compromise the person's responsibilities to the member or the member's customers.
- Will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.

These assessment factors are consistent with the existing requirements under Rule 3270 for an OBA, with the addition that the member must consider whether the activity or transaction involves the customer of such associated or registered person. While Rule 3280 does not include these explicit assessment factors when considering a PST, FINRA understands that many members perform a similar analysis today.

A member's obligations after conducting an assessment would be the same under proposed Rule 3290 as they are under existing rules. As with the existing rules, the member would have differing obligations depending on the activity.

- For a registered person's outside activity, under proposed Rule 3290(c)(2), the member must consider imposing specific conditions or limitations on the outside activity, including where circumstances warrant, prohibiting the activity. However, there is no acknowledgement or approval obligation, and the member is not required to supervise the activity.[8]

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[8] The only requirement under proposed Rule 3290 for a member to engage in supervision regards approved outside securities transactions for selling compensation. However, nothing in the proposal would alter the well-settled principle that members must consider "red flags" indicating problematic activities. See, e.g., Dep't of Enforcement v. Fox Fin. Mgmt. Corp., Complaint No. 2012030724101, 2017 FINRA Discip. LEXIS 3, at *17-18 (FINRA NAC Jan. 6, 2017) (stating that the "supervisory duties imposed under NASD Rule 3010 include a responsibility to investigate and act upon 'red flags' that reveal irregularities or the potential for misconduct" and finding that the firm failed to

- For an associated person's outside securities transaction not for selling compensation, under proposed Rule 3290(d)(2), the member must provide the associated person prompt written acknowledgement of such notice and may, at the member's discretion, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction. However, there is no approval obligation, and the member is not required to supervise the activity.[9]
- For an associated person's outside securities transaction for selling compensation, under proposed Rule 3290(d), the member must make a reasonable determination of whether to approve, approve subject to specific conditions or limitations, or disapprove each proposed securities transaction and must notify the associated person in writing of such determination. If approved, the member must record the securities transaction for selling compensation on its books and records and supervise the person's participation in the transaction as if executed on behalf of the member.

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investigate and act upon red flags indicating that an outside business activity in fact involved private securities transactions); Dep't of Enforcement v. Merrimac Corp. Securities, Inc., Complaint No. 2009017195204, 2015 FINRA Discip. LEXIS 4, at *9 (FINRA NAC Apr. 29, 2015) (affirming the imposition of sanctions for the firm's failure to adequately consider red flags of outside business activities and private securities transactions, for example, by neglecting "to investigate after it learned of allegations on a website that one of the outside businesses was a Ponzi scheme and was suffering serious financial difficulties").

9 See supra note 8.

Exclusions

Proposed Rule 3290 contains several exclusions from the rule's coverage, including exclusions that are consistent under current Rule 3280. First, proposed Rule 3290(g)(1) provides a new exclusion for an associated person's (including a registered person's) activity on behalf of a member or its affiliate. This includes IA activity at a member that is registered as both a BD and an IA ("dually registered firm"), and IA, insurance or banking activity conducted at an affiliate. Activity performed on behalf of a dually registered firm is not considered activity performed away from the member. The exclusion for activity conducted at an affiliate recognizes members' and their control persons' ability to implement meaningful controls across business lines.

Second, proposed Rule 3290 revises the member obligations imposed via a series of Notices to Members issued in the 1990s for IA activities performed by associated persons at an unaffiliated IA.[10] These obligations have caused significant confusion and practical challenges, including, for example, privacy challenges to a member seeking account information for clients of an unaffiliated IA through which a member's associated person may be acting in an IA capacity. In addition, IAs generally are directly regulated by either the SEC or the states, and subject to a fiduciary obligation to their clients.

Under proposed Rule 3290.03, an associated person's activity at an IA registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions) would be considered an outside activity and not an outside securities transaction. Therefore, the

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10 See supra note 3.

associated person would be required to provide prior written notice of such activity and the member would have upfront assessment obligations, but would not be required to supervise or record the activity.

Third, consistent with Rule 3280, proposed Rule 3290(g)(2) excludes outside securities transactions among immediate family members for which there is no selling compensation.

Fourth, consistent with Rule 3280, proposed Rule 3290(g)(3)(A) excludes outside securities transactions subject to Rule 3210 (e.g., securities in an account held at another member) and transactions delineated in Rule 3210 (e.g., mutual funds, Section 529 plans, variable annuities).

Fifth, proposed Rule 3290(g)(3)(B) provides an additional exclusion for personal investments in non-securities and proposed Rule 3290(g)(3)(C) provides a new exclusion for the purchase, sale, rental or lease of a main home and up to two secondary homes that are: (1) solely owned by the associated person or the associated person and immediate family; (2) owned by the associated person as a sole proprietorship; (3) owned by a corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the associated person or the associated person and immediate family; or (4) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries. These exclusions recognize the lower risks to customers and members associated with these activities and the inefficiency of members' having to expend significant resources reviewing them.

Clarifications

Proposed Rule 3290 codifies FINRA staff's positions on requirements in several areas. For instance, an issue that has arisen is whether and to what extent Rules 3270 and 3280 apply to portfolio managers and investment committee members for registered investment companies (e.g., mutual funds, exchange traded funds, unit investment trusts, or registered closed-end funds), unregistered investment companies, business development companies, real estate investment trusts and entities that are recognized as tax exempt. The proposed rule clarifies that an associated person would need to provide prior written notice for such activity. However, if, after providing notice, the associated person engages in such activity, the member would not be required to supervise and maintain records for the activity, unless the associated person is selling such entities' shares for selling compensation and such activity is not otherwise excluded under the proposed rule.

Proposed Rule 3290.01 also clarifies that, if an individual is associated with more than one member and is engaged in an outside securities transaction for selling compensation, the members may develop a written allocation agreement regarding regulatory obligations. FINRA provided this guidance in Notice to Members 96-33.

Furthermore, proposed Rule 3290 clarifies the application of the proposed rule to certain non-affiliated activity including activity that qualifies under the Gramm-Leach-

Bliley Act ("GLBA")[11] or SEC Regulation R.[12] For non-affiliates, consistent with current requirements, under proposed Rule 3290.04, an associated person's activity that is pursuant to a contract between a member and another entity (e.g., banking or insurance networking arrangement) would not be subject to proposed Rule 3290 if such activity is conducted on behalf of the member and it is within the scope of the associated person's relationship with the member.[13]

Similarly, under proposed Rule 3290.05, an associated person's securities activity on behalf of a non-affiliate entity that is not covered by a contract between the member and such entity but that qualifies under the GLBA or Regulation R's exceptions to broker or dealer registration requirements would be considered an outside activity and not an outside securities transaction. Thus, this activity would have a prior written notice and upfront assessment requirement but would not be subject to supervision and recordkeeping.

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11 With GLBA, Congress eliminated banks' general exception from the definition of "broker" or "dealer" in the Exchange Act. In place of the general exception, GLBA amended Section 3(a)(4)(B) of the Exchange Act to provide 11 carve-outs to allow banks to engage in certain securities activities without being considered a "broker" under the securities laws. A bank would be considered a broker for any securities activities that fall outside of the exceptions and, accordingly, subject to regulation under the Exchange Act or be required to "push out" the activities to a broker-dealer.

12 On September 24, 2007, the SEC and the Board of Governors of the Federal Reserve System jointly adopted final rules, known collectively as Regulation R, to clarify, and in certain cases expand upon, the statutory exceptions for banks' securities activities under the Exchange Act, as amended by GLBA. See Exchange Act Release No. 56501 (September 24, 2007); 72 FR 56514 (October 3, 2007); see also Exchange Act Release No. 47364 (February 14, 2003); 68 FR 8686 (February 24, 2003).

13 As is currently required, such activity would be subject to broker-dealer supervision under FINRA Rule 3110.

General Exemptive Authority

To address fact-specific scenarios, proposed Rule 3290 includes general exemptive authority allowing FINRA staff, pursuant to the FINRA Rule 9600 Series,[14] to conditionally or unconditionally grant an exemption from any provision of proposed Rule 3290 for good cause shown, after taking into account all relevant factors and provided that such exemption is consistent with the purposes of proposed Rule 3290, the protection of investors, and the public interest.[15] While the scope of proposed Rule 3290 applies to a wide range of outside investment-related activities, there may be situations where it ostensibly applies but the specific facts justify an exemption. Accordingly, FINRA believes it would be useful and appropriate to have the flexibility to provide relief from a particular provision of proposed Rule 3290 under specific factual circumstances.[16]

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[17] which requires, among other things, that FINRA rules be

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14 The Rule 9600 Series provides the procedures for members that seek exemptive relief as permitted under specified rules. See Rules 9610 through 9630.

15 FINRA is also proposing to amend Rule 9610 to add proposed Rule 3290 to the list of rules under which a member may seek exemptive relief.

16 FINRA notes that the proposed rule change would not impact members that are funding portals but would impact all other members including members that have elected to be treated as capital acquisition brokers ("CABs"), given that the CAB rule set incorporates the impacted FINRA rules by reference.

17 15 U.S.C. 78o-3(b)(6).

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule is designed to maintain the important longstanding goal of protecting the investing public when a member's registered or associated persons engage in potentially problematic activities that are unknown to the member but could be perceived by the investing public as part of the member's business. The proposed rule change would clarify and streamline Rules 3270 and 3280 into proposed Rule 3290 and would maintain the core investor protections of the existing rules, addressing the non-securities business activities and securities transactions that are outside the regular scope of individuals' association with a member. But importantly, the proposed rule narrows the focus to investment-related activities to reduce unnecessary burdens on members by eliminating the reporting and assessment of low-risk activities. This focus would allow members to dedicate resources to activities presenting higher risk, particularly the risk that customers or the public would view the activities as part of the member's business.

FINRA believes that by enabling members to redirect supervisory and compliance resources away from low-risk activities that pose minimal investor protection concerns toward higher-risk investment-related activities, the proposed rule change serves the public interest by promoting more effective risk-based oversight and strengthening protection where it matters most. Accordingly, FINRA believes that the proposed rule would enhance the efficiency and effectiveness of outside activities requirements and thus investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. All members would be subject to the proposed amendments.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet FINRA's regulatory objectives.

Economic Baseline

The economic baseline is current Rules 3270 and 3280, in addition to related guidance and current practices. As discussed above, Rule 3270 applies to registered persons while Rule 3280 applies to associated persons, whether registered or not. All such individuals and members are subject to these rules, irrespective of the members' business model, client base and product type. These rules set the minimum standards for reporting outside activities to members, but members may apply stricter criteria and prohibit or limit particular activities.

The number of individuals subject to both rules (i.e., the number of approved FINRA-registered persons) is 635,055, registered with 3,224 members. In addition, non-registered associated persons are subject to Rule 3280 but not Rule 3270. While FINRA does not know the exact number of non-registered associated persons, we estimate that there are about 500,000 such persons, composed of, among others, non-registered

fingerprinted individuals ("NRFs") and non-registered owners and officers.[18] Both registered and non-registered persons can be affiliated with more than one member firm.

In 2017, FINRA conducted a retrospective review of Rules 3270 and 3280 that included a survey of members.[19] Approximately 80 percent of the members that responded to the 2017 survey stated that they have received at least one written notice in the last five years pursuant to Rule 3270. Approximately 40 percent of the registered persons of those members provided written notices. Based on Form U4 information, nearly 50 percent of currently registered persons report one or more other businesses (outside their relationship with the member), covering almost 98 percent of members. Registered persons reported a broad range of non-investment-related activities.[20]

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18 Figures as of March 31, 2025. The number of NRFs figure could be both over inclusive and under inclusive. For instance, the number of NRFs may overestimate the number of non-registered associated persons as FINRA rules do not require reporting the termination of an NRF's association with a member. Conversely, there may be other non-registered associated persons who are neither fingerprinted nor listed on Form BD who may not be captured in this figure (e.g., certain individuals in compliance and legal departments, certain individuals who perform back-office functions).

19 The anonymized survey was conducted as part of a retrospective review of both Rule 3270 and Rule 3280. The survey was sent to all member firms in October 2017, and 1,024 member firms responded. Among the firms that responded to the by-laws size question, about half were small firms and the rest were mid-size and large firms.

20 Question 13 ("Other Business") in Form U4 requires providing various details about outside activities, including whether it is an investment-related activity. While the question does not perfectly align with the activities reportable under Rule 3270, answers may be indicative of the prevalence and range of outside activities. However, the information provided is not structured, and it is difficult to assess the share of reported outside activity that is investment related. The proposed rule change does not impact reporting on Form U4.

Rule 3280 requires associated persons to provide prior written notice before participating in any manner in PSTs. In the 2017 survey, approximately 40 percent of the responding members stated that they had received at least one written notice in the prior five years pursuant to Rule 3280. Approximately 19 percent of the associated persons with those members provided written notices.

Economic Impacts

Relative to the baseline of current requirements, the proposed rule change retains similar distinctions and obligations present in Rules 3270 and 3280, but reduces burdens in a number of ways and streamlines requirements. The proposed rule change limits the scope of non-securities related outside activities reportable by registered persons to those that are investment related. Activities that are not investment related are common and varied (e.g., refereeing sports games, driving for a car service, bartending on weekends). Removing reporting requirements for such activities would relieve both registered persons and members from costs associated with this reporting and its review. Members may also benefit from focusing the freed compliance resources on those outside activities that are more likely to raise investor protection concerns. There is likely little risk that non-investment-related activities could be perceived by the investing public as part of the member's business.

The proposed rule change also provides several exclusions regarding activity on behalf of the member or its affiliates, as well as exclusions for personal investments in non-securities and certain personal real estate activity. Moreover, the proposed rule change does not apply to an associated person’s activity that is pursuant to a contract between a member and another entity if such activity is conducted on behalf of the

member. In addition, the proposed rule change clarifies the applicability of the rule to an associated person's banking activity that is subject to GLBA or Regulation R. These changes in the proposed rule change reduce burdens while maintaining investor protections.

Under both the proposed rule change and currently for investment-related outside activities, registered persons must provide their firms with prior written notice of the proposed activity and members must review the proposed activity using specified criteria. The proposed rule change standardizes the assessment that members must conduct across all types of reportable activities, upon receiving notice, of registered persons' outside activities and associated persons' outside securities transactions, borrowing from the approach used in Rule 3270. The proposed rule change adds the consideration of whether the activity involves the customers of the registered or associated person.

Relative to the baseline of the current requirements, the proposed rule change provides clearer and more consistent standards for reviewing both outside activities and outside securities transactions, reducing regulatory uncertainty and the associated legal costs to determine when and how the rules apply. FINRA understands that many members already impose the proposed or equivalent requirements. To the extent that members are applying similar or higher standards today, there would be no material impact. For members with lower or less consistent standards, this change would lead to more consistent review and perhaps additional restrictions. For the associated persons in firms that currently follow lower or less consistent standards, there may be a cost imposed in terms of business opportunities delayed, limited or prohibited by the member to the extent that some previously permissible activity is no longer allowable. Investors

that interact with these associated persons may face increased search costs for those goods or services as a result.

The proposed rule change reduces regulatory burdens regarding affiliated and unaffiliated IA activities.[21] Affiliated IA activities are excluded from the rule. For unaffiliated IA activities, registered persons would only need to provide prior written notice. In the case of unaffiliated IA activity, members would not need to approve, supervise or recordkeep the activity, but could impose conditions, limitations or prohibitions on the activity. One potential risk of this approach is that customers could be harmed if supervision by an affiliate or unaffiliated IA is less effective than supervision by the member.[22]

For associated persons employed by more than one member, the proposed rule change codifies previous guidance offering the option of formal allocation agreements for outside securities transactions for selling compensation between the members such that at least one of the members agrees to oversee the outside securities transactions. This provision allows for potential efficiency gains for members that may have been unaware of such previous guidance. Associated persons who are overseen by a single member through an allocation agreement may also benefit from lower burdens and simplified

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21 Less than three percent of registered representatives associated to less than 17 percent of members have unaffiliated investment advisory activity. Less than one percent of NRFs engages in unaffiliated IA activity. These figures are based on an analysis of Form U4, Form BD and NRF information, restricting the analysis of affiliates to broker-dealers and registered investment advisors. Thus, these numbers represent an upper bound to unaffiliated activity. See supra note 18 for caveats on estimates of the number of NRFs.

22 Most non-BD affiliate activity is overseen by other regulators (e.g., the SEC and states for IA activities, various federal banking regulators for bank activities, and state insurance commissions for insurance activities).

oversight. About 1.6 percent of all registered persons work for more than one member, impacting 72.8 percent of members.[23] If the registered person is associated with multiple unaffiliated members, it could facilitate agreements. The proportion of NRFs associated with more than one member is higher, at about two percent, although the proportion of impacted members is lower at 25 percent.[24]

Both members and IAs compete for individuals with similar skill sets. The current rules and the proposed rule change impose a regulatory burden for members that is not matched by equivalent requirements in the IA industry. Relative to the baseline of the current requirements, the focus on investment-related activities in the proposed rule change reduces, but does not eliminate, this regulatory burden. The competitive impacts of the proposed rule change on members and their associated persons depend on the business model of the member and the policies that the member adopts. To the extent that associated persons may seek employment with members based on their policies regarding outside activities, some members may face pressure to use a light touch in their assessment of outside activities and the associated determinations. The different treatment of outside activities for non-registered associated persons versus registered persons can create, on the margin, incentives for some non-registered associated persons to remain unregistered depending on the facts and circumstances. Under the proposed

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23 Figures as of March 31, 2025. Registered persons that work for multiple members tend to hold operations professional (series 99) and financial and operations principal (series 27) registrations, particularly among those that are registered with more than five members.

24 Figures as of March 31, 2025. These percentages might overestimate or underestimate the actual proportion. See supra note 18.

rule change, the exclusion of outside activities that are not investment related may reduce or eliminate that incentive to remain unregistered for some associated persons.

In summary, the proposed rule change could increase the efficiency and effectiveness of member compliance resources by clarifying the obligations of a member and associated persons, focusing attention on the activities more likely to lead to investor harm, and providing clearer and more consistent standards for the assessment that members must conduct, upon receiving notice, of registered persons' outside activities or associated persons' outside securities transactions. Such changes maintain investor protection, but may also have some effect on the investment-related opportunities offered to them. The reduction in legal and compliance costs may also have a positive competitive impact relative to segments of the securities industry that lack equivalent requirements for outside activities.

Alternatives Considered

In developing rule proposals, FINRA recognizes that their design and implementation may impose direct and indirect costs on different market participants, including members, associated persons, regulators, investors and the public. Among the alternatives considered:

- A principles-based approach in lieu of the prescriptive approach set forth in the proposed rule change, which would provide members with more flexibility in developing the systems and the protocols to assess OBAs and PSTs. However, FINRA believes that the approach presented here better balances the costs and benefits of governing outside investment-related activities while providing regulatory effectiveness, clarity and consistency.

- Applying outside activities requirements to all associated persons (rather than using the existing bifurcated approach of applying PST requirements to associated persons and OBA requirements to registered persons) or adding a requirement for prior written approval for all outside activities. Either one of these changes would have further streamlined the application of the rule, but potentially would increase regulatory costs for associated persons and members, in particular smaller firms.
- A broader scope for the activities covered by the proposed rule change, to include outside financial services activities beyond investment-related activity, such as acting as an accountant, treasurer or comptroller. The current definition of "investment-related activity" focuses on outside activities that are most likely to lead to investor confusion, conflicts of interest for the registered person and potential investor harm.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In March 2025, FINRA published Regulatory Notice 25-05 (the "Notice"), requesting comment on the proposed rule change (the "Notice Proposal"). FINRA received 216 comments in response to the Notice, 72 of which were individualized letters and 144 of which were one of three form letters. A copy of the Notice is available on FINRA's website at http://www.finra.org. A list of the commenters in response to the Notice and copies of the comment letters received in response to the Notice are available on FINRA's website.[25]

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25 See SR-FINRA-2026-001 (Form 19b-4, Exhibits 2b and 2c) for a list of abbreviations assigned to commenters (available on FINRA's website at http://www.finra.org).

Commenters had different views regarding several aspects of the Notice Proposal. A summary of the comments and FINRA's response is provided below.

Broad Support for Streamlining Rules

There was broad support from commenters for streamlining the existing rules (Rules 3270 and 3280) into a new consolidated rule that focuses on activities that pose the greatest risks to investors.[26] However, several commenters opposed the proposal's objective and advocated for maintaining the status quo, in which all outside business activities are reported and outside investment advisory activity involving selling compensation, including such activity with affiliates, are supervised by member firms.[27]

Scope of "Investment-Related Activity"

While there was broad support for streamlining the existing rules, there was not agreement regarding the proper scope of activities that firms should be required to assess. Several commenters favored narrowing the scope of activity subject to the rule's notice and assessment requirement. Some of these commenters recommended focusing on securities-related activities, rather than on broader categories of financial assets including crypto, real estate, and insurance.[28] In contrast, other commenters favored broadening the scope to capture a wider range of activities.[29]

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26 See letters from ASA, Eversheds, FSI, IRI, LPL, Monument, Robinhood, SIFMA and St. John's Law.

27 See letters from Massachusetts and PIABA.

28 See letters from Broadstone, GVC, LPL, Monument, Robinhood, WEG 1, Githens and IRI.

29 See letters from Cornell Law, NASAA, Massachusetts and St. John's Law.

As an initial matter, FINRA notes that several commenters that requested FINRA narrow the definition of "investment-related activity" may have misunderstood the supervisory and recordkeeping requirements under the proposed rule and mistakenly believed such obligations would apply to non-securities activity.[30] They would not. As discussed above, the supervisory and recordkeeping requirements would only apply if an associated person engages in an approved outside securities transaction for selling compensation.

FINRA believes the scope of the definition of "investment-related activity" strikes the right balance regarding disclosure of activities that may pose a greater risk to the investing public and members and should be retained. Such scope would both maintain investor protection and decrease burdens on members by eliminating the reporting and assessment of low-risk activities that create white noise (e.g., refereeing sports games, driving for a car service, bartending on weekends).

Limiting the definition to securities transactions would inappropriately exclude activities that present higher risks to customers and firms, particularly the risk that customers or the public would view the activities as part of the member's business. Specifically, when customers see their registered representative offering non-securities investment-related services (e.g., selling non-security crypto assets, fixed annuities, or commodities away from the member), they may reasonably believe that these activities are part of the member's business, which increases risks of customer confusion and harm,

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30 See FINRA Statement to Correct Misinformation About FINRA's Outside Activities Proposal (May 5, 2025), https://www.finra.org/media-center/newsreleases/2025/finra-statement-correct-misinformation-about-finras-outside.

and legal and reputational risk for the registered representative's firm.

By encompassing both securities and non-securities investment-related activity, the proposed definition of "investment-related activity" would allow members to dedicate compliance resources to reviewing their registered persons' activities in these higher-risk activities.

Conversely, broadening the definition to capture a wider range of activities would further increase burdens on members on low-risk activities that create white noise, including those activities where a customer or the public would not reasonably view the activities as part of the member's business.

Bifurcated Approach Regarding Registered and Associated Persons

Similar to the bifurcated approach in Rules 3270 and 3280, in which registered persons disclose a broader range of outside activities than associated persons, the proposed rule change provides for a bifurcated approach in which registered persons are required to provide their firms with prior written notice of outside investment-related activities and associated persons are required to provide their firms with prior written notice of proposed outside securities transactions. Several commenters suggested that FINRA limit the rule to only apply to outside activities of registered persons, including with respect to outside securities transactions, in contrast to the current application under Rule 3280.[31]

FINRA believes that maintaining a bifurcated approach for registered persons' investment-related activities and associated persons' outside securities transactions is appropriate. When an associated person—registered or not—engages in a securities

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[31] See letters from ASA and SIFMA.

transaction outside their member firm, it implicates regulatory interests in the associated person's and their firm's compliance with applicable securities laws and regulations. When an associated person engages in a securities transaction away from their firm without providing prior written notice of the proposed transaction, a member cannot assess the risk that the transaction will interfere with or otherwise compromise the associated person's responsibilities to the member or the member's customers or will be viewed by the member's customers or the public as part of the member's business.

In addition, without this information, the firm would not be in a position to determine whether to, in the case of an outside securities transaction not for compensation, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction, or, in the case of an outside securities transaction for selling compensation, approve the proposed transaction, approve the proposed transaction subject to specific conditions or limitations or disapprove the proposed transaction. This lack of visibility could result in significant legal and reputational risks for the member.

Members' Obligations Upon Receiving Notice

Under both proposed Rule 3290 and currently for investment-related outside activities, registered persons must provide their firms with prior written notice of the proposed activity and members must review the proposed activity using specified criteria. The Notice Proposal standardized the assessment that members must conduct, upon receiving notice, of registered persons' outside activities and associated persons' outside securities transactions, borrowing from the approach used in Rule 3270 with an addition—the consideration of whether the activity involves the member's customers.

Several comments raised concerns about the practical challenges of determining whether the activity involves the member's customers (as opposed to customers of the associated person or registered person).[32] FINRA agrees with these concerns and has amended this customer assessment in proposed Rule 3290 to apply only to the customer of such registered or associated person rather than to the member's customer. The member then would need to consider that information as one of the assessment factors upon receiving the written notice.

Exclusions Overview

The Notice Proposal contained several exclusions from the rule's coverage, including an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate, outside securities transactions subject to Rule 3210 and transactions delineated in Rule 3210.03, personal investments in non-securities and certain real estate transactions. Commenters generally supported the proposed exclusions. However, some commenters asked for clarifications or expansions of certain exclusions. In addition, some commenters raised concerns with respect to personal investments in non-securities. Those comments are discussed below.

Affiliate Exclusion and Non-Affiliated Activity

The Notice Proposal excluded an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate (e.g., IA activity at a dually registered firm, and IA, insurance or banking activity conducted at an affiliate). "Affiliate" was defined as any entity that controls, is controlled by, or is under common control with the member. While commenters generally supported the affiliate exclusion,

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32 See letters from ARM, Robinhood and SIFMA.

several commenters supported expanding it to cover certain contractual relationships with the member.[33]

In light of the feedback received, FINRA believes that the obligations under the proposed Rule 3290 should vary depending on the relationship between the member and another entity.

- For affiliates, the Notice Proposal excluded an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate. FINRA continues to believe this exclusion recognizes members' ability to implement meaningful controls across business lines and that the definition is in line with members' abilities. However, FINRA has deleted the "non-broker-dealer" language in proposed Rule 3290 to make clear that all affiliate activity is excluded.
- For non-affiliates, an associated person's activity that is pursuant to a contract between a member and another entity (e.g., banking or insurance networking arrangement) is not subject to the proposed rule change if such activity is conducted on behalf of the member as it is within the scope of the associated person's relationship with the member. Even though this activity has always been considered the activity of the member, FINRA has added supplementary material in proposed Rule 3290 to clarify the application of the proposed rule to this activity.
- An associated person's non-affiliate securities activity that is not covered by a

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33 See letters from ASA, IRI, LPL and SIFMA.

contract between a member and another entity, discussed directly above, but that qualifies under GLBA[34] or SEC Regulation R's[35] exceptions to broker or dealer registration requirements is considered an outside activity and not an outside securities transaction. Thus, this activity would have a notice and assessment requirement but would not be subject to supervision and recordkeeping. FINRA has added supplementary material in proposed Rule 3290 to clarify the application of the proposed rule to this activity.

Personal Investments in Non-Securities Exclusion

The Notice Proposal contained an exclusion for an associated person's investments in non-securities. While two commenters provided support for the exclusion,[36] a number of commenters raised concerns with respect to personal investments in crypto assets, suggesting that an associated person's personal investment in crypto assets would require member approval.[37]

FINRA believes there is a misunderstanding of this exclusion. Under the Notice Proposal and the proposed rule change, an associated person's personal investments in non-securities are excluded. Therefore, personal transactions in non-security crypto assets, such as bitcoin, are excluded from coverage under proposed Rule 3290. As such, there would not be a prior written notice requirement or an approval requirement for

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34 See supra note 11.

35 See supra note 12.

36 See letters from Anonymous 2 and Sosa.

37 See letters from Anonymous 3, Betz, Christoforo, Form Letter Type C, Forrester, Frazee, John 2, Messier, Pineyro, Ripperger, Ruffolo, Smith, Sosa, Sullivan and Sweeney.

these transactions. If a personal crypto asset transaction involves a security, there would be a prior written notice and an acknowledgment requirement. However, unless the transaction involves selling compensation, there would be no approval requirement.

Real Estate Exclusion

The Notice Proposal also contained an exclusion for the purchase, sale, rental or lease of a main home or dwelling unit or personal-use rental property, as defined for purposes of the Internal Revenue Code. Several commenters asked for clarification of this exclusion,[38] with FSI suggesting that FINRA revise the exclusion to cover ownership involving the associated person or the associated person and "immediate family," as recently modernized in another FINRA rule.[39]

In response, FINRA has clarified the real estate exclusion to cover the purchase, sale, rental or lease of a main home and up to two secondary homes. For purposes of this provision, a secondary home would be a property that is used for residential purposes by the associated person for at least part of the year.

FINRA has also added clarifying language stating that the exclusion would apply if the property is: (1) solely owned by the associated person or the associated person and "immediate family"; (2) owned by the associated person as a sole proprietorship; (3) owned by a corporation, LLC, partnership, limited partnership, or other entity that is

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38 See letters from ARM, Eversheds, FSI, Robinhood, SIFMA and Tobin.

39 FSI suggested referring to the definition of "immediate family" in Rule 3240(c), which defines it as parents, grandparents, mother-in-law or father-in-law, spouse or domestic partner, brother or sister, brother-in-law or sister-in-law, son-in law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person who resides in the same household as the registered person and the registered person financially supports, directly or indirectly, to a material extent. The term includes step and adoptive relationships.

solely owned by the associated person or the associated person and immediate family; or (4) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries. The term "immediate family" would use the recently revised definition.

Member Supervision of Unaffiliated IA Activities

The Notice Proposal maintained the status quo regarding members' recordkeeping and supervisory responsibilities for outside unaffiliated IA activity. There was widespread opposition to the requirement for broker-dealers to supervise outside IA activities conducted through unaffiliated IAs.[40] Commenters stated that this requirement is outside FINRA's jurisdiction,[41] creates duplicative oversight,[42] disregards the practical barriers of acquiring the data necessary to supervise effectively,[43] raises privacy concerns,[44] unfairly creates litigation risk,[45] and imposes significant burdens on BDs

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40 See letters from 4J Wealth, ADISA, Anonymous 5, ARM, ASA, Becker, Form Letter Type A, Form Letter Type B, Githens, Integrated Solutions, IAA, IRI, LPL, PKS, Robinhood, SIFMA, Sigma, Solebury, Stavis, Tobin, WEG 1, WEG 2 and Woodworth.

41 See letters from Becker, Form Letter Type B, IAA and Solebury.

42 See letters from 4J Wealth, ARM, Anonymous 5, ASA, Becker, IRI, LPL, Robinhood, Stavis, Tobin, WEG 1, WEG 2 and Woodworth.

43 See letters from IRI and John 1.

44 See letters from 4J Wealth, ARM, Anonymous 5, Form Letter Type A, Form Letter Type B, Githens, IAA, KerberRose, LPL, PKS, Sigma, Solebury, Stavis, WEG 1, WEG 2 and Woodworth.

45 See letters from Anonymous 5, Broadstone and Sigma.

without commensurate benefits to investor protection.[46]

In contrast, only four commenters supported maintaining BD supervision and recordkeeping of unaffiliated IA activities.[47] In general, these commenters were concerned that eliminating such supervision and recordkeeping would increase the risk of investor harm in connection with activity occurring at an unaffiliated IA or of such harm being undetected.

FINRA recognizes that IA activity is subject to another regulatory regime, which creates the potential for regulatory duplication or inconsistencies. The imposition of broker-dealer supervisory obligations raises practical challenges, particularly for members that do not have an affiliated IA and are unlikely to have specialized knowledge of IA business practices and regulations, yet are currently required to supervise their associated persons' outside IA activities. These issues also create confusion about which regulatory standards should apply – BD or IA requirements – which has the potential to undermine effective supervision.

FINRA acknowledges that the supervision requirement may increase members' litigation risk because lawyers representing clients of unaffiliated IAs may use FINRA's supervisory requirement as the basis for asserting claims against BDs for misconduct occurring at unaffiliated IAs. FINRA notes that members are free to impose supervisory obligations on their associated persons as a condition to participating in outside unaffiliated IA activity, whether or not required by rule.

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46 See letters from ADISA, Anonymous 5, Form Letter Type A, Becker, Robinhood, SIFMA, Sigma, Solebury, Stavis, WEG 1 and WEG 2.

47 See letters from FSI, Massachusetts, NASAA and PIABA.

FINRA also acknowledges the concerns that commenters articulated about the practical difficulties and costs of supervising outside IA activities. In addition to the questions about what supervision is required, members may lack access to information necessary to meaningfully supervise outside unaffiliated IA activities, creating an untenable situation where members bear regulatory responsibility and potential liability without adequate means to fulfill their regulatory obligations. Furthermore, privacy concerns create substantial obstacles for members in obtaining and safeguarding personal information of unaffiliated IA clients and potentially raise risks for members under various privacy laws and rules.

For these reasons, FINRA has eliminated the requirement for members to engage in supervision and recordkeeping of outside unaffiliated IA activities in proposed Rule 3290. Such activity would be considered outside activity under proposed Rule 3290 that would continue to have prior written notice and upfront assessment obligations, but not recordkeeping and supervision obligations. FINRA has added supplementary material in proposed Rule 3290 to clarify the application of the proposed rule to this activity.

General Exemptive Authority

FINRA received several comments that described various scenarios involving outside activities and requests for relief under the proposal.[48] Rather than address these very fact-specific scenarios in proposed Rule 3290, FINRA has added general exemptive authority allowing FINRA staff, pursuant to the Rule 9600 Series,[49] to conditionally or unconditionally grant an exemption from any provision of proposed Rule 3290 for good

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48 See letters from Cutson and GVC.

49 See supra note 14.

cause shown, after taking into account all relevant factors and provided that such exemption is consistent with the purposes of proposed Rule 3290, the protection of investors, and the public interest. While the scope of proposed Rule 3290 applies to a wide range of outside investment-related activities, there may be situations where it ostensibly applies but the specific facts justify an exemption. Accordingly, FINRA believes it would be useful and appropriate to have the flexibility to provide relief from a particular provision of proposed Rule 3290 under specific factual circumstances.[50]

Alignment with Form U4 Disclosures

Several commenters noted discrepancies between the proposed rule's notification requirements and the existing Form U4 disclosures, and urged FINRA to coordinate with the SEC and states to harmonize these requirements.[51] FINRA notes that Form U4 disclosures go beyond the scope of the proposed rule change but that FINRA would endeavor to work with the SEC and states to harmonize the requirements where appropriate.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

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50 See supra note 15.

51 See letters from ARM, Eversheds, FSI, GVC, IRI, Robinhood and SIFMA.

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2026-001 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2026-001. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml). Copies of the filing will be available for inspection and copying at the principal office of FINRA. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions

should refer to File Number SR-FINRA-2026-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[52]

Jill M. Peterson
Assistant Secretary

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52 17 CFR 200.30-3(a)(12).

EXHIBIT 2a

Regulatory Notice 25-05

Outside Activities

FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities

Comment Period Expires: May 13, 2025

March 14, 2025

Notice Type
- Request for Comment

Suggested Routing
- Compliance
- Legal
- Operations
- Senior Management
- Systems

Key Topics
- Outside Business Activities
- Private Securities Transactions
- Recordkeeping
- Supervision

Referenced Rules & Notices
- FINRA Rule 3210
- FINRA Rule 3270
- FINRA Rule 3280
- Notice to Members 94-44
- Notice to Members 96-33
- Regulatory Notice 17-20
- Regulatory Notice 18-08

Summary

FINRA seeks comment on a proposed new rule to streamline and reduce unnecessary burdens regarding existing requirements addressing the outside activities of member firms' associated persons, including registered persons (the Proposal). The Proposal is the result of FINRA's retrospective review of FINRA's rules governing outside business activities (OBAs) and private securities transactions (PSTs), FINRA Rule 3270 (Outside Business Activities of Registered Persons) and FINRA Rule 3280 (Private Securities Transactions of an Associated Person), respectively. The Proposal would replace two rules—Rules 3270 and 3280—with one rule and is intended to enhance efficiency without compromising protections for investors and members relating to outside activities.

The proposed rule text is in Attachment A. A flowchart illustrating the proposed rule text is in Attachment B. A series of hypothetical questions and answers indicating how Rules 3270 and 3280 currently apply in comparison to how the Proposal would apply is in Attachment C.

Questions concerning this *Notice* should be directed to:

- James S. Wrona, Vice President and Associate General Counsel, Office of General Counsel (OGC), by email or (202) 728-8270;
- Matthew Vitek, Associate General Counsel, OGC, by email or (240) 386-6490; or
- Patricia Ledesma, Senior Economist, Office of Chief Economist, by email or (202) 728-8461.

Action Requested

FINRA encourages all interested parties to comment. Comments must be received by May 13, 2025.

Comments must be submitted through one of the following methods:

- Online using FINRA's comment form for this *Notice*;
- Emailing comments; or
- Mailing comments in hard copy to:
  Jennifer Piorko Mitchell
  Office of the Corporate Secretary
  FINRA
  1700 K Street, NW
  Washington, DC 20006

To help FINRA process comments more efficiently, persons should use only one method to comment.

Important Notes: All comments received in response to this *Notice* will be made available to the public on the FINRA website. In general, FINRA will post comments as they are received.[1]

Before becoming effective, the proposed rule change must be filed with the Securities and Exchange Commission (SEC or Commission) pursuant to Section 19(b) of the Securities Exchange Act of 1934 (SEA or Exchange Act).[2]

Background & Discussion

Existing Rules

Rule 3270 currently prohibits a *registered person* from being an employee, independent contractor, sole proprietor, officer, director or partner of another person, or being compensated, or having the reasonable expectation of compensation, by another person for any business activity outside the scope of the relationship with his or her member unless he or she has provided prior written notice to the member.

Once notified pursuant to Rule 3270, the member must consider whether the proposed OBA will: (1) interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers or (2) be viewed by customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered. Based on the member's review of such factors, the member must evaluate the advisability of imposing specific conditions or limitations on a registered person's OBA, including where circumstances warrant, prohibiting the activity.

The member also must assess whether a registered person's activity properly is characterized as an OBA or whether it should be treated as a PST subject to the requirements of Rule 3280. A PST is a securities transaction outside the regular course or scope of an associated person's employment with a member.

Rule 3280 currently provides that, prior to participating in any PST, an *associated person* (which includes both registered and non-registered persons) must provide written notice to the member with which he or she is associated, describing in detail the proposed transaction and the person's proposed role, and indicating whether the associated person has received or may receive selling compensation in connection with the transaction. If the PST does not involve selling compensation, the member must provide prompt written acknowledgement of the notice and may, at its discretion, require the person to adhere to specified conditions in connection with the person's participation in the transaction. If the PST involves selling compensation, the member must inform the associated person in writing whether it approves or disapproves the person's participation in the transaction. If the member approves participation in the PST for selling compensation, the member must record the transaction on its books and records and supervise the associated person's participation as if the transaction were executed on behalf of the member.

Moreover, through a series of *Notices to Members* issued in the 1990s, FINRA applied these PST obligations to outside investment adviser (IA) activities.[3] These *Notices* state that an associated person's outside IA activities constitute "participation in" PSTs if the person did more than simply recommend the securities transaction (*i.e.*, an IA's effecting or placing an order would constitute "participation in" a PST under the *Notices*). In addition, the *Notices* provide that an associated person's receipt of asset-based or performance-based fees when participating in a PST at an outside IA constitutes "selling compensation," meaning that the member would have supervisory and recordkeeping obligations if it approved the activity.

In response to longstanding questions with respect to the OBA and PST rules, in 2017, FINRA announced in *Regulatory Notice 17-20* (May 2017) our initiation of a retrospective review of these rules (Retrospective Review), followed in 2018 by *Regulatory Notice 18-08* (February 2018) that proposed changes to them (Prior Proposal). Among other things, the Prior Proposal would have eliminated members' supervisory and recordkeeping obligations for outside IA activities. FINRA received 52 comment letters, many of which supported the Prior Proposal or certain aspects of it, and with strong differences in views about the Prior Proposal's treatment of outside IA activities. Informed by these comments, FINRA did not move forward with the Prior Proposal at the time.

Streamlined Proposed Rule to Reduce Unnecessary Burdens

The Proposal in this current *Notice* addresses the non-securities business activities and securities transactions that are outside the regular scope of individuals'

employment with a member, but importantly the Proposal narrows the focus to investment-related activities to reduce unnecessary burdens while maintaining the core investor protections of the existing rules. The Proposal also provides clarifications or exclusions for some activities. For ease of reference in this *Notice*, we refer to non-securities business activities outside the regular scope of individuals' employment with a member as "outside activities" and to securities transactions outside the regular scope of individuals' employment with a member as "outside securities transactions."

The Proposal incorporates concepts from the Prior Proposal that were widely considered improvements over the existing rules. However, the Proposal does not alter members' obligations for outside IA activities, unless the activities are performed at an IA affiliated with the member, which are excluded under the Proposal. The Proposal also maintains the dichotomy in existing Rules 3270 and 3280 of applying obligations for outside activities to registered persons and outside securities transactions to associated persons (which includes both registered and non-registered persons). The Proposal's main features are summarized below, and the flow chart in Exhibit B walks through how the Proposal would work in practice.

Investment-Related Activities

The Proposal focuses on outside investment-related activities that may pose a greater risk to the investing public and members. This will both increase investor protection and decrease burdens on members by eliminating the reporting and assessment of low-risk activities that create white noise (*e.g.*, refereeing sports games, driving for a car service, bartending on weekends). This focus will allow members to dedicate resources to activities presenting higher risk, particularly the risk that customers or the public will view the activities as part of the member's business (*e.g.*, selling crypto assets, fixed annuities, commodities or private placements away from the member).

The Proposal defines "investment-related activity" as pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance. The term includes, but is not limited to, acting as or being associated with a broker-dealer (BD), issuer, insurance agent or company, investment company, IA, futures commission merchant, commodity trading advisor, commodity pool operator, municipal advisor, futures sponsor, bank, savings association or credit union. The term also includes personal securities transactions (sometimes referred to as "buying away"),[4] other than transactions in accounts that are known to the member under, or otherwise delineated in, Rule 3210 (*e.g.*, securities held at other members, as well as transactions in certain securities, such as mutual funds, Section 529 plans and variable annuities).[5]

Registered and Associated Persons' Prior Written Notice Obligations

The Proposal maintains existing requirements regarding prior written notice. As is required today, under the Proposal, a registered person who intends to participate in an outside activity and an associated person (including a registered person) who intends to participate in an outside securities transaction must provide prior written notice to the member. The written notice must describe in detail the proposed activity or transaction, the person's proposed role therein and whether the person will receive selling compensation.[6]

As is true under the current rules, the notice requirements are different depending on whether the notice is of an outside activity, an outside securities transaction not for selling compensation, or an outside securities transaction for selling compensation. A single notice is used for an outside activity, while a separate notice is required for each outside securities transaction unless an exception applies that allows the use of a single notice (*e.g.*, a series of related securities transactions not involving selling compensation).[7]

Members' Responsibilities Upon Receiving Notice

Upon receiving written notice of a registered person's outside activity or an associated person's outside securities transaction, the member must assess whether it:

- Is properly characterized.
  - A person submitting a notice of an activity may, mistakenly or intentionally, mischaracterize it (*i.e.*, submitting a notice of an outside activity when it is an outside securities transaction or an outside securities transaction for selling compensation).
  - Under this provision, a member must analyze whether the activity is properly characterized to determine its obligations, which will vary depending on the proper designation of the proposed activity, as discussed below.
- Involves the member's customer(s).
- Will interfere with or otherwise compromise the person's responsibilities to the member or the member's customers.
- Will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.

These assessment factors are consistent with the existing requirements under Rule 3270 for an OBA, with the minor addition that the member must consider whether the activity or transaction involves the member's customer(s). While Rule 3280 does not include these explicit assessment factors when considering a PST, we understand that many members perform a similar analysis today.

A member's obligations after conducting an assessment are the same under the Proposal as they are under existing rules. As with the existing rules, the member would have differing obligations depending on the activity.

- For a registered person's outside activity, the member must consider imposing specific conditions or limitations on the outside activity, including where circumstances warrant, prohibiting the activity, but there is no acknowledgement or approval requirement.
- For an associated person's outside securities transaction not for selling compensation, the member must provide the associated person prompt written acknowledgement of such notice and may, at the member's discretion, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction, but there is no approval requirement.
- For an associated person's outside securities transaction for selling compensation, the member must make a reasonable determination of whether to approve, approve subject to specific conditions or limitations, or disapprove each proposed securities transaction and must notify the associated person in writing of such determination.

Exclusions

The Proposal contains several exclusions from the rule's coverage.

- First, the Proposal excludes an associated person's (including a registered person's) non-BD activity on behalf of a member or its affiliate (*e.g.*, IA activity at a dually registered firm and IA, insurance or banking activity conducted at an affiliate). Activity performed on behalf of a dually registered firm is not considered activity performed away from the member. The exclusion for activity conducted at an affiliate recognizes members' ability to implement meaningful controls across business lines.
- Second, the Proposal excludes outside securities transactions among immediate family members for which there is no selling compensation. This exclusion is consistent with Rule 3280.

- Third, the Proposal excludes outside securities transactions subject to Rule 3210 (*e.g.*, securities in an account held at another member) and transactions delineated in Rule 3210.03 (*e.g.*, mutual funds, Section 529 plans, variable annuities). This exclusion is consistent with Rule 3280.
- Fourth, the Proposal excludes personal investments in non-securities and the purchase, sale, rental or lease of a main home or dwelling unit or personal-use rental property, as defined for purposes of the Internal Revenue Code. These exclusions recognize the lower risks to customers and members associated with these activities and the inefficiency of members' having to expend significant resources reviewing them.

Clarifications

The Proposal clarifies members' obligations in several areas. For instance, an issue that has arisen is whether and to what extent Rules 3270 and 3280 apply to portfolio managers and investment committee members. The Proposal clarifies that an associated person would need to provide prior written notice and receive prior written approval for such activity. However, if the member approves the activity, it would not be required to supervise and maintain records for an associated person who is acting as a portfolio manager or investment committee member for registered investment companies, unregistered investment companies, business development companies, real estate investment trusts and entities that are recognized as tax exempt, unless the associated person is selling such entities' shares for selling compensation.

The Proposal also makes clear that, if an individual is associated with more than one member and is engaged in an outside securities transaction for selling compensation, the members may develop a written allocation agreement regarding regulatory obligations.

Outside IA Activity

As highlighted above, through a series of *Notices to Members* issued in the 1990s, FINRA applies PST requirements to outside IA activities.[8] This guidance would remain in effect under the Proposal. As such, an associated person's IA activities constitute "participation in" PSTs if the person did more than simply recommend the securities transaction (*i.e.*, an IA's effecting or placing an order would constitute "participation in" a PST under the *Notices*). In addition, the *Notices* provide that an associated person's receipt of asset-based or performance-based fees when participating in a PST at an outside IA constitutes "selling compensation," meaning that the member would have supervisory and recordkeeping obligations if it approved the activity.

Commenters responding to the Retrospective Review and the Prior Proposal had opposing views on whether FINRA members should be responsible for supervising and recordkeeping outside IA activity, including activity performed at unaffiliated IAs. While many commenters strongly supported eliminating or substantially modifying the requirements for outside IA activities, concerns were also raised that doing so could pose risks to investors.

Although the Proposal maintains the status quo regarding members' responsibilities for outside IA activity, FINRA is interested in updating the prior feedback we received and learning of current experiences and views with respect to outside IA activity. To better understand the complexity of the issues and interested persons' positions, this *Notice* provides a discussion below, following the economic impact assessment, of the comments we previously received on that topic.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives. FINRA invites comments on all aspects of this assessment and requests that commenters provide empirical data or other factual support wherever possible.

Economic Baseline

The economic baseline is current Rules 3270 and 3280, in addition to related guidance and current practices. As discussed above, Rule 3270 applies to registered persons while Rule 3280 applies to associated persons, whether registered or not. All such individuals and members are subject to these rules, irrespective of business model, client base and product type. These rules set the minimum standards for reporting outside activities to members, but members may apply stricter criteria and prohibit or limit particular activities.

The number of individuals subject to both rules (*i.e.*, the number of approved FINRA-registered persons) is 633,933, registered with 3,279 members. In addition, non-registered associated persons are subject to Rule 3280 but not Rule 3270. While FINRA does not know the exact number of non-registered associated persons, we estimate that there are approximately 500,000 such persons, composed of, among others, non-registered fingerprinted individuals (NRFs) and non-registered owners and officers.[9]

In 2017, FINRA conducted a retrospective review of Rules 3270 and 3280 that included a survey of members.[10] Approximately 80 percent of the members that

responded to the 2017 survey stated that they have received at least one written notice in the last five years pursuant to Rule 3270. Approximately 40 percent of the registered persons of those members provided written notices. Based on Form U4 information, nearly 50 percent of currently registered persons report one or more other businesses (outside their relationship with the member), covering almost 98 percent of members. Registered persons reported a broad range of non-investment-related activities.[11]

Rule 3280 requires associated persons to provide prior written notice before participating in any manner in PSTs. In the 2017 survey, approximately 40 percent of the responding members stated that they had received at least one written notice in the prior five years pursuant to Rule 3280. Approximately 19 percent of the associated persons within those members provided written notices.

Economic Impacts

Relative to the baseline, the proposed rule retains the same broad obligations of associated persons and members with respect to outside activities, but it narrows the range of outside activities that are reportable.

As discussed above, Rule 3270 applies to registered persons and Rule 3280 applies to associated persons. The Proposal preserves this distinct treatment but limits the Proposal's scope to outside activities that are investment related.[12] Activities that are not investment related are common and varied (*e.g.*, refereeing sports games, driving for a car service, bartending on weekends). Removing reporting requirements for such activities would relieve both registered persons and members from costs associated with this reporting and its review. Members may also benefit from focusing the freed compliance resources on those outside activities that are more likely to raise investor protection concerns. There is likely little risk that non-investment-related activities could be perceived by the investing public as part of the member's business.

Under both the Proposal and currently for investment-related outside activities, registered persons must provide their firms with prior written notice of the proposed activity and members must review the proposed activity using specified criteria. The Proposal standardizes the assessment that members must conduct, upon receiving notice, of registered persons' outside activities and associated persons' outside securities transactions, borrowing from the approach used in Rule 3270 with a minor addition—the consideration of whether the activity involved the member's customers.

Relative to the baseline, the Proposal provides clearer and more consistent standards for reviewing both outside activities and outside securities transactions.

We understand that many members already impose these or equivalent requirements. To the extent that members are applying similar or higher standards today, there would be no material impact. For members with lower or less consistent standards, this change will lead to more consistent review and perhaps additional restrictions on outside activities. For the associated persons in firms that currently follow lower or less consistent standards, there would be a cost in terms of business opportunities delayed, limited or prohibited by the member. Investors that interact with these associated persons may face increased search costs for those goods or services as a result.

For outside securities transactions, reportable by associated persons (including registered persons), the Proposal imposes requirements that largely parallel those for current Rule 3280 for PSTs. Relative to the baseline, the Proposal includes assessment criteria for outside securities transactions and excludes activity on behalf of a member and its affiliates, including IA activities, insurance and banking. About 26 percent of members have one or more registered persons working in an affiliated registered IA.[13] The vast majority of member affiliates are under common control;[14] thus, these affiliates may share compliance resources and systems. One potential risk of this approach is that customers could be harmed if supervision by an affiliate is less effective than supervision by the member.[15]

For associated persons employed by more than one member, the Proposal codifies previous guidance offering the option of formal allocation agreements for outside securities transactions for selling compensation between the members such that at least one of the members agrees to oversee the outside securities transactions. This feature allows for some efficiency gains for members that may have been unaware of such previous guidance. About 1.6 percent of all registered persons work for more than one member, impacting 63.2 percent of members.[16] If the registered person is associated with multiple affiliated members, it could facilitate agreements. The proportion of NRFs associated with more than one member is higher, at 4 percent, although the proportion of impacted members is lower (25 percent).[17]

Both members and IAs compete for individuals with similar skill sets. The current rules and the Proposal impose a regulatory burden for members that is not matched by equivalent requirements in the IA industry. Relative to the baseline, the focus on investment-related activities in the Proposal reduces, but does not eliminate, this regulatory burden. The competitive impacts of the Proposal on members and their associated persons depend on the business model of the member (for example, whether IA activities are conducted within a dually registered member or its affiliates) and the policies that the member adopts regarding outside activities. To the extent that associated persons may seek employment with members based on their policies regarding outside activities, some members may face pressure to use a light touch in their assessment of outside activities and the associated determinations. The different treatment of outside activities for non-registered

associated persons versus registered persons can create, on the margin, incentives for some non-registered associated persons to remain unregistered. Under the Proposal, the exclusion of outside activities that are not investment related may reduce or eliminate that incentive to remain unregistered for some individuals.

In summary, the Proposal could increase the efficiency and effectiveness of member compliance resources by clarifying the obligations of a member and associated persons, focusing attention on the activities more likely to lead to investor harm, and standardizing the assessment that members must conduct, upon receiving notice, of registered persons' outside activities or associated persons' outside securities transactions.[18] Such changes may potentially benefit customers through better investor protection, but may also have some effect on the investment-related opportunities offered to them. The reduction in regulatory costs may also have a positive competitive impact relative to segments of the securities industry that lack equivalent requirements for outside activities.

Alternatives Considered

In developing rule proposals, FINRA recognizes that their design and implementation may impose direct and indirect costs on different market participants, including members, associated persons, regulators, investors and the public. Among the alternatives considered:

- A principles-based approach in lieu of the prescriptive approach set forth in the Proposal, which would provide members with more flexibility in developing the systems and the protocols to assess and approve or disapprove OBAs and PSTs. However, we preliminarily believe that the approach presented here better balances the costs and benefits of governing outside investment-related activities while providing regulatory effectiveness, clarity and consistency.
- Applying outside activities requirements to all associated persons (rather than using the existing bifurcated approach of applying PST requirements to associated persons and OBA requirements to registered persons) or adding a requirement for prior written approval for all outside activities. Either one of these changes would have further streamlined the application of the rule, but potentially would increase regulatory costs for associated persons and members, in particular smaller firms.
- A broader scope for the activities covered by the Proposal, to include outside financial services activities beyond investment-related activity, such as acting as an accountant, treasurer or comptroller. The current definition of "investment-related activity" focuses on outside activities that are most likely to lead to investor confusion, conflicts of interest for the registered person and potential investor harm.

- Excluding unaffiliated outside IA activity. About 11 percent of members have one or more registered persons associated with an unaffiliated registered IA.[19] While IA activity is overseen by other regulators, several commenters to the Retrospective Review and the Prior Proposal stressed the investor protection loss that would result from this exclusion, though other commenters strongly disagreed.
- A focus on transaction-based compensation instead of any selling compensation. The former concept can lead to tailoring the compensation arrangement to skirt the rule. "Selling compensation" in FINRA guidance has been interpreted to include asset-based compensation, thereby covering IA activity.

Discussion of Retrospective Review and Prior Proposal Comments Regarding Outside IA Activities

The Prior Proposal would have eliminated the current FINRA member supervisory and recordkeeping obligations for IA activities performed by associated persons at an unaffiliated IA. We indicated in the Prior Proposal that imposing such obligations "has caused significant confusion and practical challenges, including, for example, privacy challenges with a member obtaining account information for customers of an unaffiliated IA through which a member's registered person may be acting in an IA capacity."[20] We also recognized "that these activities are subject to another regulatory regime" and that commenters to the Retrospective Review had "argued that the current approach imposes unnecessary burdens without providing meaningful investor protections over the activities."[21] This aspect of the Retrospective Review and the Prior Proposal generated the most significant comments.

It is important to emphasize at the outset of this discussion that FINRA regulates BDs, while the SEC and the states regulate IAs. BDs and IAs also are subject to different laws and rules. Moreover, while they at times engage in similar activities, BDs and IAs also provide distinct services and advice and employ different fee structures.

While a majority of commenters supported the elimination of the supervisory and recordkeeping requirements for FINRA members regarding IA activities performed by associated persons away from, and often without any affiliation with, the member, other commenters voiced concern over the risks to investors of removing such requirements. Although we are not presently proposing the elimination of BDs' obligations regarding outside IA activities, FINRA is highlighting the points raised on this aspect of the Retrospective Review and the Prior Proposal to foster dialog with interested persons that will help FINRA better understand their positions, the impact of the issues on investors and members, and whether commenters' previous positions have changed due to more recent regulatory, industry and investor practices.

Commenters in Favor of Maintaining FINRA Member Supervision and Recordkeeping for Outside IA Activities

Those commenters in favor of maintaining BD oversight of IA activities performed by associated persons away from the FINRA member expressed several concerns with eliminating such oversight. The primary concern that many of these commenters voiced was that the level of regulatory oversight of IA activities is not as rigorous as oversight of FINRA members' activities. These commenters claimed that the lack of meaningful oversight of IA activities could lead to IA client harm if FINRA members did not oversee some aspects of IA activities performed by associated persons at third-party IAs unaffiliated with a member.

For instance, one commenter asserted that "the SEC has made clear that it is ill-equipped to routinely examine the many investment advisers it regulates. Similarly, due to limitations on many State regulatory resources and budgets, States also substantially lack sufficient resources to examine State-registered investment advisers with any reasonable regularity, if at all."[22] Another commenter claimed that "eliminating FINRA firms' responsibilities in this area would place investors at risk by eliminating day-to-day oversight in favor of . . . intermittent state and federal securities regulators oversight to identify or prevent misconduct."[23]

Another concern that was raised is that many IA firms lack the resources and ability to properly supervise their own IA activities. For instance, one commenter asserted, "Often these investment advisers do not have the resources to develop and maintain comprehensive and independent supervisory, risk, and oversight control systems that [FINRA] member firms are required to have in place."[24]

An association of BDs opined that, where the outside IA activities involves the BD's customers, the BD should take a "holistic view towards investor protection in respect of these clients."[25] According to this association, its members had "reported that they will continue to supervise their advisors' investment-related OBAs (particularly, outside investment advisory activities), despite the proposed rule changes" because "doing so is in the best interest of the clients they serve."[26]

Commenters in Favor of Eliminating FINRA Member Supervision and Recordkeeping for Outside IA Activities

As noted, a majority of commenters favored FINRA's proposal to eliminate the requirement for FINRA member oversight of IA activities performed by associated persons away from FINRA members. Those commenters generally believed that the current requirements impose an unfair burden on FINRA members that often have no connection with the unaffiliated outside IAs beyond their associated persons' separate involvement with such IAs. In addition, commenters noted that IA

activities are subject to a fiduciary obligation and are regulated by the states and the SEC. Commenters also raised issues regarding privacy concerns and the different regulatory requirements, services and types of advice on the IA side with which FINRA members may be unfamiliar.

A common refrain was that IAs are regulated by the SEC, not FINRA, and that FINRA member oversight of outside IA activities is therefore redundant and creates unnecessary compliance costs and burdens without corresponding benefit to the investing public.[27] Some commenters questioned arguments favoring BD oversight of outside IA activities based on investor-protection concerns, given that IAs are subject to a fiduciary standard, and other requirements established by the SEC.[28]

Some commenters also asserted that BDs may be ill-equipped to supervise outside IA activities as they may not be familiar with the outside IA's services, advice and obligations. For example, one commenter stated that "both affiliated and, particularly, unaffiliated IAs often engage in products and strategies that are not supported by the [BD]. Accordingly, to properly supervise such activities, [BDs] need to develop expertise in such products and strategies, which is simply not feasible for small firms, nor would it be a good use of their supervisory resources."[29]

In addition, numerous commenters described the difficulty of obtaining information about an outside IA's clients necessary to supervise the outside IA activities. These commenters stated that IAs often raise privacy and proprietary concerns over providing IA client information to a BD, particularly one that is unaffiliated. A commenter explained, "IAs have their own privacy obligations to their clients and may not be able to share information regarding their clients with unaffiliated member firms even if they are inclined to do so."[30] Commenters also raised the risk to the BD of having to handle private, personal information for unaffiliated IA clients, with one explaining that "the current approach creates privacy challenges for [BDs] with respect to the handling of the personal information of unaffiliated advisory firms."[31]

Moreover, commenters asserted that requiring BDs to oversee outside IA activities could lead to customer confusion regarding which entity is responsible for the IA activities. One commenter explained that requiring a BD to supervise outside IA activities "may potentially lead to customer confusion as to the entity responsible for the transaction and the appropriate regulatory and/or legal standards applicable to the services provided."[32]

Several commenters also opined that BDs may have a business reason for preferring to oversee the outside IA activities of their associated persons. One commenter supporting the proposal to eliminate this obligation stated that "it will reduce costs for investors. Currently, an [IA] will be forced to pay an average of 5 percent to 8 percent of its gross advisory fees to a [BD] for oversight…These costs are usually passed on to the client."[33]

Request for Comment

FINRA requests comment on all aspects of the Proposal. FINRA requests that commenters provide empirical data or other factual support for their comments wherever possible. FINRA specifically requests comment concerning the following questions.

- What are the alternative approaches, other than the Proposal, that FINRA should consider?
- How would consolidation of the rules governing OBAs and PSTs in the Proposal simplify compliance? What impact would it have on the cost of compliance?
- As is true today under existing rules, the Proposal would apply to registered persons for outside activities and to associated persons for outside securities transactions. Should the Proposal be expanded to apply to all associated persons? If so, why?
- Is the proposed scope of the notice requirement appropriately tailored to balance the interest of members to receive information regarding their registered persons' outside activities and any investor protection concerns?
- As is true today under existing rules, the Proposal would require prior written approval for outside securities transactions for selling compensation and an acknowledgement for outside securities transactions not for selling compensation. Should the Proposal be expanded to require approval for all outside investment-related activity? If not, should the Proposal's acknowledgment for outside securities transactions not for selling compensation be modified? If so, how and why?
- Is the definition of "investment-related activity" appropriate given the regulatory objectives of the Proposal, or should other activities be included in or excluded from the definition? If so, why?
- The Proposal has several exclusions, including for registered persons' personal investments in non-securities and activities conducted on behalf of an affiliate of a member. Are the proposed exclusions appropriate?
- The Proposal does not alter members' obligations for outside IA activities. What are the challenges members face regarding supervising and recordkeeping outside IA activities for selling compensation? Would the removal of the requirement for FINRA member oversight of outside IA activities by their associated persons impact investor protection considering that IAs are regulated by either the SEC or the states? What are the benefits of BD supervision and recordkeeping of outside IA activities for selling compensation?
- When a person is associated with more than one member, the Proposal allows members to develop a formal allocation arrangement whereby at

least one member has the regulatory responsibility, including the supervision and recordkeeping of a proposed outside securities transaction for selling compensation. Are there any competitive effects of such allocation arrangements? Does this flexibility potentially create a disadvantage for some firms regarding how the costs are allocated? Should FINRA consider any other approaches?

- Are there any material economic impacts, including costs and benefits, to investors, issuers and members that are associated specifically with the Proposal? If so:
  - What are these economic impacts and what are their primary sources?
  - To what extent would these economic impacts differ by business attributes, such as size of firm or differences in business models?
  - What would be the magnitude of these impacts, including costs and benefits?
- Are there any expected economic impacts associated with the Proposal not discussed in this *Notice*? What are they and what are the estimates of those impacts?

Endnotes

1 Parties should submit in their comments only personally identifiable information, such as phone numbers and addresses, that they wish to make available publicly. FINRA, however, reserves the right to redact, remove or decline to post comments that are inappropriate for publication, such as vulgar, abusive or potentially fraudulent comment letters. FINRA also reserves the right to redact or edit personally identifiable information from comment submissions.

2 *See* SEA Section 19 and rules thereunder. After a proposed rule change is filed with the SEC, the proposed rule change generally is published for public comment in the Federal Register. Certain limited types of proposed rule changes take effect upon filing with the SEC. *See* SEA Section 19(b)(3) and SEA Rule 19b-4.

3 *See* Notice to Members 94-44 (May 1994); Notice to Members 96-33 (May 1996).

4 When an individual makes a personal securities investment away from the employing member, and the transaction is not otherwise covered by Rule 3210, the securities transaction is considered "buying away," which is subject to Rule 3280. *See, e.g., Jay Frederick Keeton*, 50 S.E.C. 1128, 1129-30 (1992) (finding a violation of FINRA Rule 3280's predecessor rule where respondent made undisclosed and unapproved purchases in three partnerships); *Dep't of Enforcement v. Friedman*, Complaint No. 2005000835801, 2010 FINRA Discip. LEXIS 10, at *19 (FINRA NAC July 26, 2010), *aff'd*, Exchange Act Release No. 64486, 2011 SEC LEXIS 1699 (May 13, 2011) (explaining that "[Rule 3280] applies to both purchases and sales of securities"); *see also* NASD *Notice to Members 75-34* (April 1975) (stating that the rule concerning private securities applies to all securities transactions by an associated person "whether on behalf of themselves or on behalf of customers and others"). The most common "buying away" transactions are personal investments in private placements.

5 FINRA Rule 3210 requires that an associated person must obtain the prior written consent of his or her employer when opening an account, as specified by the rule, at another member or other financial institution. The other member must, upon written request by the employer member, transmit duplicate copies of confirmation and statements, or the transactional data, with respect to an account subject to Rule 3210. The requirements of Rule 3210 do not apply to transactions in unit investment trusts, municipal fund securities, Section 529 plans and variable contracts or redeemable securities of companies registered under the Investment Company Act or to accounts that are limited to transactions in such securities, or to Monthly Investment Plan type accounts.

6 This language comes from Rule 3280 and was favored for, among other reasons, consistency purposes over the language in Rule 3270—the notice must be "in such form as specified by the member."

7 Under Rule 3270, a registered person may use a single notice for the proposed outside activity. Rule 3280 requires an associated person to provide prior written notice to the member for each proposed securities transaction, unless an exception applies. *See In re Klaus Langheinrich*, Exchange Act Release No. 34107, 1994 SEC LEXIS 3623, at *6 (May 25, 1994) (explaining that Rule 3280 "requires that an associated person must give *specific prior notice of each transaction* if the associated person will receive selling compensation. A single notice will suffice only in the case of a series of related transactions in which no selling compensation has been or

will be received"). In addition, a single notice and approval of IA services for asset-based or performance-based fee is permitted. *See Notice to Members 96-33* (May 1996) ("The Board of Governors … has interpreted [Rule 3280] to require prior notice of the investment advisory services that will be provided by the RR/IA for an asset-based or performance-based fee, rather than prior notice of each trade effected by an RR/IA for a particular customer…. Members are reminded, however, that if an RR/IA receives transaction-based compensation, a member's prior approval of each trade is required.").

8 *See supra* note 3.

9 Figures as of mid-February 2025. This figure could be both overinclusive and underinclusive. For instance, the number of NRFs may overestimate the number of non-registered associated persons as FINRA rules do not require reporting the termination of an NRF's association with a member. Conversely, there may be other non-registered associated persons who are neither fingerprinted nor listed on Form BD who may not be captured in this figure (*e.g.*, certain individuals in compliance and legal departments, certain individuals who perform back-office functions).

10 Further discussion of comment letters received as part of the retrospective review follows below.

11 Question 13 ("Other Business") in Form U4 requires providing various details about outside activities, including whether it is an investment-related activity. While the question does not perfectly align with the activities reportable under Rule 3270, answers may be indicative of the prevalence and range of outside activities. However, the information provided is not structured, and it is difficult to assess the share of reported outside activity that is investment related. The Proposal does not impact reporting on Form U4.

12 In addition to limiting the scope to investment-related activities, the Proposal provides several exclusions, discussed above.

13 Based on information from Form U4, question 6 ("Will *applicant* maintain registration with *firm(s)* under common ownership and control with the *filing firm*?").

14 Based on information from Form BD, Schedule D.

15 Most non-broker-dealer activity of affiliates is overseen by other regulatory entities.

16 Registered persons that work for multiple members tend to hold operations professional (series 99) and financial and operations principal (series 27) registrations, particularly among those that are registered with more than five members.

17 These percentages might overestimate the actual proportion. *See supra* note 9.

18 A number of members responding to the Retrospective Review and the Prior Proposal commented that Rule 3270 was overinclusive to the point of being burdensome and that it took the focus off of activities that were more relevant from a risk perspective.

19 Based on information from Form U4, question 3.B. ("Will *applicant* maintain registration with an investment adviser that is not *affiliated* with the *filing firm*?"), figure as of September 2024.

20 *See Regulatory Notice 18-08* (February 2018).

21 *Id.*

22 *See* letter from Paul J. Tolley, senior vice president and chief compliance officer of

Commonwealth Financial Network, dated April 27, 2018.

23 *See* letter from Joseph P. Borg, president of North American Securities Administrators Association (NASAA), dated April 27, 2018. *See also* letters from Seth Miller, general counsel, senior vice president and chief risk officer, Cambridge Investment Research, dated April 27, 2018 ("Presently, regulatory oversight of investment advisory activity does not appear to be as robust and recurrent as in the broker-dealer space, which could create the potential for investor harm if activities and transactions member firms have been supervising are no longer being monitored and supervised."); Andrew Stoltmann, president of the Public Investors Arbitration Bar Association (PIABA), dated April 27, 2018 (asserting that its "members have seen, all too often, registered representatives establishing small IA firms and using outside business activities in order to avoid member supervision, in order to engage in activities that harm investors"); David T. Bellaire, executive vice president and general counsel, Financial Services Institute, dated April 27, 2018 (FSI Letter) (stating that the proposed rule raises investor protection concerns).

24 *See* letter from Robert J. McCarthy, director of Regulatory Policy, Wells Fargo Advisors, dated April 27, 2018.

25 *See* FSI Letter, *supra* note 23.

26 *Id.*

27 *See, e.g.*, letters from Paige W. Pierce, dated April 24, 2018; Ken Norensberg, dated April 26, 2018; Michelle Oroschakoff, managing director, chief legal officer, LPL Financial LLC, dated April 27, 2018; Heath Goldstein, chief compliance officer, 1st Financial Investment, Inc., dated April 2, 2018.

28 *See, e.g.*, letters from John M. Simon, president, Pacific Capital Associates, dated April 18, 2018; Kevin Zambrowicz, managing director and associate general counsel, Securities Industry and Financial Markets Association (SIFMA), dated June 29, 2017 (SIFMA Comment Letter) ("Under Rule 206(4)-7, each IA that is registered or required to be registered under the Advisers Act must establish an internal compliance program that addresses the IA's performance of its fiduciary and substantive obligations under the Investment Advisers Act of 1940. . . .").

29 *See* letter from Lisa D. Crossley, executive director, National Society of Compliance Professionals (NSCP), dated April 27, 2018 (NSCP Comment Letter).

30 *Id. See also* letters from Neal E. Nakagiri, president, CEO, CCO, NPB Financial Group, dated April 27, 2018; Myra P. Nicholson, general counsel, International Assets Advisory (IAA), dated June 22, 2017; Stephen Kohn, CEO/president, Stephen A. Kohn & Associates, dated April 3, 2018.

31 Letter from John Peter Purcell, CEO, Purshe Kaplan Sterling Investments, dated April 25, 2018.

32 NSCP Comment Letter, *supra* note 29. *See also* SIFMA Comment Letter, *supra* note 28.

33 *See* letter from Amber Eduvigen, dated May 15, 2018. *See also* letters from Dale A. Pope, president and CEO, MerCap Securities, LLC, MerCap Advisors, Inc., dated August 8, 2024 ("Many BDs don't want to give this oversight up because it is a big revenue generator. These firms charge a supervision fee as high as 5% of the fee income."); Peter T. Palion, president, Master Plan Advisory, Inc., dated April 26, 2018.

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Attachment A

Below is the text of the proposed rule change. Proposed new language is underlined.

* * * * *

3200. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS

* * * * *

3290. Outside Activities Requirements

(a) Obligations of a Registered Person for Outside Activity

A registered person who intends to participate in an investment-related activity outside the scope of such person's relationship with the member that is not in connection with a securities transaction ("outside activity") shall provide prior written notice to the member regarding such outside activity. In the case of a material change to the outside activity, a registered person shall provide updated prior written notice to the member. For any such notice, the registered person shall describe in detail the proposed outside activity and the person's proposed role therein.

(b) Obligations of an Associated Person for Outside Securities Transactions

(1) Notice of Outside Securities Transaction

An associated person who intends to participate in an investment-related activity outside the scope of such person's relationship with the member that is in connection with a securities transaction ("outside securities transaction") shall provide prior written notice to and, in the case of an outside securities transaction for selling compensation, obtain prior written approval from the member regarding each such transaction, except that:

(A) An associated person who intends to participate in an outside securities transaction that is in connection with a series of related securities transactions not for selling compensation may provide a single prior written notice to the member.

(B) An associated person acting in a capacity described in Supplementary Material .02 of this Rule who is not selling an entity's shares for selling compensation may provide a single prior written notice to the member.

(2) Material Change

In the case of a material change to the information provided pursuant to paragraph (b)(1) of this Rule, an associated person shall provide updated prior written notice to and, in the case of an outside securities transaction for selling compensation, obtain updated prior written approval from the member.

(3) Contents of Notice

For any such notice provided pursuant to paragraph (b)(1) of this Rule, the associated person shall describe in detail the proposed transaction, series of related transactions, the person's proposed role therein and whether the person will receive selling compensation.

(c) Obligations of a Member for a Registered Person's Outside Activity

Upon receipt of written notice from a registered person pursuant to paragraph (a) of this Rule, the member shall:

(1) Assess, at a minimum, whether the outside activity:

(A) is an outside securities transaction;

(B) involves a customer of the member;

(C) will interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers; and

(D) will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.

(2) Based on the member's review of such factors, evaluate the advisability of imposing specific conditions or limitations on a registered person's outside activity, including where circumstances warrant, prohibiting the activity.

(d) Obligations of a Member for an Associated Person's Outside Securities Transactions

Upon receipt of written notice from an associated person pursuant to paragraph (b) of this Rule, the member shall:

(1) Assess, at a minimum, whether the securities transaction:

(A) is a securities transaction for selling compensation;

(B) involves a customer of the member;

(C) will interfere with or otherwise compromise the associated person's responsibilities to the member or the member's customers; and

(D) will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.

(2) For an outside securities transaction not for selling compensation, provide the associated person prompt written acknowledgement of such notice and, at the member's discretion, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction. A single written notice and a single written acknowledgement may be used in the case of a series of related outside securities transactions not for selling compensation.

(3) For an outside securities transaction for selling compensation, make a reasonable determination based on the above assessment of whether to approve, approve subject to specific conditions or limitations, or disapprove each proposed securities transaction and notify the associated person in writing of such determination.

(4) For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

(e) Recordkeeping. A member shall keep a record of its compliance with the obligations under this Rule and preserve this record for the period of time and accessibility specified in SEA Rule 17a-4(e)(1).

(f) Definitions. For purposes of this Rule:

(1) "Affiliate" means any entity that controls, is controlled by, or is under common control with a member.

(2) "Investment-related activity" means pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance.

(A) The term includes, but is not limited to, acting as or being associated with a broker-dealer; issuer; insurance agent or company; investment company; investment adviser; futures commission merchant; commodity trading advisor; commodity pool operator; municipal advisor; futures sponsor; bank; savings association; or credit union.

(B) The term also includes an associated person's participation in any manner in a personal investment involving a securities transaction, sometimes referred to as "buying away," other than transactions indicated in paragraph (g)(3)(A) of this Rule. A personal investment involving a securities transaction shall include any securities transaction for which an associated person has a beneficial interest. This shall include those by or on behalf of:

(i) a spouse or domestic partner of the associated person;

(ii) a child of the associated person or of the associated person's spouse or domestic partner, provided that the child resides in the same household as or is financially dependent upon the associated person; or

(iii) any other person who resides in the same household as the associated person and is financially dependent upon the associated person.

(3) "Selling compensation" means any compensation paid directly or indirectly from whatever source in connection with or as a result of the purchase, sale or exchange of a security, including, though not limited to, commissions; finder's fees; securities or rights to acquire securities; rights of participation in profits; tax benefits; dissolution proceeds, as a general partner or otherwise; or expense reimbursements.

(g) Exclusions. This Rule shall not apply to an associated person's (including a registered person's):

(1) non-broker-dealer activity on behalf of a member or its affiliate (e.g., investment advisory activity conducted for a dually registered broker-dealer/investment adviser or investment advisory, insurance or banking activity conducted at an affiliate of the member);

(2) securities transactions among immediate family members (as defined in Rule 5130) for which the associated person (including a registered person) receives no selling compensation;

(3) the following personal investments:

(A) securities transactions subject to or delineated in Rule 3210;

(B) personal investments in non-securities; and

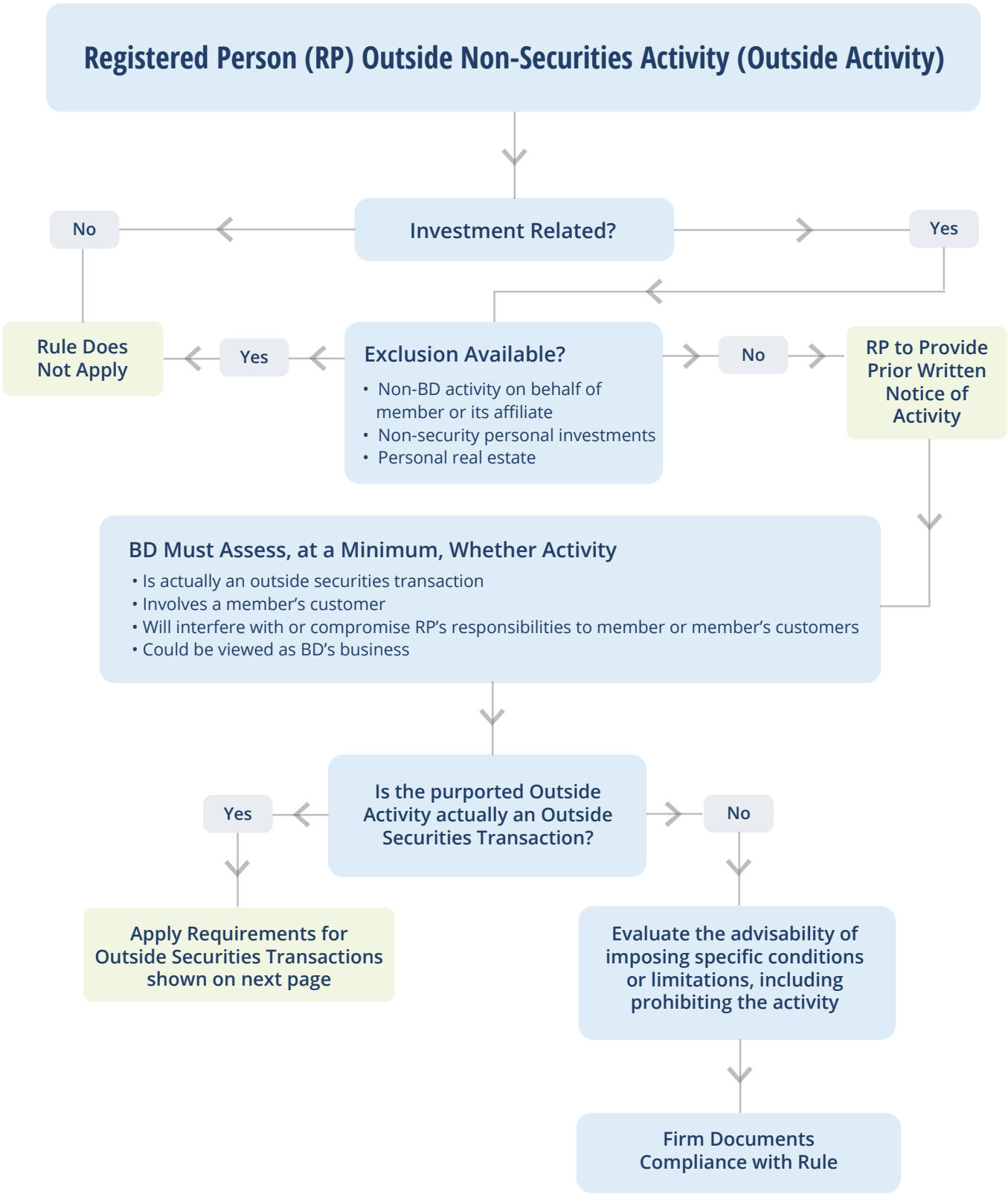
(C) the purchase, sale, rental or lease of a main home or dwelling unit or personal-use rental property, as defined for purposes of the Internal Revenue Code.

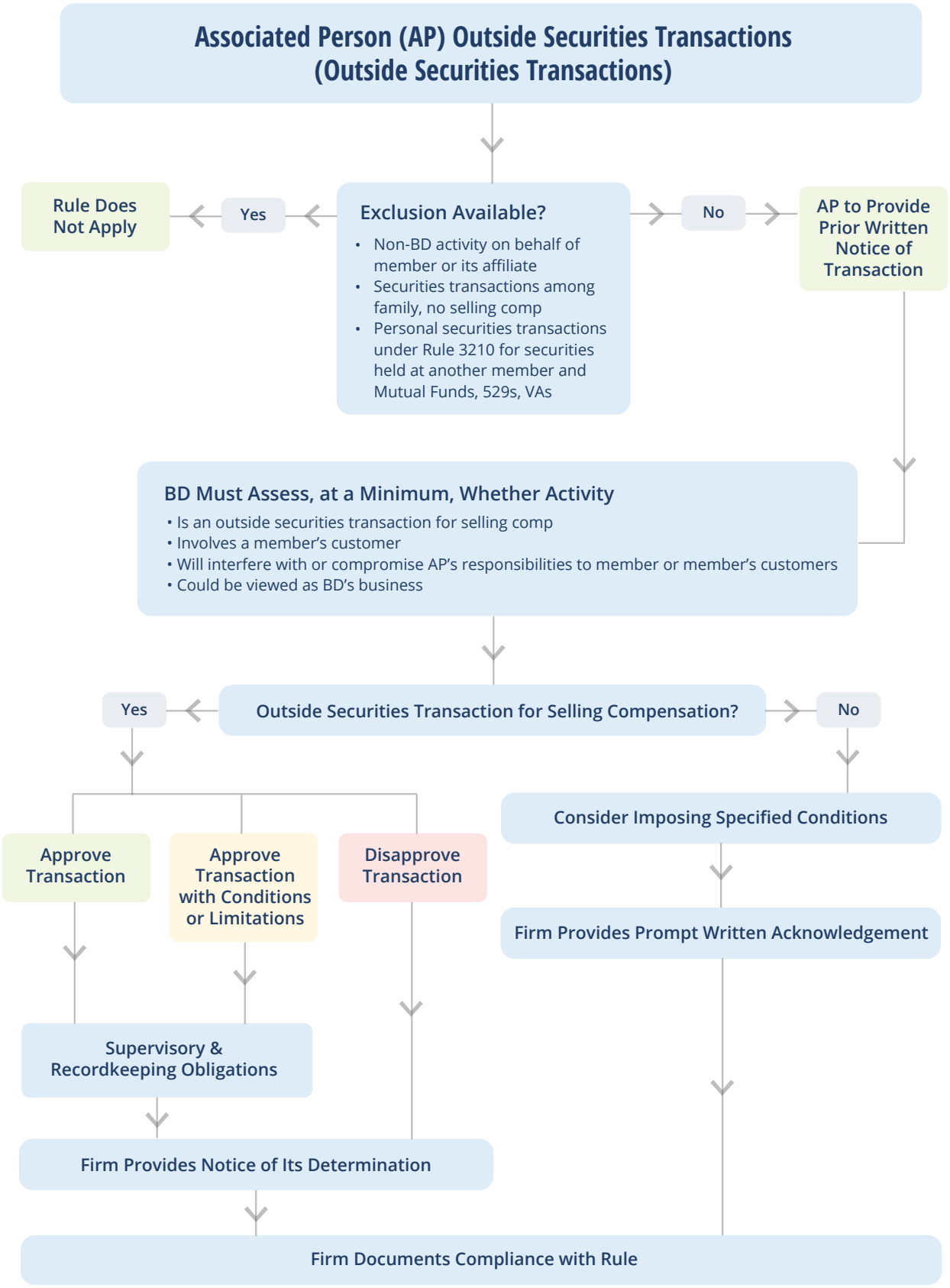
• • • Supplementary Material: ----------

.01 Formal Allocation Agreement. For purposes of this Rule, if a member approves an associated person's participation in an outside securities transaction involving selling compensation and that person is associated with more than one member, the members may develop a written allocation arrangement whereby at least one member agrees to be responsible for compliance with respect to all applicable securities laws and regulations and FINRA rules regarding the proposed activity, including those requiring supervision and recordkeeping.

.02 Portfolio Managers and Investment Committee Members. An associated person shall not be considered to be participating in an outside securities transaction to the extent the associated person's activities are limited to acting as portfolio manager or investment committee member for registered investment companies (*e.g.*, mutual funds, exchange traded funds, unit investment trusts, or registered closed-end funds), unregistered investment companies, business development companies, real estate investment trusts and entities that are recognized as tax exempt. This exception shall not include an associated person's activities related to purchasing or selling such entities' shares (unless otherwise excluded under paragraph (g) of this Rule).

Attachment B




Associated Person (AP) Outside Securities Transactions (Outside Securities Transactions)
Exclusion Available?
• Non-BD activity on behalf of member or its affiliate
• Securities transactions among family, no selling comp
• Personal securities transactions under Rule 3210 for securities held at another member and Mutual Funds, 529s, VAs
Yes
Rule Does Not Apply
No
AP to Provide Prior Written Notice of Transaction
BD Must Assess, at a Minimum, Whether Activity
• Is an outside securities transaction for selling comp
• Involves a member's customer
• Will interfere with or compromise AP's responsibilities to member or member's customers
• Could be viewed as BD's business
Outside Securities Transaction for Selling Compensation?
Yes
No
Approve Transaction
Approve Transaction with Conditions or Limitations
Disapprove Transaction
Consider Imposing Specified Conditions
Firm Provides Prompt Written Acknowledgement
Supervisory & Recordkeeping Obligations
Firm Provides Notice of Its Determination
Firm Documents Compliance with Rule

Attachment C

Below is a series of hypothetical questions and answers indicating how Rules 3270 and 3280 currently apply in comparison to how the Proposal would apply. Please note that the Proposal would replace Rules 3270 and 3280.

- **Scenario 1.** Away from the member, a non-registered associated person purchases shares of a private placement from an issuer or BD.

  Rule 3280 would apply as the associated person's purchase of the private placement away from the member is considered a personal or "buying away" private securities transaction that is not otherwise exempted by, for instance, being subject to Rule 3210.

  Rule 3270 would not apply for several reasons – the activity is not an outside business activity, the rule only applies to registered persons and there is an exemption for activity covered by Rule 3280.

  The Proposal would apply based on the same rationale provided above for Rule 3280.

- **Scenario 2.** A registered person, away from the member, recommends a private placement to a customer, assists with completing the customer's subscription agreement, handles customer funds regarding the private placement and receives selling compensation.

  Rule 3280 would apply to the registered person's activity with the customer away from the member. The fact that the registered person, away from the member, recommends the private placement to a customer, assists with completing the customer's subscription agreement and handles customer funds constitutes "participation in" a private securities transaction (this type of private securities transaction is sometime referred to as "selling away"). If approved, the member would have supervisory and recordkeeping obligations as the registered person is receiving selling compensation.

  Rule 3270 would not apply to the registered person's activities because Rule 3270 exempts activities covered by Rule 3280.

  The Proposal would apply based on the same rationale provided above for Rule 3280.

- **Scenario 3.** A registered person has an LLC that invests in private placements away from the member.

  Rule 3280 would apply because the LLC invests in private placements away from the member, often called "buying away."

  Rule 3270 would not apply to the registered person's activities because Rule 3270 exempts activities covered by Rule 3280.

  The Proposal would apply based on the same rationale provided above for Rule 3280.

- **Scenario 4.** A registered person is the sole proprietor of a business that sells antique furniture online.

Rule 3270 would apply because she is the sole proprietor of a business.

Rule 3280 would not apply because she is not participating in a private securities transaction.

The Proposal would not apply as the activity does not meet the definition of "investment-related activity."

- **Scenario 5.** An associated person who is dually registered with a member and an affiliated IA firm performs a review of an IA client's portfolio and advises the IA client to rebalance the portfolio by liquidating some securities and purchasing additional shares of others. The IA client agrees with the recommendations and the dually registered person places the securities orders. The dually registered person receives fees related to the IA client's assets under management (AUM).

  Rule 3280 would apply because the dually registered person placed the securities orders. According to a series of *Notice to Members* in the 1990s, a dually registered person who, away from a member, provides more than mere securities advice as an IA (*i.e.*, effects or places a securities order) is participating in a private securities transaction for purposes of Rule 3280. Those same *Notices* also state that AUM fees constitute selling compensation. As a result, under Rule 3280, the member would need to supervise this IA activity away from the member and record the transactions on its books and records if it approves the activity.

  Rule 3270 would not apply because Rule 3270 exempts activities covered by Rule 3280.

  The Proposal would not apply in this scenario because the activity occurred at an affiliated IA. The Proposal excludes activity at an affiliate in recognition of a member's ability to implement meaningful controls across business lines.

- **Scenario 6.** The same facts as **Scenario 5** except that the IA firm is not affiliated with the member.

  The result under Rule 3280 and 3270 would be the same as the response to **Scenario 5**.

  However, because the IA firm is not affiliated with the member, the result under the Proposal would be different than **Scenario 5**. With that fact changed, the Proposal would apply to the same extent as Rule 3280 in **Scenario 5**.

- **Scenario 7.** The same facts as **Scenario 6** except that the dually registered person only provides advice and does not place any securities orders – the IA client places the orders online in her self-directed account at another member.

  Rule 3280 would not apply under these new facts because the dually registered person only provides advice to the IA client without placing the orders.

  Rule 3270 would apply because this is an outside business activity that is not captured by Rule 3280.

The Proposal would capture the activity because it is investment related, but it would be treated as an outside activity rather than an outside securities transaction because the dually registered person only provides advice to the IA client and does not place the orders, with the result that, as with Rule 3270, the member would not have supervisory and recordkeeping responsibilities for the activity under the Proposal.

- **Scenario 8.** A registered person receives selling compensation for selling shares of a hedge fund that is not affiliated with the member.

  Rule 3280 would apply because the registered person is participating in a PST for selling compensation. If approved, the member would need to record and supervise the securities transactions.

  Rule 3270 would not apply to the registered person's activities because Rule 3270 exempts activities covered by Rule 3280.

  The Proposal would apply to the same extent as Rule 3280.

- **Scenario 9.** An individual is registered with and compensated by multiple members as a Financial and Operations Principal (FINOP). The individual does not engage in any other activities at the members.

  Rule 3270 would apply as the FINOP is being compensated by multiple members.

  Rule 3280 would not apply because there is no indication that the FINOP is participating in PSTs.

  The Proposal would apply as it is "investment-related activity." Under this scenario, there would be a prior written notice obligation. However, because the FINOP is not participating in outside securities transactions involving selling compensation, the members would not have to supervise or record the outside activity.

- **Scenario 10.** A registered person is employed by a driving service on weeknights and referees football games on weekends. He is compensated for both activities.

  Rule 3270 would apply because the registered person receives compensation from another person outside the scope of his relationship with the member.

  Rule 3280 would not apply because the registered person is not participating in a PST.

  The Proposal would not apply because the activity is not investment related.

EXHIBIT 2b

Alphabetical List of Written Comments

Regulatory Notice 25-05

1. Advice & Planning Services, LLC ("Form Letter Type B") (April 24, 2025)

2. Stephen D. Anderson, CFS Wealth Management ("Form Letter Type A") (April 28, 2025)

3. Anonymous 1 (March 24, 2025)

4. Anonymous 2 (April 30, 2025)

5. Anonymous 3 (May 5, 2025)

6. Anonymous 4 (May 5, 2025)

7. Anonymous 5 (May 7, 2025)

8. Todd Arens, HighMark Wealth Management ("Form Letter Type B") (May 12, 2025)

9. Avondale Wealth Advisors ("Form Letter Type B") (April 28, 2025)

10. Christopher Ballard, Allegiant Wealth Partners ("Form Letter Type A") (April 30, 2025)

11. Bradley C. Barnes, Entruity Wealth, LLC ("Form Letter Type B") (April 21, 2025)

12. Steven A. Barnes, Barnes Wealth Management Group ("Form Letter Type A") (May 13, 2025)

13. Jon Michael Bartholomew, GWN Securities & KM Capital ("Form Letter Type C") (May 2, 2025)

14. Amanda Basteen ("Basteen") (May 5, 2025)

15. Jerrold E. Beck, Kades-Margolis Corporation ("Form Letter Type C") (May 2, 2025)

16. James A. Beindorf ("Form Letter Type A") (April 29, 2025)

17. David T. Bellaire, Financial Services Institute ("FSI") (May 13, 2025)

18. Steven Bernier, Purshe Kaplan Sterling Investments ("Form Letter Type B") (May 8, 2025)

19. Gail C. Bernstein & Monique S. Botkin, Investment Adviser Association ("IAA") (May 13, 2025)

20. Amy L. Betts, Beam Wealth Advisors & Benedetti, Gucer & Associates ("Form Letter Type A") (May 5, 2025)

21. Denny Betz ("Betz") (May 5, 2025)

22. Matt Billings, Robinhood Financial LLC & Robinhood Securities, LLC ("Robinhood") (May 13, 2025)

23. G. Mark Blaschak, GWN Securities, Inc. ("Form Letter Type C") (May 2, 2025)

24. G. Mark Blaschak ("Form Letter Type C") (May 2, 2025)

25. Tara Bobelak, Keyes, Stange & Wooten Wealth Management ("Form Letter Type A") (May 12, 2025)

26. Andrew R. Bodner, Double Diamond Investment Group ("Form Letter Type A") (May 6, 2025)

27. Kristine A. Boelte, Boelte O'Hara Wealth Management ("Form Letter Type A") (May 13, 2025)

28. Matthew J. Brady, Ocean Pointe Financial Services Group, LLC ("Form Letter Type B") (April 29, 2025)

29. Stephen Brophy, Brophy Wealth Management ("Form Letter Type A") (May 6, 2025)

30. Althea Brown, LPL Financial Holdings, Inc. ("LPL") (May 13, 2025)

31. Michael C. Brown, Journey Strategic Wealth ("Form Letter Type A") (April 28, 2025)

32. Ronald Brown, J M Brown Financial Partners ("Form Letter Type A") (May 12, 2025)

33. Roger Byrd, Bridgewealth Advisory Group, LLC ("Form Letter Type A") (May 7, 2025)

34. Bernard V. Canepa, Securities Industry and Financial Markets Association ("SIFMA") (May 14, 2025)

35. Jamie Carey, Carey Wealth Management ("Form Letter Type A") (May 6, 2025)

36. Joshua Carpenter, Bridgewealth Advisory Group, LLC ("Form Letter Type A") (May 7, 2025)

37. Todd Casazza, Wealth Management Resources, Inc. (“Form Letter Type A”) (May 13, 2025)

38. Kellie Chase, I.E. Investments, Inc. (“I.E. Investments”) (May 15, 2025)

39. Michael Christoforo (“Christoforo”) (May 5, 2025)

40. Benjamin Chunko, Liberty Wealth Management (“Form Letter Type A”) (May 7, 2025)

41. Nick Clay (“Form Letter Type A”) (May 5, 2025)

42. Miste Cliadakis, Altum Wealth Advisors (“Form Letter Type B”) (May 8, 2025)

43. Michael Cocozza, Kagan Cocozza Financial Advisors (“Form Letter Type A”) (May 2, 2025)

44. Sean M. Condon, Condon Wealth Management, Inc. (“Form Letter Type A”) (April 30, 2025)

45. Joseph Connor, Connor Capital Management, LC (“Form Letter Type A”) (May 1, 2025)

46. Donald Conrad (“Form Letter Type A”) (April 24, 2025)

47. Clinton Cooper, Cooper Capital Group (“Form Letter Type B”) (May 5, 2025)

48. Gary Cutson (“Cutson”) (April 24, 2025)

49. Rick Danielson, Danielson Tate Capital Partners (“Form Letter Type B”) (May 12, 2025)

50. Max Dean, Dean Wealth Partners (“Form Letter Type B”) (May 9, 2025)

51. Carlton Dick, Summit Wealth Strategies (“Form Letter Type A”) (May 12, 2025)

52. Barge Donmayer (“Donmayer”) (May 4, 2025)

53. Molly Dresden (“Dresden”) (March 19, 2025)

54. Christine Drisco, New Harbor Financial Group, LLC (“Form Letter Type A”) (May 7, 2025)

55. Stephen S. Dudas III, World Equity Group, Inc (“WEG 1”) (May 13, 2025)

56. Daniel J. Dugan, Financial Perspectives (“Form Letter Type A”) (May 6, 2025)

57. Ryan J. Ehmen (“Form Letter Type A”) (May 6, 2025)

58. Ryan M. Elenbaas, Vision Financial Group ("Form Letter Type A") (April 30, 2025)

59. Ryan M. Elenbaas, Vision Financial Group ("Form Letter Type B") (April 30, 2025)

60. Derek Elrod, Bridgewealth Advisory Group, LLC ("Form Letter Type A") (May 6, 2025)

61. Joseph F. Eschleman, Towerpoint Wealth, LLC ("Form Letter Type A") (April 30, 2025")

62. Ben Feldmeyer ("Form Letter Type A") (May 13, 2025)

63. Robert Fezza, Odyssey Personal Financial Advisors ("Form Letter Type A") (May 2, 2025)

64. Mark Finelli ("Form Letter Type B") (April 30, 2025)

65. Timothy E. Flatley, Sterling Investment Advisors, Ltd. ("Form Letter Type A") (April 21, 2025)

66. Dina L. Fliss ("Form Letter Type B") (May 12, 2025)

67. Peter F. Florio, Florio Wealth Management Group ("Form Letter Type A") (May 12, 2025)

68. Katherine M. Flouton, Broadstone Securities, Inc. ("Broadstone") (May 5, 2025)

69. Jeffery E. Fong, Concentrum Wealth Management ("Form Letter Type B") (May 6, 2025)

70. Daniel Forrester ("Forrester") (May 2, 2025)

71. Richard Frable, Liberty Wealth Management ("Form Letter Type A") (May 7, 2025)

72. Jack Frazee ("Frazee") (May 5, 2025)

73. Jennifer M. Fussell, Canopy Asset Management, LLC ("Form Letter Type B") (May 2, 2025)

74. Michael J. Gallugi, Gallugi Wealth Management, LLC ("Form Letter Type B") (May 5, 2025)

75. William F. Galvin, Commonwealth of Massachusetts, Secretary of the Commonwealth ("Massachusetts") (May 13, 2025)

76. Adam Gana, Public Investors Advocate Bar Association ("PIABA") (May 7, 2025)

77. Randall T. Gerber, Gerber, LLC ("Form Letter Type B") (May 1, 2025)

78. Elissa Germaine & Christine Lazaro, St. John's University School of Law ("St. John's Law") (May 13, 2025)

79. Michael Gilberg ("Gilberg") (May 6, 2025)

80. David Gilmore, Equity Wealth Partners ("Form Letter Type A") (April 24, 2025)

81. Jessica R. Giroux, American Securities Association ("ASA") (May 13, 2025)

82. Timothy Githens ("Githens") (May 5, 2025)

83. Audrey Glafkides, Mirador Capital Partners ("Form Letter Type B") (April 24, 2025)

84. Joshua Goulding, 4J Wealth Management ("4J Wealth") (May 6, 2025)

85. John H. Grady, Alternative & Direct Investment Securities Association ("ADISA") (May 27, 2025)

86. James H. Graver, Graver Capital Management ("Form Letter Type A") (April 30, 2025)

87. David Gutierrez, Gutierrez Wealth Advisory, LLC ("Form Letter Type A") (April 29, 2025)

88. GVC Capital LLC ("GVC") (May 13, 2025)

89. Courtney Haddad, Concurrent ("Form Letter Type B") (May 7, 2025)

90. Gerald W. Hall, HBKS Wealth Advisors ("Form Letter Type A") (May 12, 2025)

91. Gerald W. Hall, HBKS Wealth Advisors ("Form Letter Type B") (May 12, 2025)

92. Brittany G. Halpern Bailey, Summit Financial, LLC ("Form Letter Type B") (May 13, 2025)

93. David L. Harris, Harris & Associates ("Form Letter Type A") (May 12, 2025)

94. Harry V ("Harry") (April 28, 2025)

95. Jacob Hartke, Triple H Financial Services, LLC ("Form Letter Type A") (May 12, 2025)

96. Chris Hasenberg, Hasenberg Financial Group ("Form Letter Type A") (April 30, 2025)

97. Douglas Keith Hervey, DK Hervey & Associates ("Form Letter Type C") (May 2, 2025)

98. Joel R. Holden, Jr., Sound Financial Strategies Group ("Form Letter Type A") (May 6, 2025)

99. Sean Hollitz ("Form Letter Type B") (May 1, 2025)

100. Kevin Hook, Bridgewealth Advisory Group, LLC ("Bridgewealth 4") (May 8, 2025)

101. William S. Horak, Wealth Management Corporation ("Form Letter Type B") (April 28, 2025)

102. William S. Horak, Wealth Management Corporation ("Form Letter Type A") (April 28, 2025)

103. Barbara B. Hudock, Hudock Capital Group, LLC ("Form Letter Type A") (May 8, 2025)

104. Patrick Hutchison, Sector Analysts ("Form Letter Type B") (April 28, 2025)

105. Ronald M. Ivanick ("Ivanick") (May 5, 2025)

106. William A. Jacobson, Justin Cwiklinski & Jing Huang, Cornell Securities Law Clinic, Cornell Law School ("Cornell Law") (May 12, 2025)

107. John ("John 1") (March 31, 2025)

108. John ("John 2") (May 7, 2025)

109. Mark Johnson ("Form Letter Type A") (May 5, 2025)

110. M. Scott Jones, Jaffe Tilchin Wealth Management ("Form Letter Type A") (May 7, 2025)

111. Jerry M. Keaton, Keaton Capital Management LLC ("Form Letter Type B") (May 13, 2025)

112. Jay R. Kemmerer, Berkshire Advisors, Inc. ("Form Letter Type A") (May 5, 2025)

113. Jay R. Kemmerer, Berkshire Advisors, Inc. ("Form Letter Type B") (May 5, 2025)

114. Nicholas D. Kennedy, Three Rivers Executive Consulting ("Form Letter Type B") (May 12, 2025)

115. Jacob Kilpatrick ("Kilpatrick") (May 5, 2025)

116. Clifford Kirsch & Eric Arnold, Eversheds Sutherland (on behalf of the Committee of Annuity Insurers) ("Eversheds") (May 13, 2025)

117. Charles B. Kitsman, Kitsman Investment Management ("Form Letter Type B") (April 21, 2025)

118. Art Klugh, Cox, Klugh & Company ("Form Letter Type A") (May 12, 2025)

119. William J. Kridel, Jr., Ferghana Securities, Inc. ("Ferghana") (May 8, 2025)

120. Shad F. Lamm, Keystone Private Wealth ("Form Letter Type B") (April 21, 2025)

121. Robert W. Larsen ("Form Letter Type A") (May 13, 2025)

122. Jonathan W. LaTurner, Towerpoint Wealth, LLC ("Form Letter Type A") (April 30, 2025")

123. Kenyon Lederer, Pinnacle Wealth Management ("Form Letter Type A") (May 13, 2025)

124. Sean A. Lehmann, The Sullivan Group ("Sullivan") (May 1, 2025)

125. David Lembo ("Lembo") (May 5, 2025)

126. Morris Licciardello Jr., ("Form Letter Type B") (May 13, 2025)

127. Amanda Lisachenko, Reed Financial Services ("Form Letter Type A") (May 8, 2025)

128. Chris Lott, Smith Anglin ("Form Letter Type B") (May 1, 2025)

129. Garner A. Mabry, IV Legacy Private Wealth Partners ("Form Letter Type A") (May 6, 2025)

130. Michael MacDougal, Summit Financial, LLC ("Form Letter Type A") (May 13, 2025)

131. Christian A. MacLean, MacLean Capital Advisors ("Form Letter Type B") (May 5, 2025)

132. Jamal Mahmood, Main Street Financial Solutions ("Form Letter Type B") (May 12, 2025)

133. Josh Manifold, Compass Ion Advisors ("CIA") (April 28, 2025)

134. Dennis P. Marinich, II, Future Financial Wealth Management Group ("Form Letter Type B") (April 29, 2025)

135. Mark ("Mark") (May 5, 2025)

136. Gary Mayo, Liberty Wealth Management ("Form Letter Type A") (May 7, 2025)

137. Natalie McClung, Monument Group, Inc. ("Monument") (May 12, 2025)

138. Michael A. McLawe, Redwood Financial Planning ("Form Letter Type B") (April 29, 2025)

139. Meath Wealth Advisors ("Form Letter Type A") (May 1, 2025)

140. Nancy Mercado, Altus Wealth Group ("Form Letter Type B") (May 5, 2025)

141. Glen Messier Sr. ("Messier") (May 5, 2025)

142. Germaine R. Meverden, Global View Capital Advisors ("Form Letter Type A") (April 30, 2025)

143. Brian Meyer ("Meyer") (May 5, 2025)

144. Emily Micale, Insured Retirement Institute ("IRI") (May 13, 2025)

145. Boulos G. Michael, Stewardship Wealth Management Solutions ("Form Letter Type B") (April 25, 2025)

146. Boulos G. Michael, Stewardship Wealth Management Solutions ("SWMS") (April 25, 2025)

147. Nate Miller, The Wellington Group ("Form Letter Type A") (April 29, 2025)

148. Stanley Q. Mok, MOK Capital Management ("Form Letter Type B") (May 1, 2025)

149. Richard J. Murray, ISC Financial Advisors ("Form Letter Type B") (May 5, 2025)

150. Jillian Nel, Inscription Capital ("Form Letter Type A") (May 13, 2025)

151. Charles J. Noti, IV, Liberty Wealth Management ("Form Letter Type A") (May 7, 2025)

152. William J. Ogles, Purshe Kaplan Sterling Investments ("Form Letter Type A") (May 12, 2025)

153. John P. Orindgreff, Collaborative Portfolio Management ("Form Letter Type A") (May 7, 2025)

154. Janice Parise ("Parise") (May 8, 2025)

155. Christopher Parrado ("Parrado") (May 5, 2025)

156. John Picardi, PKS Financial/Bison Wealth ("Form Letter Type A") (May 1, 2025)

157. Desiree Moreno Pineyro ("Pineyro") (May 5, 2025)

158. Tye Pipkin, Canopy Asset Management, LLC ("Form Letter Type B") (May 2, 2025)

159. Randolph F. Pistor, Sigma Financial Corporation and Parkland Securities, LLC ("Sigma") (May 12, 2025)

160. Christopher Plahm, Stonebridge Wealth Management, LLC ("Stonebridge") (May 6, 2025)

161. Nikki Polistina, Stableford Capital ("Form Letter Type A") (May 12, 2025)

162. Tony Powers, KerberRose Wealth Management, LLC ("KerberRose") (May 7, 2025)

163. Joshua M. Preston ("Preston") (May 13, 2025)

164. Alec Price, Price Financial Management ("Price") (April 28, 2025)

165. John Peter Purcell, Purshe Kaplan Sterling Investments ("PKS") (April 10, 2025)

166. Robert I. Rabinowitz, Becker New York, P.C. ("Becker") (May 13, 2025)

167. Erik Randall, Summit Wealth Group ("Form Letter Type A") (May 13, 2025)

168. Cline Reasor, Gratus Wealth Advisors, LLC ("Form Letter Type A") (April 28, 2025)

169. Paul Reese ("Reese") (May 5, 2025)

170. William Rice ("Form Letter Type B") (April 30, 2025)

171. Rightwealth Advisors, LLC ("Rightwealth") (April 28, 2025)

172. Ted Ripperger ("Ripperger") (May 5, 2025)

173. Gregory Romanczuk (“Romanczuk”) (May 5, 2025)

174. Craig Ruffolo (“Ruffolo”) (May 2, 2025)

175. Aaron P. Rugh & Mark L. Macleod, RM Financial Services, LLC (“Form Letter Type B”) (April 30, 2025)

176. Jamie Rutledge, Kades-Margolis (“Form Letter Type C”) (May 2, 2025)

177. Salvadore Salvo, Summit Financial LLC (“Form Letter Type B”) (May 13, 2025)

178. Jonathan Satovsky, Satovsky Asset Management (“Form Letter Type B”) (May 12, 2025)

179. Randall Sauer, Sauer Wealth Management (“Form Letter Type A”) (May 1, 2025)

180. Michael Scavullo, Solebury Asset Management, LLC (“Solebury”) (April 30, 2025)

181. David Schlossberg, Assured Concepts Group, Ltd. (“Form Letter Type A”) (April 29, 2025)

182. Scott (“Scott”) (May 5, 2025)

183. Thomas G. Shiffer, Cadence Wealth Management (“Form Letter Type B”) (May 7, 2025)

184. D. Smith (“Smith”) (May 5, 2025)

185. Douglas A. Solorzano, DAS Wealth Management Group (“Form Letter Type A”) (May 13, 2025)

186. Alberto Sosa (“Sosa”) (May 5, 2025)

187. Sean R. Spencer, Access Capital (“Form Letter Type A”) (May 13, 2025)

188. Howard Spindel & Peggy E. Chait, Integrated Solutions (“Integrated Solutions”) (May 13, 2025)

189. Deborah Stavis, Stavis Wealth Transfer Solutions (“Stavis”) (May 8, 2025)

190. Gregory Steele, SilverLake Wealth Management (“Form Letter Type A”) (May 13, 2025)

191. Jeffrey Steele (“Form Letter Type A”) (May 13, 2025)

192. Doug Stepansky, Strategic Investment Solutions, Inc. (“Form Letter Type A”) (April 29, 2025)

193. John T. Stone, Calvert Wealth Management, Inc. (“Form Letter Type B”) (May 6, 2025)

194. John T. Stone, Calvert Wealth Management, Inc. (“Form Letter Type A”) (May 6, 2025)

195. Erik Strid, Concentus Wealth Advisors (“Form Letter Type A”) (April 21, 2025)

196. Peter Sweeney (“Sweeney”) (May 5, 2025)

197. G. Swienton (“Swienton”) (May 14, 2025)

198. Matt Tackett (“Tackett”) (May 5, 2025)

199. Douglas W. Teubert, P.K.S. Investments (“P.K.S.”) (May 6, 2025)

200. Mark Thatcher (“Form Letter Type B”) (May 1, 2025)

201. Brian R. Tinker, Tinker Capital (“Form Letter Type B”) (April 29, 2025)

202. Jason Tinklenberg, Longview Financial Solutions, LLC (“Form Letter Type B”) (April 29, 2025)

203. Justine Tobin, Tobin & Company Securities, LLC (“Tobin”) (May 13, 2025)

204. Tony (“Form Letter Type A”) (May 13, 2025)

205. John Tumolo, Sector Analysts (“Form Letter Type A”) (April 30, 2025)

206. Jeran Van Alfen, Centered Financial (“Form Letter Type A”) (May 13, 2025)

207. Leslie M. Van Buskirk, North American Securities Administrators Association, Inc. (“NASAA”) (May 13, 2025)

208. Roseann Viscardi, Association of Registration Management, Inc. (“ARM”) (May 29, 2025)

209. Scott Wallschlaeger, MPPL Financial (“Form Letter Type A”) (May 7, 2025)

210. Joy J. Watkins, Anchor Investment Management, LLC (“Form Letter Type B”) (April 30, 2025)

211. William D. Webb Jr., World Equity Group, Inc (“WEG 2”) (April 9, 2025)

212. Steve Weinman, Summit Financial LLC (“Form Letter Type B”) (May 1, 2025)

213. Terry Wells, TSW Wealth Management (“Form Letter Type B”) (May 13, 2025)

214. Woody Woodmanssee, Commerce Advisors, LLC (“Form Letter Type A”) (May 12, 2025)

215. Adam Woodworth (“Woodworth”) (May 13, 2025)

216. Shawn Young, RB Capital Management (“Form Letter Type A”) (May 6, 2025)

ADVICE & PLANNING SERVICES

April 24, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell, As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05. This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

10 North 4th Street, SUITE 100
YOUNGWOOD, PA 15697
724-635-0427

Investment advisory services offered through Advice & Planning Services, LLC a PA Registered Investment Advisor.
Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC
Headquartered at 80 State Street, Albany, NY 12211.
Purshe Kaplan Sterling Investments and Advice & Planning Services, LLC are not affiliated companies.

CFS Wealth Management
A Registered Investment Advisor

April 28, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am a member of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Securities offered through Purshe Kaplan Sterling Investments, member FINRA/SIPC, Headquartered at 80 State Street, Albany NY 12207. Purshe Kaplan Sterling and CFS Wealth Management are not affiliated companies.

6528 Charingwood Dr. N., Mobile, AL 36695
(404) 538-7768 steve@cfswealth.com

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Stephen D. Anderson

Anonymous Comment On Regulatory Notice 25-05

Anonymous

I've been securities licensed for about two decades and thrilled to hear about this proposal to Simplify Requirements Regarding Associated Persons' Outside Activities. I can't remember a single client ask me about any of my listed OBAs (they are not securities related) or any colleagues OBAs.

I work with an advisor who filed bankruptcy and that's no longer available for clients to see. When it was available, clients asked me about his bankruptcy and didn't want him to be their advisor.

I'm financially responsible, own a rental property and part owner of a family business. I'm burdened with OBA reporting and his bankruptcy is purged off the record...

I think it's more important for clients to know about that advisors historical bankruptcy than it is for clients to know about every income stream I have that's unrelated to the securities industry.

Anonymous Comment On Regulatory Notice 25-05

Anonymous

This proposed update to the outside business activities disclosure requirement sounds great! The existing rules force financial institutions to overstep monitoring of employees' personal lives. For example, someone who has a hobby of buying Chuck E. Cheese tokens in bulk and then re-selling them on eBay to collectors should not need to disclose this activity to their employer.

Anonymous Comment On Regulatory Notice 25-05

Anonymous

I want to express my strong opposition to FINRA’s Proposed Rule 3290. As a an investor who personally owns digital assets and utilizes a registered advisor, I am deeply concerned about the proposed restrictions requiring financial advisors to seek approval from their broker/dealer before engaging in personal crypto asset investments.

Anonymous Comment On Regulatory Notice 25-05

Anonymous

Please don't do this, it's stupid and regressive.

May 7, 2025

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA 1700 K Street, NW
Washington, DC 20006

Re: Regulatory Notice 25-05 - Outside Activities

Ms. Mitchell:

I am writing to comment on FINRA's Regulatory Notice 25-05, specifically regarding the proposed treatment of outside investment adviser (IA) activities under the consolidated rule.

SUMMARY OF POSITION

The proposal would maintain FINRA's current approach of requiring broker-dealers to supervise outside IA activities of their registered representatives. This requirement is fundamentally flawed from a jurisdictional perspective and should be eliminated.

LACK OF CLEAR REGULATORY STANDARDS

FINRA expresses "duty to supervise" amorphously: there are no specifics as to what, how, when, or to what extent a broker-dealer must supervise IA activities. In absence of clear and narrow requirements, the broadest oversight program must be implemented by member firms, but such an imposition is beyond FINRA's jurisdiction to compel. The profound expense and consumption of resources of a broker-dealer supervision program of investment advisers was never granted to FINRA by Congress to so tax member firms.

STATUTORY AUTHORITY LIMITATIONS

FINRA has been granted authority by Congress through the Securities Exchange Act of 1934 to regulate broker-dealers. Investment advisers, by contrast, are regulated by the Securities and Exchange Commission and state securities regulators under the Investment Advisers Act of 1940, a completely separate statutory framework. FINRA has no statutory authority whatsoever to regulate investment advisers or investment advisory activities.

By requiring FINRA member firms to supervise outside IA activities, FINRA is asserting indirect regulatory control over investment advisory activities. This assumption of authority is

clear regulatory overreach that is *ultra vires* - beyond FINRA's legally granted powers. FINRA cannot indirectly regulate through the back door what it lacks the authority to regulate directly.

JUDICIAL PRECEDENT AGAINST REGULATORY OVERREACH

Recent judicial precedent reinforces this position. In *SIFMA v. Ashcroft*, No. 23-cv-04154-SRB, (W.D. Mo., 2024), a federal court ruled that even state securities regulators (which possess greater sovereign authority than FINRA) are significantly constrained in their ability to regulate investment advisers due to federal preemption under the National Securities Markets Improvement Act of 1996 (NSMIA). The court specifically cited Section 80b-3a(b)(1)(A) of the Investment Advisers Act, which limits state authority over federally registered investment advisers. In this case, the Securities Industry and Financial Markets Association (SIFMA) successfully challenged Missouri's attempt to regulate investment advisers regarding investment decisions, with the court finding such regulation exceeded the state's authority.

If sovereign states are limited in their authority over investment advisers by federal law, FINRA—as a non-governmental self-regulatory organization with powers derived solely from the Exchange Act of 1934—certainly cannot possess greater authority. FINRA's jurisdiction is even more constrained than that of state regulators concerning investment advisers, as FINRA is nowhere contemplated or mentioned in NSMIA.

VIOLATION OF FEDERALISM PRINCIPLES

Investment advisers can be subject to state or federal regulation, depending on the nature of the business and the assets under management. FINRA's duty to supervise extends to both classes of advisers. Perhaps most shocking is how FINRA's requirements effectively create a system whereby a private, non-governmental organization with authority stemming solely from the Exchange Act is supervising state-registered investment advisers—an unbelievable and horrific overreach that violates fundamental principles of federalism. NSMIA carefully delineated boundaries between federal and state regulation of investment advisers, respecting state sovereignty while creating a coherent national framework. FINRA's supervision requirements obliterate these boundaries by subjecting state-registered advisers to de facto oversight by broker-dealers compelled by a federal SRO.

This creates an absurd scenario where FINRA, which has no authority over investment advisers under federal law, and has no authority under any state law, is nevertheless exercising indirect control over advisory activities that Congress explicitly reserved to state regulation. The implications for federalism are profound—FINRA has effectively positioned itself above both state regulators and the carefully balanced federal-state regulatory structure established by Congress, inserting itself into regulatory relationships where it has no legitimate role.

SPECIFIC PROBLEMS WITH JURISDICTIONAL OVERREACH

The jurisdictional overreach is particularly problematic because:

1. It creates an unauthorized and duplicative layer of regulation for investment advisory activities that are already subject to comprehensive regulation by the SEC and state securities regulators.
2. It imposes significant costs and compliance burdens on broker-dealers without any legitimate authority—functionally equivalent to a private organization imposing an unauthorized tax. Financial professionals are routinely sanctioned by FINRA for misrepresenting the features or capacities of their products and services, yet FINRA appears to be misrepresenting its own regulatory authority over investment advisers.
3. It creates practical challenges related to privacy laws and information sharing between unaffiliated entities.
4. It blurs the distinct regulatory frameworks Congress established for broker-dealers and investment advisers, giving the misleading appearance that FINRA possesses supervisory authority over investment advisers that it does not legally have.
5. It undermines democratic governance by acting in contravention of congressionally delegated powers, effectively depriving voters of their right to construct a government of their choosing through their elected representatives.
6. For dual registrants, FINRA's overreach creates an untenable regulatory morass. Individuals legitimately operating in both capacities—as broker-dealer representatives and investment adviser representatives—face contradictory requirements and overlapping, sometimes conflicting supervision. The same advisory activity could simultaneously be subject to SEC/state regulation (properly) and broker-dealer supervision (improperly), creating regulatory schizophrenia where professionals must satisfy different masters for identical activities. This regulatory confusion doesn't enhance

investor protection; rather, it forces dual registrants to navigate a compliance labyrinth that Congress never intended to create. The result is not enhanced oversight but fragmented, contradictory regulation that undermines the coherence of either regulatory framework.

ULTRA VIRES NATURE OF REQUIREMENT

Any requirement by FINRA that exceeds its congressionally authorized jurisdiction is facially void and unenforceable. Supervision is regulation. Member firms cannot be obligated to follow rules that FINRA has no authority to impose. FINRA itself holds financial professionals to the highest standards regarding representations of authority and capacity; it should apply those same standards to its own regulatory actions and refrain from asserting authorities it does not possess.

FINRA'S HISTORY OF ATTEMPTED EXPANSION

FINRA's continued efforts to maintain regulatory hooks in investment advisers are foreboding reminders of FINRA broader ambitions, particularly FINRA's prior extensive lobbying history to gain control over investment advisers. From 2008-2012, FINRA spent approximately $4 million lobbying to expand its authority into the IA space, it hired former House Financial Services Committee Chairman Michael Oxley to promote its agenda, and it publicly supported H.R. 4624 (the "Bachus Bill") which would have granted FINRA authority over investment advisers.

Investment advisers have consistently and vehemently opposed FINRA's regulatory expansion into the IA space, preferring to remain under SEC oversight. Despite this clear and unified opposition from the investment adviser community and the failure of H.R. 4624 to advance, there is worry that FINRA has never abandoned its IA ambitions. Industry observers have noted FINRA is merely "playing the long game" and "laying the groundwork for a future lobbying effort," viewing advisers as a lucrative "regulatory and revenue opportunity."

In this context, FINRA's current rule requiring broker-dealer supervision of investment adviser activities appears to be a strategic positioning tactic—maintaining tenuous connections to adviser regulation that can later be leveraged to justify expanded authority. This represents not just a jurisdictional overreach but a deliberate encroachment strategy that threatens the distinct regulatory framework Congress established for investment advisers. FINRA must be completely

separated from investment adviser regulation unless explicitly authorized by Congress through legislation—not through regulatory back doors and supervisory mandates.

ARBITRATION SYSTEM ABUSES

FINRA's jurisdictional overreach takes on even more alarming dimensions when considering how its supervision requirements create new liability exposures for broker-dealers through FINRA arbitration. The 2018 Spire Securities case illustrates this dangerous precedent: FINRA arbitrators awarded $3 million to investors harmed by an unrelated and unaffiliated investment adviser's Ponzi scheme, holding the broker-dealer liable merely because the fraudster was also registered with the firm, despite the fraud occurring entirely through the unaffiliated RIA.

This case demonstrates how FINRA's supervision mandate creates a constitutionally impermissible, backdoor private right of action against broker-dealers for conduct occurring entirely within an investment advisory relationship—a relationship governed exclusively by the Investment Advisers Act, which FINRA has no authority to enforce. The dissenting arbitrator recognized this jurisdictional boundary, yet FINRA's self-created "duty to supervise" effectively nullified those limits.

FINRA's jurisdictional overreach represents a particularly troubling form of regulatory bootstrapping: first, it imposes an ultra vires requirement on broker-dealers to supervise outside investment advisory activities; then, when fraud occurs in those advisory relationships, FINRA arbitration panels award damages against broker-dealers for "failing" to fulfill this invented supervisory obligation. This liability built upon fiction creates precisely the kind of regulatory entanglement that undermines the distinct regulatory frameworks Congress established.

Notably, after the Spire case in 2018, FINRA briefly acknowledged the boundary problems by proposing a rule that would "ease brokers' supervisory requirements for the work their reps do at unaffiliated RIAs"—an implicit admission that its current approach exceeds proper jurisdictional limits. Yet FINRA now seeks to retain this overreach in the new consolidated rule, despite having previously recognized its impropriety.

DUE PROCESS VIOLATIONS

Congress deliberately placed investment adviser regulation under a statutory framework with specific enforcement mechanisms and due process protections. Yet FINRA's supervision requirements subject broker-dealers to FINRA's own disciplinary system for matters concerning investment advisory activities—activities explicitly placed outside FINRA's jurisdiction. This usurpation represents a fundamental denial of due process, as firms face FINRA disciplinary actions and arbitration liability for advisory activities that should be addressed solely through the enforcement mechanisms Congress established in the Investment Advisers Act.

FINRA's disciplinary procedures and arbitration system lack many of the due process protections available in federal courts and SEC administrative proceedings. By bootstrapping advisory supervision into FINRA's jurisdiction, broker-dealers are forced into a forum with fewer procedural safeguards than Congress intended for matters related to investment advice. This "camel's nose under the tent" approach allows FINRA to subject firms to enforcement mechanisms Congress never authorized for investment advisory matters, circumventing the specific enforcement regime established by statute.

TROUBLING REGULATORY RELATIONSHIPS

A concerning dynamic underlying FINRA's persistence in maintaining this jurisdictional overreach is its relationship with the Public Investors Advocate Bar Association (PIABA). PIABA, whose members directly benefit from the expanded liability created by FINRA's supervision mandate through increased arbitration awards against broker-dealers, has vigorously opposed any attempts to limit this supervisory requirement. One cannot help but question whether FINRA maintains this legally questionable rule as a concession to PIABA's interests, effectively allowing plaintiff's attorneys to pursue recovery against broker-dealers for investment advisory activities that should be beyond FINRA's jurisdiction.

FINRA's arrangement with PIABA creates a troubling regulatory capture scenario where FINRA appears beholden to special interests rather than adhering to its statutory limitations. The Spire Securities case illustrates precisely how this dynamic works to the advantage of PIABA members: an arbitration panel issued a $3 million award against a broker-dealer for failing to supervise an independent adviser's activities—activities occurring entirely outside the broker-dealer framework that Congress established FINRA to regulate.

FINRA appears to be maintaining rules that exceed its statutory authority in a manner that directly benefits PIABA members through expanded arbitration recovery opportunities. But for FINRA's improperly imposed "duty to supervise," broker-dealers would have no requirement to oversee external RIAs, and plaintiffs would have no basis to sue broker-dealers for activities occurring entirely outside the broker-dealer relationship.

FINRA's refusal to properly limit its rules to its statutory jurisdiction, despite briefly acknowledging these boundary issues in 2018, suggests that its regulatory approach may be influenced more by accommodating PIABA's interests than by respecting the legal framework established by Congress. This raises serious questions about FINRA's regulatory independence and its willingness to maintain rules that exceed its authority to benefit a specific constituency within its ambit.

HISTORICAL CONTEXT OF FINRA'S LIMITED AUTHORITY

FINRA's jurisdictional overreach becomes even more apparent when we recall its fundamental origins and intended purpose. FINRA (formerly NASD) was essentially created as the regulatory desk of the NASDAQ stock exchange, granted authority in the 1930s solely to regulate the activities of market participants on the over-the-counter exchange. It was never conceived or authorized by Congress to have any oversight of investment advisory activities, which are governed by an entirely separate statutory framework established in 1940.

This historical context is crucial—FINRA's authority stems from a specific, limited mandate to regulate broker-dealer activities related to securities exchanges. Congress deliberately created a separate regulatory regime for investment advisers with the Investment Advisers Act of 1940, intentionally placing advisory activities outside the purview of the exchange-focused regulatory body. FINRA's attempt to regulate investment advisers through supervision requirements represents not just a technical overreach but a fundamental departure from its original purpose and limited statutory authority.

DISTINCT STATUTORY FRAMEWORKS

More specifically, FINRA's jurisdiction is found exclusively within the Securities Exchange Act of 1934, which governs secondary market transactions. This legislation was designed to regulate broker-dealers and the trading of securities in the secondary market, not the provision of investment advice. Six years later, Congress enacted the Investment Advisers Act of 1940 as a separate and distinct regulatory framework specifically tailored to investment advisory services. This deliberate separation by Congress created two different regulatory regimes with different purposes, standards, and oversight mechanisms.

By attempting to regulate investment advisers through its supervision requirements, FINRA is not only exceeding its authority but effectively trying to bridge a statutory gap that Congress intentionally created. The 1934 Act's focus on secondary market transactions on an exchange provides FINRA no legitimate basis to reach into advisory relationships governed by the 1940 Act. This statutory distinction forms the fundamental legal basis for why FINRA's supervision requirements for outside RIAs are ultra vires—they represent an attempt to regulate activities that fall completely outside the bounds of the legislation from which FINRA derives its authority.

UNDERMINING SEC AUTHORITY

FINRA's supervision requirements don't merely exceed its own jurisdiction—they actively undermine the SEC's congressionally granted authority over investment advisers. Congress deliberately placed investment adviser oversight under the SEC through the Investment Advisers Act of 1940, creating a specific regulatory framework with its own standards, examinations, and enforcement mechanisms. By imposing a parallel, unauthorized supervisory structure through broker-dealers, FINRA effectively creates a shadow regulatory system that interferes with and duplicates the SEC's statutory role. This represents a troubling encroachment not just on adviser independence but on the SEC's explicit congressional mandate and regulatory prerogatives. Such interference creates confusion about which standards apply and dilutes the SEC's ability to implement its regulatory approach as Congress intended.

ANTI-COMPETITIVE EFFECTS

FINRA's supervision mandate has significant anti-competitive implications that harm both financial professionals and the investing public. By imposing substantial compliance costs on

broker-dealers for supervising activities outside their core business, these requirements disproportionately burden smaller and mid-sized firms that lack the resources to implement expansive supervision programs. This artificially advantages larger institutions while driving industry consolidation by making hybrid business models economically unfeasible for all but the largest firms.

The anti-competitive nature of these requirements is particularly troubling because they effectively force many independent advisers to either abandon their broker-dealer relationships entirely or surrender their independence to larger corporate entities. This was never Congress's intent when establishing separate regulatory frameworks. Rather than promoting a diverse financial services marketplace where various business models can compete fairly, FINRA's overreach effectively tilts the playing field toward large institutions—reducing consumer choice, limiting business model innovation, and potentially increasing costs for investors who lose access to independent advice.

CONCLUSION

FINRA's expansion into investment adviser regulation isn't merely an incremental extension of authority—it's a wholesale breach of the distinct regulatory boundaries Congress established. As an SRO whose authority derives from the Exchange Act, FINRA simply has no legitimate basis to create rules that regulate activities Congress explicitly placed under a different regulatory framework.

FINRA's decades-long, multi-million-dollar lobbying campaign to gain regulatory control over investment advisers, combined with arbitration decisions like Spire that create liability beyond statutory boundaries, reveal a coherent strategy to exercise de facto control over a space Congress intentionally placed beyond FINRA's reach.

I strongly urge FINRA to remove all provisions in the proposed rule that require supervision of outside IA activities. FINRA should limit the scope of its rules to areas within its statutory authority and recognize the separate regulatory framework established by Congress for investment advisers.

Thank you for your consideration of these concerns.

ANONYMOUS

HIGHMARK
WEALTH MANAGEMENT

5/12/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

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Sincerely,

Todd Arens
President, Chief Investment Officer
HighMark Wealth Management

AVONDALE
WEALTH ADVISORS

[LETTERHEAD]

Date 4-28-25

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

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Investment advisory services are offered through Avondale Wealth Management LLC, a Registered Investment Advisor. Avondale generally recommends Fidelity Institutional Wealth Services as custodian for advisory client accounts. Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC, Headquartered at 80 State Street, Albany NY 12207. Investments through PKS or Avondale Wealth Management LLC are: NOT FDIC INSURED, NOT BANK GUARANTEED, MAY LOSE VALUE, INCLUDING LOSS OF PRINCIPAL, NOT INSURED BY ANY STATE OR FEDERAL AGENCY. Avondale Wealth Management LLC and Purshe Kaplan Sterling Investments are separate and unaffiliated entities.

4407 BEE CAVE ROAD, SUITE 421 | WEST LAKE HILLS, TEXAS 78746 | TEL 512.505.8148 | FAX 888.686.3430

Sincerely,



[LETTERHEAD]

Date 4-28-25

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

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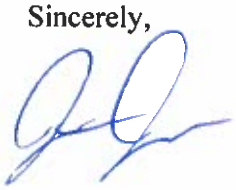
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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



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ALLEGIANT WEALTH PARTNERS

30 April 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

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Advisory Services offered through Concurrent Investment Advisors, LLC an SEC Registered Investment Advisor.
Brokerage services offered through Purshe Kaplan Sterling Investments (PKS), Member FINRA/SIPC Headquartered at 80 State Street, Albany, NY 12207.
PKS and Concurrent Investment Advisors, LLC d/b/a Allegiant Wealth Partners are not affiliated companies.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Christopher Ballard

Allegiant Wealth Partners
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625 S Church St, Suite C // Murfreesboro, TN 37130
www.allegiantwp.com

Advisory Services offered through Concurrent Investment Advisors, LLC an SEC Registered Investment Advisor.
Brokerage services offered through Purshe Kaplan Sterling Investments (PKS), Member FINRA/SIPC Headquartered at 80 State Street, Albany, NY 12207.
PKS and Concurrent Investment Advisors, LLC d/b/a Allegiant Wealth Partners are not affiliated companies.

ENTRUITY WEALTH

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OFFICE 661-368-8994
FAX 661-368-8996

April 21, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration

Sincerely,

Bradley E. Barnes

May 13, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Respectfully,



Steven A. Barnes, CFP®, ChFC®, AEP®

Jon Michael Bartholomew
Financial Advisor – GWN Securities / KM Capital
1106 Jaclyn Drive
West Chester, PA 19380
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May 2, 2025

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

RE: Comments on FINRA Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

I am writing to express my strong opposition to FINRA's proposed Rule 3290, as outlined in Regulatory Notice 25-05. While I fully support FINRA's mission to protect investors, this proposal overreaches its scope and places an excessive burden on licensed professionals.

Under the proposed rule, representatives holding a FINRA license would be required to obtain prior written approval from their broker-dealer before engaging in a broad range of personal financial activities — including the purchase of cryptocurrency, securities, commodities, real estate, insurance, and banking products. Extending this requirement to spouses, partners, and household members is not only intrusive, but it also sets a concerning precedent.

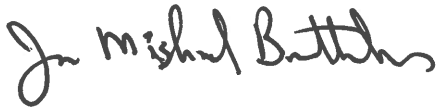
Expecting written approval for routine personal decisions — such as purchasing a home, opening a savings account, or buying life insurance — does nothing to enhance investor protection. Instead, it compromises personal autonomy and burdens both advisors and broker-dealers with unnecessary administrative friction.

The rule's broad definition of "investment-related activity" risks stifling innovation and diversity in financial strategies. It could push many financial professionals to abandon their FINRA licenses in favor of operating under SEC jurisdiction — ultimately weakening the value and relevance of FINRA oversight.

I urge FINRA to withdraw or significantly revise this proposal. A more focused approach that targets genuine conflicts of interest, rather than ordinary financial behavior, would better serve both the investing public and the professionals who advise them.

Thank you for considering this feedback.

Sincerely,



Jon Michael Bartholomew
Financial Advisor
GWN Securities / KM Capital

Amanda Basteen Comment On Regulatory Notice 25-05

Amanda Basteen

this would go against all progression we've made in the industry and stifle innovation further. This is not what we need to succeed in the crypto space.

Jerrold E. Beck
Kades-Margolis Corporation

940 West Valley Road, Suite #1200
Wayne, PA 19087
jbeck@4kmc.com
800-433-1828 Ext. 144

May 2, 2025

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

RE: Comments on FINRA Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

I am writing to express my strong opposition to FINRA's proposed Rule 3290, as outlined in Regulatory Notice 25-05. While I fully support FINRA's mission to protect investors, this proposal overreaches its scope and places an excessive burden on licensed professionals.

Under the proposed rule, representatives holding a FINRA license would be required to obtain prior written approval from their broker-dealer before engaging in a broad range of personal financial activities — including the purchase of cryptocurrency, securities, commodities, real estate, insurance, and banking products. Extending this requirement to spouses, partners, and household members is not only intrusive, but it also sets a concerning precedent.

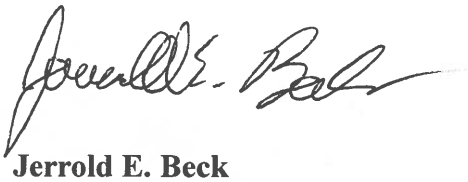
Expecting written approval for routine personal decisions — such as purchasing a home, opening a savings account, or buying life insurance — does nothing to enhance investor protection. Instead, it compromises personal autonomy and burdens both advisors and broker-dealers with unnecessary administrative friction.

The rule's broad definition of "investment-related activity" risks stifling innovation and diversity in financial strategies. It could push many financial professionals to abandon their FINRA licenses in favor of operating under SEC jurisdiction — ultimately weakening the value and relevance of FINRA oversight.

I urge FINRA to withdraw or significantly revise this proposal. A more focused approach that targets genuine conflicts of interest, rather than ordinary financial behavior, would better serve both the investing public and the professionals who advise them.

Thank you for considering this feedback.

Sincerely,



Jerrold E. Beck
Financial Professional
Kades-Margolis Corporation

James A Beindorf Comment On Regulatory Notice 25-05

James A Beindorf
CPA
Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these

transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you. Sincerely,

James A Beindorf

FINANCIAL SERVICES INSTITUTE

VOICE OF INDEPENDENT FINANCIAL SERVICES FIRMS AND INDEPENDENT FINANCIAL ADVISORS

VIA EMAIL

May 13, 2025

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 25-05 (FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities) (the "Proposal")

Dear Ms. Mitchell:

On March 18, 2025, the Financial Industry Regulatory Authority (FINRA) issued Regulatory Notice 25-05 to request comment on a proposed rule to modernize and streamline the regulatory framework governing Outside Business Activities (OBAs) and Private Securities Transactions (PSTs).[1] The Financial Services Institute (FSI) commends FINRA for undertaking this initiative to modernize its rules, which is the culmination of a multi-year retrospective review. We appreciate FINRA's risk-based approach that reduces burdens associated with low-risk outside activities while maintaining appropriate investor protection for outside investment-related activities. The proposed consolidation of Rules 3270 and 3280 into a single rule (3290) also provides greater consistency.

FSI appreciates the opportunity to comment on this important proposal. We support the Proposal's approach to consolidating the OBA and PST rules and its delineation between investment-related and non-investment-related outside activities. FSI respectfully offers a few suggestions on the proposed rule aimed at providing additional clarity and fostering further efficiencies.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the US, there are more than 152,000 independent financial advisors.[2] These financial advisors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (IBD).[3]

[1] FINRA, Regulatory Notice 25-05, *FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities* (Mar. 14, 2025), https://www.finra.org/rules-guidance/notices/25-05.
[2] Tiburon Strategic Advisors, Research on Independent Advisors (Dec. 18, 2024) (citing 152,200 in 2023).
[3] The use of the term "financial advisor" or "advisor" in this letter is a reference to an individual who is a registered representative of a broker-dealer and an investment adviser representative of a registered investment adviser firm, or a dual registrant.

FSI's IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners and job creators with strong ties to their communities. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Main Street Americans with the affordable financial advice, products, and services necessary to achieve their investment goals.

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate $35.7 billion in economic activity. This activity, in turn, supports 408,743 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly $7.2 billion annually to federal, state, and local government taxes.[4]

Discussion

I. Proposal Provides Greater Efficiency and Outlines a Tailored, Risk-Based Approach

FSI has long supported regulations reasonably tailored to preserve appropriate transparency and oversight by IBD firms into outside business activities engaged in by their financial advisors. As noted in Regulatory Notice 25-05, FSI commented on Regulatory Notice 18-08 and suggested areas where the proposal could enhance investor protection.[5] FSI supports that this Proposal does not expand members' current obligations for outside investment adviser (IA) activities. In addition, we appreciate FINRA's further clarification and confirmation that the Proposal does not alter broker-dealers' obligations regarding outside unaffiliated IA activities.[6] While regulation and oversight of registered investment advisers, by their designated regulators, has arguably increased since FINRA proposed Regulatory Notice 18-08, FINRA's current obligations for members are not unreasonable.

A. Consolidation of OBA and PST Rules Establishes Efficiency and Consistency

FSI supports streamlining both the OBA and PST rules into one consolidated rule. This improves consistency and reduces confusion from two separate rules and standards. This change will also promote efficiency because firms will have the opportunity to streamline compliance processes for these areas. These operational efficiencies will be further enhanced by the Proposal's risk-based delineation between non-investment-related outside activities and investment-related ones.

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[4] Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2020).
[5] See David T. Bellaire, Executive Vice President and general counsel, Financial Services Institute, FSI Comment on FINRA Regulatory Notice 18-08 (April 27, 2018).
[6] FINRA, *FINRA Statement to Correct Misinformation About FINRA's Outside Business Activities Rule*, News Release (May 5, 2025), https://www.finra.org/media-center/newsreleases/2025/finra-statement-correct-misinformation-about-finras-outside. (stating "[t]he proposal does not change the existing obligations regarding unaffiliated investment adviser activity ….").

B. The Risk Based Investment-Related and Non-Investment Related Distinction Promotes Efficiency while Maintaining Robust Investor Protection

As previously noted, the Proposal narrows the focus to investment-related activities, which reduces unnecessary burdens for firms, while enhancing the core investor protection focus of the rule. FSI agrees that this focused, risk-based approach will benefit investor protection because it decreases burdens placed on compliance personnel and firm systems by eliminating the sheer volume caused by low-risk outside activities. This reduction will prevent the diversion of available resources so that firms can focus on investment-related activity. The Proposal reduces operational and supervisory burdens associated with monitoring a broader scope of activities. However, as discussed below, to meaningfully reduce these burdens for firms, FSI suggests that Form U4 should be revised to better align with the Proposal.

II. Alignment with Form U4 to Promote Efficiency and Suggested Clarification of Certain Terms Concerning Real Estate

FSI offers additional comments on select areas where the Proposal could be modified to better achieve FINRA's objective of reducing unnecessary burdens. First, FINRA should consider better aligning Form U4 with this Proposal. Second, it would be beneficial to clarify certain terms and definitions concerning personal investments in non-securities and rental property. Lastly, FSI members will need time to implement the new Proposal by revising procedures and workflows. As a result, FSI suggests a nine to twelve-month transition period.

A. U4 Alignment

FSI suggests that FINRA collaborate with other regulators to revise Form U4, Uniform Application for Securities Industry Registration or Transfer, to align with the new rule that will result from this Proposal. In particular, the term investment-related, as used in this Proposal,[7] should be consistent with the *Explanation of Terms* section in FINRA's Form U4.[8] In addition, Section 13 of Form U4, "Other Business" should be reviewed and revised to align with the Proposal's risk-based approach.[9] FINRA should consider encouraging revision of Section 13 to use the same risk-based framework as the Proposal. Much like the Proposal, if Section 13 also clearly delineated the nature of outside activities (investment-related and non-investment related), it would promote efficiency for firms and regulators during their reviews. A consistent, structured approach could enable automated review, reduce errors associated with manually reviewing all outside activities in one section, and help both firms and regulators more effectively analyze industry trends in this

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[7] *See* FINRA Proposal, *supra,* at n. 1 (defining "'investment-related activity' as pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance.").

[8] *See* Form U4 Explanation of Terms (April – Version 2014.1), https://www.finra.org/sites/default/files/AppSupportDoc/p468051.pdf (defining "Investment-Related" as "Pertains to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, issuer, investment company, investment adviser, futures sponsor, bank, or savings association).").

[9] In addition, although Form ADV is not a FINRA document, collaboration between FINRA and the SEC to then also align Form U4 and Form ADV would be beneficial and promote efficiency. For example, consistency in defining the term "investment-related" in the glossary of Form ADV and Item 4 of Form ADV Part 2B, which is relevant for disclosing outside business activities, would promote clarity and efficiency. This is especially important for dual-registrants.

area. Without alignment, the Proposal's intended efficiencies and reduction of unnecessary burdens and costs will be significantly diminished. For example, firms will have to track slightly differently defined "investment-related activity" across separate but overlapping contexts. Misalignment in these areas can heighten complexity, add administrative burden, and increase the risk of confusion.

B. Clarifications to Certain Activities - Rental Property

The Proposal also provides exclusions from the rule for certain activities. One of those activities is an exclusion for "personal investments in non-securities and the purchase, sale, rental or lease of a main home or dwelling unit or personal-use rental property, as defined for purposes of the Internal Revenue Code. These exclusions recognize the lower risks to customers and members associated with these activities and the inefficiency of members' having to expend significant resources reviewing them."[10] While this section cross-references the term "personal-use rental property" as defined in the Internal Revenue Code (IRC), this description is not intuitive and FINRA should include a clear definition in the rule itself. The term "personal use rental property" is not explicitly defined in the IRC. If FINRA is referencing IRC §280A (Disallowance of certain expenses in connection with business use of home, rental of vacation homes), it is not evident whether an expense-deduction based provision intended for a different purpose is a natural proxy for this exclusion. As a result, the Proposal would benefit from its own definition in this section.

In addition, in reviewing this definition, FINRA could consider expanding this exclusion to include investment property owned specifically for the purpose of rental (e.g., VRBO and Airbnb), as they present the same lower risk profile. FINRA could consider limiting investment property ownership falling in this exclusion to: 1) Personally owned by the registered representative and "immediate family members" (as such term is defined by FINRA Rule 3240(c)); 2) Owned by the registered representative as a sole proprietorship; or 3) Owned by a trust, corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the registered representative and "immediate family members". This suggested approach bears similarity to the essence of the provision FINRA referenced in the IRC, though the latter is centered on expense deductions rather than customer risk associated with outside business activities. Clarity through FINRA FAQs, outlining common scenarios, may also assist FINRA members by providing additional guidance and examples of the "personal investments in non-securities" referenced in Section (g)(3)(B) of the Proposed Rule.

C. Implementation Timeline

FSI also asks FINRA to consider the time it will take firms to review a final rule stemming from the Proposal and to evaluate and implement needed changes. These changes include review and revision of supervisory procedures, operational workflows, as well as the education of supervisory staff and advisors. As a result, a nine to twelve-month transition period would be beneficial.

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[10] FINRA Proposal, *supra,* at n. 1at 7.

Conclusion

FSI is committed to constructive engagement in the regulatory process and welcomes the opportunity to work with FINRA on this and other important regulatory efforts. Thank you for considering FSI's comments. Should you have any questions, please contact me at 202-803-6061.

Respectfully submitted,



David T. Bellaire
Executive Vice President & General Counsel

PURSHE KAPLAN STERLING
PKS
INVESTMENTS
Member FINRA | SIPC

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Fax: 248.232.0078

May 8, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an I.A.R. of an independent RIA, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IA's to an additional layer of corporate and regulatory oversight that does not exist for other RIA/IA's that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Steven Bernier

Steven Bernier
(248) 233-6275
steven.bernier@pksinvest.com

INVESTMENT ADVISER ASSOCIATION

May 13, 2025

Via Electronic Filing

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: FINRA Regulatory Notice 25-05: Outside Activities Proposal

To Whom It May Concern:

The Investment Adviser Association (**IAA**)[1] appreciates the opportunity to comment on the Financial Industry Regulatory Authority's (**FINRA's**) Regulatory Notice 25-05 (**Proposal**). Among other things, the Proposal would require broker-dealer supervision, recordkeeping, and notification and approval of their associated persons' Unaffiliated IA Activity.[2] The IAA represents the interests of investment adviser firms registered with and subject to regulation by the Securities and Exchange Commission (**SEC**) under the Investment Advisers Act of 1940 (**Advisers Act**),[3] many of which will be directly and adversely affected by the Proposal.

We appreciate FINRA's retrospective review of and efforts to streamline its rules relating to the outside activities of broker-dealers' associated persons. We also share FINRA's concern

[1] The IAA is the leading organization dedicated to advancing the interests of fiduciary investment advisers. For more than 85 years, the IAA has been advocating for advisers before Congress and U.S. and global regulators, promoting best practices and providing education and resources to empower advisers to effectively serve their clients, the capital markets, and the U.S. economy. Our members range from global asset managers to the medium- and small-sized firms that make up the majority of our industry. Together, the IAA's member firms manage more than $35 trillion in assets for a wide variety of individual and institutional clients, including pension plans, trusts, mutual funds, private funds, endowments, foundations, and corporations. For more information, please visit www.investmentadviser.org.

[2] Regulatory Notice 25-05, *Outside Activities, FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities* (Mar. 14, 2025), available at https://www.finra.org/rules-guidance/notices/25-05. We use the term Unaffiliated IA Activity to refer to fiduciary investment adviser activity of investment adviser representatives (**IARs**) of unaffiliated investment advisers who are also associated persons of a broker-dealer. The Proposal, while narrower in that it would exclude affiliated outside investment adviser activity, is largely consistent with how FINRA interprets current Rule 3280. As discussed below, we think that this interpretation needs to be revisited as well.

[3] While IAA membership is also open to state-registered advisers, virtually all IAA members are registered with the SEC. Our comments thus focus on regulation of advisers under the Advisers Act, although they are equally applicable to state-registered advisers.

that there not be a regulatory vacuum in oversight of securities activities conducted away from the broker-dealer. There is no vacuum in regulatory oversight of investment advisers, however, as they are subject to a robust investor-protective statutory and regulatory framework overseen by the SEC (or the states for state-registered investment advisers). Oversight of these activities by broker-dealers is also unnecessary to achieve FINRA's policy objectives and, as we discuss below, is deeply problematic substantively and in its application. More importantly, FINRA lacks jurisdiction over investment advisers, whether or not they are affiliated with a broker-dealer, and has no authority to oversee their activities.

For these reasons, FINRA should withdraw those aspects of the Proposal that cover a broker-dealer's oversight of its associated persons' Unaffiliated IA Activities or, alternatively, exclude Unaffiliated IA Activity in the same manner as affiliated investment adviser activities are proposed to be excluded.[4] FINRA should also revisit its current interpretation of Rule 3280, being mindful that that interpretation did not go through a formal notice-and-comment rulemaking process and is not consistent with more recent SEC rules and interpretations. At a minimum, and in consultation with SEC staff, FINRA should consider whether a more appropriate approach to recognizing and respecting the separate, legitimate, and robust regulatory regime of investment advisers could be proposed.

FINRA lacks authority to oversee the activities of investment advisers as contemplated by the Proposal and FINRA's interpretation of current Rule 3280.

Investment advisers play a critically important role in helping more than 56 million clients meet their financial investment goals.[5] They act as fiduciaries to their clients, subject to the robust principles-based and investor-protective framework of the Advisers Act. Importantly, the core businesses of investment advisers and broker-dealers are markedly different. The SEC has stated that both investment advisers and broker-dealers "play an important role in our capital markets and our economy more broadly," but they have "different types of relationships with investors, offer different services, and have different compensation models."[6] They are also subject to different statutory and regulatory regimes. Broker-dealers are regulated under the Securities Exchange Act of 1934 (**Exchange Act**) and FINRA rules and examination, while

[4] We see no basis for treating Unaffiliated IA Activity differently from affiliated outside investment adviser activity.

[5] For a profile of the SEC investment adviser industry, see the *Investment Adviser Industry Snapshot 2024* analyzing Form ADV data for 2024, available at https://www.investmentadviser.org/wp-content/uploads/2024/06/Snapshot2024_FINAL.pdf. The IAA 2025 Adviser Industry Snapshot will be released shortly.

[6] *Commission Interpretation Regarding Standard of Conduct for Investment Advisers*, 84 Fed. Reg. 33669 (July 12, 2019) (**Fiduciary Interpretation**), available at https://www.govinfo.gov/content/pkg/FR-2019-07-12/pdf/2019-12208.pdf. *See also Regulation Best Interest: The Broker-Dealer Standard of Conduct*, 84 Fed. Reg. 33318 (July 12, 2019) (**Reg BI**), available at https://www.govinfo.gov/content/pkg/FR-2019-07-12/pdf/2019-12164.pdf. The SEC adopted Form CRS (Client/Customer Relationship Summary) in 2019 because of these differences, requiring that investment advisers and broker-dealers make clear to investors the capacity in which they are acting. *Form CRS Relationship Summary; Amendments to Form ADV*, 84 Fed. Reg. 33492 (July 12, 2019) (**Form CRS**), available at https://www.govinfo.gov/content/pkg/FR-2019-07-12/pdf/2019-12376.pdf.

investment advisers are subject to the Advisers Act (or state statutes) and the SEC's (or the states') rules and examination.[7] Indeed, broker-dealers may not engage in investment advisory services without registering as an investment adviser unless those services are "solely incidental" to their brokerage services. Notably, with narrow exceptions, broker-dealers also may not provide discretionary advice to their customers.[8]

While FINRA appropriately recognizes these distinctions and its lack of authority over investment advisers,[9] the Proposal contradicts this recognition. By requiring broker-dealers to supervise, keep records of, and obtain notice of and approve outside securities transactions of its associated persons engaged in Unaffiliated IA activity, the Proposal oversteps FINRA's authority and it should either be withdrawn or all outside investment adviser activity, whether affiliated or not, should be excluded.

FINRA's interpretation of current Rule 3280 is flawed for the same reason and should be revisited. The SEC approved Rule 3280 in 1985. The adopting release notes that "The Commission believes that the rule would be consistent with the [Exchange] Act's requirement that persons engaging in securities transactions must be associated with a broker-dealer, if they have not themselves registered as a broker-dealer."[10] The release appears to contemplate that

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[7] *See, e.g., SEC Staff Study on Investment Advisers and Broker-Dealers as Required by Section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection* Act (Jan. 2011) at A-7 ("Generally, FINRA's authority is limited to enforcing compliance by its members and their associated persons with the Exchange Act and rules thereunder, MSRB rules, and FINRA rules." [footnote omitted]), available at https://www.sec.gov/news/studies/2011/913studyfinal.pdf. In addition, SEC Chairman Paul Atkins has opposed FINRA's assuming a regulatory role over investment advisers. *Statement by The Honorable Paul S. Atkins before the United States Senate Committee on Banking, Housing, and Urban Affairs On Enhancing Investor Protection After The Financial Crisis* (July 12, 2011), available at https://www.banking.senate.gov/imo/media/doc/AtkinsTestimony71211.pdf.

[8] *See Commission Interpretation Regarding the Solely Incidental Prong of the Broker-Dealer Exclusion From the Definition of Investment Adviser*, 84 Fed. Reg. 33681 (July 12, 2019) (**Solely Incidental Interpretation**), available at https://www.govinfo.gov/content/pkg/FR-2019-07-12/pdf/2019-12209.pdf. Together, we refer to the Fiduciary Interpretation, Reg BI, Form CRS, and the Solely Incidental Interpretation as the **Standards of Conduct Rulemaking Package**.

[9] *See* Proposal at 12 ("While they at times engage in similar activities, BDs and IAs also provide distinct services and employ different fee structures." FINRA "regulates broker-dealers, while the SEC and the states regulate IAs."); Regulatory Notice 18-08, *Outside Activities, FINRA Requests Comment on Proposed New Rule Governing Outside Business Activities and Private Securities Transactions* (Feb. 26, 2018), at 16, n.22 ("investment advisers registered with the SEC are overseen by the SEC and subject to the obligations of the [Advisers Act] and the regulations and rules promulgated thereunder. Other investment advisers are subject to state registration systems, many of which have requirements similar to the Advisers Act."), available at https://www.finra.org/rules-guidance/notices/18-08. *See also Testimony of Stephen Luparello, Interim CEO of FINRA, before the Committee on Banking, Housing, and Urban Affairs* (Jan. 27, 2009) ("FINRA is not authorized to enforce compliance with the Investment Advisers Act. Authority to enforce that Act is granted solely to the SEC and to the states. … FINRA's authority, as noted above, does not extend to writing rules for, examining for or enforcing compliance with the Investment Advisers Act..."), available at https://www.finra.org/media-center/speeches-testimony/testimony-committee-banking-housing-and-urban-affairs.

[10] *SEC Rel. No. 34-22617* (Nov. 18, 1985) (1985 WL 663474).

"securities transactions" encompass activities that would require broker-dealer licensing and not activities that are outside of FINRA's regulatory reach.

Not until years after approval of Rule 3280 did FINRA begin interpreting the rule to cover investment adviser activity.[11] It "clarified" the applicability of Rule 3280 to investment advisers and investment adviser activity through two Notices to Members in the 1990s without approval by the SEC of this expansive view of activity subject to supervision under the Exchange Act. As FINRA continues with its retrospective review, we urge it to recognize that it cannot extend its own jurisdiction through clarification of its rules and should also be mindful of the fact that the SEC has more recently articulated clear views on the distinct regulatory regimes for broker-dealers and investment advisers.[12]

The Proposal and FINRA's interpretation of current Rule 3280 are flawed substantively and in their application.

We appreciate FINRA's policy concerns to ensure there are no regulatory or supervisory gaps in investor protection. However, the Proposal and current Rule 3280 are also flawed substantively and in their application. Broker-dealers are simply not in a position to effectively oversee Unaffiliated IA Activity, nor is it appropriate to require them to do so. It is also inappropriate for FINRA to seek to impose limits on the activities of an unaffiliated investment adviser and its IARs on the basis of limits on the disconnected activities of a third-party broker-dealer.[13]

Investment advisers manage advisory accounts, including client separately managed accounts and fund portfolios, on an ongoing basis. They act as fiduciaries to their clients pursuant to an advisory contract that lays out, among other things, the scope of the relationship and the client's investment objectives.[14] An investment adviser is subject to ongoing duties of loyalty and care and is required at all times to act in its client's best interest within the scope of the advisory relationship. A broker-dealer's relationship with its customer, on the other hand, is transaction-based and any duty owed to the customer is in connection with a specific transaction. Broker-dealers are not parties to an investment adviser's fiduciary relationship with its clients. They are not in a position to assess the suitability of an investment for a particular client or the appropriateness of an investment adviser's determination that an investment or series of investments is in a client's best interest.

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[11] NASD Notice to Members 94-44 (May 1994) and Notice to Members 96-33 (May 1996).

[12] *See, e.g.,* SEC's Standards of Conduct Rulemaking Package. We appreciate FINRA's efforts in connection with its retrospective review of its rules begun in 2017. In our view, although still too broad, FINRA's 2018 proposed amendments to Rule 3280, which would have eliminated broker-dealers' supervisory and recordkeeping obligations for outside investment adviser activities, reflected a more balanced approach than the current Proposal.

[13] *See* Notice to Members 96-33 at FAQs 3-4.

[14] Fiduciary Interpretation.

Broker-dealers also are not in a position to evaluate the unaffiliated investment adviser's management of its conflicts of interest. In fact, we are concerned that broker-dealer oversight could create additional conflicts that would be difficult for investment advisers to mitigate and that could be inconsistent with an investment adviser's duty of care. For example, if a broker-dealer only approved transactions for securities offered on its platform, the investment adviser would not be allowed to consider other available investments that might be better for its clients.

In addition, the Proposal is untenable from a client data and privacy perspective. Clients have an expectation of confidentiality in their relationship with their investment adviser. Clients of unaffiliated investment advisers whose transactions are executed away from a particular broker-dealer do not enter into and have not necessarily agreed to share their confidential information with that broker-dealer. This includes, for example, their account and transaction information and information about their financial situation and investment objectives.

Broker-dealers also do not – and do not have an automatic right to – have a view into an unaffiliated investment adviser's business, whether it be its client lists, investment strategies, best-execution determinations (*i.e.*, selection of clearing or executing brokers), policies and procedures, or proprietary or other confidential information.

Investment advisers have an obligation to safeguard much of this information. For instance, they must adopt written policies and procedures to safeguard their clients' records and information under their fiduciary duty, Regulation S-P, and state regulations. They must also establish and enforce policies and procedures reasonably designed to prevent the misuse of material, non-public information under Advisers Act Section 204A. Requiring that broker-dealers have access to an investment adviser's confidential information (including its client records) unreasonably exposes clients, investment advisers, and the broker-dealers gaining access to increased risks from cybersecurity and privacy breaches.

IAA recommendations.

For the reasons discussed above, FINRA should withdraw those aspects of the Proposal that cover a broker-dealer's oversight of Unaffiliated IA Activity. FINRA should also hold Rule 3280 as applied to investment advisers in abeyance and consult with the SEC staff on the appropriate bounds of FINRA oversight of its members' associated persons' outside investment adviser activities.

* * *

We appreciate your consideration of our comments on this important issue. Please do not hesitate to contact the undersigned at (202) 293-4222 if we can be of further assistance.

Respectfully Submitted,

/s/ Gail C. Bernstein
Gail C. Bernstein
General Counsel and Head of Public Policy

/s/ Monique S. Botkin
Monique S. Botkin
Associate General Counsel

cc: The Honorable Paul S. Atkins, Chairman, SEC
The Honorable Hester M. Peirce, Commissioner, SEC
The Honorable Caroline A. Crenshaw, Commissioner, SEC
The Honorable Mark T. Uyeda, Commissioner, SEC
Natasha Vij Greiner, Director, Division of Investment Management, SEC

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May 5, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am the Chief Compliance Officer of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Amy L. Betts
Chief Compliance Officer

Denny Betz Comment On Regulatory Notice 25-05

Denny Betz

none

FINRA Regulatory Notice 25-05 and Proposed Rule 3290 - I'm writing to strenuously object to the adoption of this rule as being oppressive and a major step back in the bureau's efforts to be more pro-business and progressive. I deal with several advisers that would be negatively impacted by the adoption of 3290. This would cause them to leave their firms as I don't believe they would sell their holdings, I know I wouldn't and don't want them to. I'm not eager to find new advisors either. I'm invested in crypto since 2017 and this is one of the craziest rules I've seen anyone propose - Especially in the spirit of streamlining the rules in place. This cuts like a knife at the support fabric of the community by attacking both the needed advisors and the experts those of us work with to invest in our assets. Thank you. Sincerely, Denny Betz

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Robinhood

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May 13, 2025

VIA ELECTRONIC SUBMISSION

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006-1506

Re: ***Regulatory Notice 25-05 (*FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities)**

Dear Ms. Mitchell:

Robinhood Financial LLC and Robinhood Securities, LLC[1] (together, "Robinhood" or "the Firm") respectfully submit this letter in response to the above-referenced request by the Financial Industry Regulatory Authority, Inc. ("FINRA") for comment on the effectiveness and efficiency of its requirements relating to Outside Business Activities ("OBAs") and Private Securities Transactions ("PSTs"). Robinhood supports FINRA's efforts to streamline and reduce unnecessary burdens imposed by existing requirements regarding the outside activities of member firms' associated persons, including registered persons. The Firm acknowledges FINRA's incorporation of previous comments in the new proposal.[2]

Robinhood's mission is to democratize finance for all by providing access to investing regardless of a customer's income or wealth. Central to our mission is using technology to open the markets to retail investors from all backgrounds and remove traditional barriers to investing. The Firm appreciates the opportunity to provide comment and applauds FINRA's efforts to modernize its rules to reduce unnecessary burdens.

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[1] Both of these FINRA-member broker-dealers are wholly owned subsidiaries of Robinhood Markets, Inc.
[2] Regulatory Notice 17-20 (May 15, 2017), https://www.finra.org/rules-guidance/notices/17-20 and Regulatory Notice 18-08 (February 26, 2018), https://www.finra.org/rules-guidance/notices/18-08

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I. Impact of Consolidating OBA and PST Rules on Compliance and Cost

While there are some areas that require further clarification and guidance from FINRA, as discussed below, proposed Rule 3290 will help streamline the regulatory framework by merging the requirements for OBAs and PSTs into one cohesive rule. This proposed rule consolidation will eliminate the need to manage separate processes for OBAs and PSTs, making it easier for member firms to ensure compliance and for licensed individuals to understand the requirements. By having a single set of guidelines, member firms can reduce the complexity involved in monitoring and reporting these activities, simplifying the compliance process without increasing risk for the investing public.

II. Oversight for Outside Investment Advisor Activities (IA)

IAs primarily are regulated by the SEC and states. FINRA member oversight of outside IA activities is therefore redundant and creates unnecessary compliance costs and burdens without corresponding benefit to the investing public. Given that IAs are subject to a fiduciary standard, and other requirements established by the SEC and states, the imposition of additional requirements by FINRA is redundant and not necessary.

III. Evaluation of Alternative Approaches to the Proposal

A. Consideration of Passive Investment Exemptions

Robinhood supports providing exceptions for PST purchase disclosures if the purchase meets certain criteria, such as being passive only (not involving participation in the formation, organization, or management of the entity), involving no solicitation or selling compensation, and being potentially limited to a certain percentage (e.g., 5%) of the company or a specific dollar amount. These personal investments present minimal risk of conflicts of interests, and additional disclosures regarding such investments do nothing to further protect investors.

IV. Scope and Definitions Requiring Further Clarification

A. Need for Clearer Definitions and Additional Guidance

i. FINRA should clearly define what is meant by “banking,” “insurance,” and “real estate” so that firms and licensed personnel can consistently determine what needs to be disclosed.

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The Firm contends that proposed Rule 3290's list of roles related to insurance, banking, and other financial sectors in the definition of "investment-related" is over-inclusive and does not correlate to risks relevant to the investing public.

ii. Each section of the proposed rule references "material change" as a trigger to provide updated information. The proposed rule, however, does not provide a clear definition as to what qualifies as a material change. This lack of a definition will create ambiguity for compliance teams, inconsistent interpretations across firms, and increased legal and regulatory risk.

FINRA should consider explicitly defining "material change" in the proposed rule or providing guidance in supplementary materials.

B. Rental Property Clarification

Robinhood supports the addition of an exclusion for personal-use rental properties under proposed Rule 3290. This important carve-out acknowledges that owning and occasionally renting a second home or vacation property—when such use is incidental and not part of a broader business operation—does not constitute an "investment-related activity" requiring disclosure.

While Robinhood supports the exclusion of specific rental properties such as second-homes and vacation homes, FINRA should further clarify and formalize this exclusion by developing an objective set of parameters by which to identify real estate holdings that are primarily personal investments, rather than business investments requiring disclosure.

C. Clarifying Obligations When Customers are Inadvertently Involved

The rule does not provide guidance on what to do if an associated person is inadvertently involved in an outside activity or outside securities transaction in which a Firm customer is involved as the result of a pre-existing, independent relationship, unrelated to the associated person's solicitation or involvement. The rule should be concerned with customers of, or persons solicited by, the associated person (not the Firm generally).

D. Managing Activities Involving Selling Compensation

In situations where there is selling compensation, a member's obligations should not extend beyond approving or disapproving each transaction and reviewing for compliance with any specific conditions or limitations imposed. Ongoing supervision of the associated person's participation in transactions is unnecessary and unduly burdensome.

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VI. Discrepancies between Rule 3290 and Form U4

The Firm notes inconsistencies between proposed Rule 3290 and Form U4, particularly as they relate to the scope and disclosure of outside activities. These discrepancies risk creating confusion among registered representatives and may add to rather than alleviate firms' supervisory burdens with respect to outside activities.

The current Form U4 exhibits inconsistencies, particularly in Section 13, which concerns the disclosure of a registered person's OBAs. This section requires the disclosure of a registered person's outside activities as a "proprietor, partner, officer, director, employee, trustee, agent or otherwise" and asks whether the activity is investment-related. This language is not fully aligned with the narrower, risk-based disclosure framework in the proposed rule. The lack of clarity and standardization in these disclosure requirements imposes significant compliance burdens on firms and their registered representatives.

FINRA should collaborate with the SEC and state regulators to ensure that Form U4 is updated and harmonized with the proposed rule.

VII. Economic Impacts and Implementation Considerations

Robinhood does not anticipate any significant cost impact from the proposed rule. The Firm currently uses a single system for all OBA and PST submissions, and the Firm anticipates that it would continue to use that system under the new consolidated rule.

Robinhood notes that the updated "investment-related" definition may present challenges as persons subject to the rule may require additional guidance or misinterpret components of the rule. The lack of regulatory clarity can lead to inconsistencies in how firms handle compliance, including with respect to disclosures.

Conclusion

Robinhood is generally supportive of the proposed FINRA Rule 3290, which aims to replace the existing FINRA Rules 3270 and 3280. The Firm believes that, with the additional clarifications discussed above, the proposed rule revision should reduce risks to the investing public and make it easier for customers to identify potential conflicts of interest. The Firm also believes that consolidating FINRA Rules 3270 and 3280 will simplify compliance and reduce administrative burdens for industry participants and member firms, thereby enhancing regulatory efficiency. The considerations and recommendations offered throughout this response – including the

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requests for clearer definitions, alignment with Form U4, and more precise disclosure requirements – could further improve the effectiveness and clarity of the proposal.

* * *

Robinhood appreciates the opportunity to comment on the effectiveness and efficiency of FINRA's requirements relating to associated persons' outside activities. Please contact the undersigned at matthew.billings@robinhood.com if you have any questions or comments.

Respectfully submitted,

Signed by:
Matt Billings
12CGD62355D44A1...

Matt Billings
President
Robinhood Financial LLC and Robinhood Securities, LLC

G Mark Blaschak
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Wayne, PA 19087
mblaschak@4kmc.com
814.880.2266

5/2/2025

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

RE: Comments on FINRA Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

I am writing to express my **strong opposition** to FINRA's proposed Rule 3290, as outlined in Regulatory Notice 25-05. While I fully support FINRA's mission to protect investors, this proposal **overreaches its scope and places an excessive burden on licensed professionals.**

Under the proposed rule, representatives holding a FINRA license would be required to obtain prior written approval from their broker-dealer before engaging in a broad range of personal financial activities — including the purchase of cryptocurrency, securities, commodities, real estate, insurance, and banking products. Extending this requirement to spouses, partners, and household members is not only intrusive, but it also sets a concerning precedent.

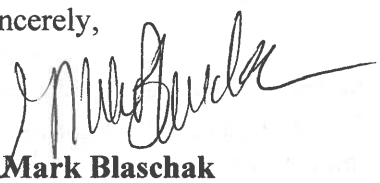
Expecting written approval for routine personal decisions — such as purchasing a home, opening a savings account, or buying life insurance — does nothing to enhance investor protection. Instead, it compromises personal autonomy and burdens both advisors and broker-dealers with unnecessary administrative friction.

The rule's broad definition of "investment-related activity" risks stifling innovation and diversity in financial strategies. It could push many financial professionals to abandon their FINRA licenses in favor of operating under SEC jurisdiction — ultimately weakening the value and relevance of FINRA oversight.

I urge FINRA to withdraw or significantly revise this proposal. A more focused approach that targets genuine conflicts of interest, rather than ordinary financial behavior, would better serve both the investing public and the professionals who advise them.

Thank you for considering this feedback.

Sincerely,



G Mark Blaschak

Financial Advisor GWN Securities. Inc.

G Mark Blaschak Comment On Regulatory Notice 25-05

G Mark Blaschak

5/2/2025 Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA 1735 K Street, NW Washington, DC 20006 RE: Comments on FINRA Regulatory Notice 25-05 and Proposed Rule 3290 Dear Ms. Mitchell, I am writing to express my strong opposition to FINRA's proposed Rule 3290, as outlined in Regulatory Notice 25-05. While I fully support FINRA's mission to protect investors, this proposal overreaches its scope and places an excessive burden on licensed professionals. Under the proposed rule, representatives holding a FINRA license would be required to obtain prior written approval from their broker-dealer before engaging in a broad range of personal financial activities — including the purchase of cryptocurrency, securities, commodities, real estate, insurance, and banking products. Extending this requirement to spouses, partners, and household members is not only intrusive, but it also sets a concerning precedent. Expecting written approval for routine personal decisions — such as purchasing a home, opening a savings account, or buying life insurance — does nothing to enhance investor protection. Instead, it compromises personal autonomy and burdens both advisors and broker-dealers with unnecessary administrative friction. The rule's broad definition of "investment-related activity" risks stifling innovation and diversity in financial strategies. It could push many financial professionals to abandon their FINRA licenses in favor of operating under SEC jurisdiction — ultimately weakening the value and relevance of FINRA oversight. I urge FINRA to withdraw or significantly revise this proposal. A more focused approach that targets genuine conflicts of interest, rather than ordinary financial behavior, would better serve both the investing public and the professionals who advise them. Thank you for considering this feedback.

KEYES STANGE & WOOTEN
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May 12, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Tara Bobelak, CFP®, E.A.
Wealth Manager



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Delray Beach, FL. 33444
Phone: 877-420-2852
www.doubledig.com

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

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Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would require extensive information regarding affected advisory clients to be provided to an unaffiliated broker dealer.

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers' access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated people with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Andrew R. Bodner, President and Founder
Double Diamond Investment Gp. LLC
55 SE 2nd Ave., Delray Beach, FL 33444
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973-352-6680

Double Diamond Investment Group, LLC is a Registered Investment Advisor. Certain representatives of Double Diamond Investment Group, LLC are also Registered Representatives offering securities through APW Capital, Inc., member FINRA/SIPC. 100 Enterprise Drive, Ste. 504, Rockaway, N.J. 07866 (800) 637-3211

Boelte O'Hara Wealth Management Comment On Regulatory Notice 25-05

Kristine A. Boelte
Boelte O'Hara Wealth Management
Boelte O'Hara Wealth Management

403 Virginia Avenue

Clarksville, VA23927

May 13, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1700 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section3290 provides, at subsection (d)(4)thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and recordsof the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these

transactions "as if executedon behalf of the member."Such supervision, underthe proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and statelaw and undermines the confidentiality that advisory clientsexpect and deservein their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neitherentitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layerof oversight is unjustified, as there is no evidencethat broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

Finally, this additional oversight is unsupported anywhere in federal or statelaw.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Kristine A. Boelte

OCEANPOINTE
Financial Services Group, LLC

April 29, 2025

Ms. Jennifer Piorko Mitchell Office of the
Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

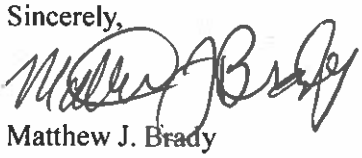
This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and
serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Matthew J. Brady
President- Investment Advisor

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OceanPointeFSG.com

Investment products and services are offered through Wells Fargo Advisors Financial Network, LLC (WFAFN), Member SIPC
Ocean Pointe Financial Services Group is a separate entity from WFAFN.



BROPHY
WEALTH MANAGEMENT, LLC

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:
For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

40 South River Road, Bedford Place – Unit 15, Bedford, NH 03110 Website: www.brophywealth.com
Office: (603) 668-2303, Toll Free: (877) 345-8267, Fax: (603) 668-2352, Email: bwm@brophywealth.com

Brophy Wealth Management, LLC is a Registered Investment Advisor. Certain representatives of Brophy Wealth Management, LLC are also Registered Representatives offering securities through APW Capital, Inc.,
Member FINRA/SIPC. 100 Enterprise Drive, Suite 504, Rockaway, NJ 07866 (800)637-3211. Brophy Wealth Management, LLC is independent of APW Capital, Inc.

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Stephen Brophy
Managing Partner

40 South River Road, Bedford Place – Unit 15, Bedford, NH 03110 Website: www.brophywealth.com
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Brophy Wealth Management, LLC is a Registered Investment Advisor. Certain representatives of Brophy Wealth Management, LLC are also Registered Representatives offering securities through APW Capital, Inc.,
Member FINRA/SIPC. 100 Enterprise Drive, Suite 504, Rockaway, NJ 07866 (800)637-3211. Brophy Wealth Management, LLC is independent of APW Capital, Inc.

May 13, 2025

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street NW
Washington, DC 20006

Re: Regulatory Notice 25-05: FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities

Dear Ms. Mitchell:

LPL Financial Holdings, Inc. ("LPL" or "the Firm") appreciate the opportunity to provide comments to the Financial Industry Regulatory Authority ("FINRA") in response to *Regulatory Notice 25-05: FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities* (the "proposal"). We commend FINRA for recognizing opportunities to modernize and streamline the rules governing outside activities and to eliminate the unnecessary burdens they impose. This proposal is a positive step towards modernizing the rules; however, LPL believes that FINRA should further refine the proposal to provide additional clarification around supervision obligations.

While FINRA's approach to reduce the "white noise" created by supervising benign outside business activities is welcomed, LPL is concerned that the proposal maintains the unnecessary, outdated requirement to supervise unaffiliated investment adviser ("IA") activities. This requirement is redundant given the distinct, robust regulatory oversight that investment advisers are already subject to by the U.S. Securities and Exchange Commission (the "SEC") and state securities regulators and leads to unnecessary investor confusion around the set of rules governing IA activity.

I. Overview of LPL

LPL Financial Holdings, Inc. is a retail investment advisory firm and independent broker-dealer operating in all 50 states and territories and the parent company of two dually registered FINRA member firms. We are steadfast in our belief that Americans deserve access to personalized guidance from a financial professional. LPL serves as a trusted partner to more than 29,500 financial professionals and the wealth management practices at approximately 1,200 financial institutions, servicing and custodying approximately $1.8 trillion in brokerage and advisory assets on behalf of approximately 7 million Americans. We offer a variety of affiliation models, including the ability to operate as a hybrid RIA that is a registered representative of LPL but operates as an unaffiliated RIA with the option to use third-party custodians for those advisory-related assets. Approximately 600 firms with 6,500 financial professionals are affiliated with LPL as an independent RIA.

We provide our financial professionals with the technology, research, clearing and compliance services and practice management programs they need to serve their clients and create thriving businesses. Our financial professionals offer investment and financial education, financial planning, access to investment products and brokerage services, and personalized investment advice to investors seeking wealth management, retirement planning, financial planning and asset management solutions.

II. Comments on the proposal

LPL has been an active participant in FINRA's years-long review of the rules governing outside business activities and related guidance[1], some of which were issued more than thirty years ago. We strongly supported the 2018 proposal released in Regulatory Notice 18-08 ("RN 18-08" or the "previous proposal"), particularly because of FINRA's recognition in the previous proposal that supervision of unaffiliated IA activity by member firms is duplicative given the robust oversight of the U.S. Securities and Exchange Commission ("SEC") and state securities regulators and creates unnecessary investor confusion.

While we appreciate the changes proposed in the notice, we believe that FINRA should reconsider the proposed requirements regarding unaffiliated IA activity to align the proposal with RN 18-08 as well as provide additional clarity as discussed below.

FINRA Should Eliminate the Obligation to Supervise Other Regulated Investment Roles

LPL believes that FINRA's requirements to supervise unaffiliated investment adviser activities are duplicative and onerous. The previous proposal recognized the redundant nature of the requirement and noted that "these IA activities would continue to be subject to regulatory oversight by the SEC and states under a different regulatory regime. [2]" This recognition is continued in the current proposal, which states that "it is important to emphasize at the outset of this discussion that FINRA regulates BDs, while the SEC and states regulate IAs. BDs and IAs are also subject to different laws and rules. Moreover, while they at times engage in similar activities, BDs and IAs also provide distinct services and advice and employ different fee structures.[3]" These separate regimes, which are tailored based on the primary function of each regulated entity, should provide strong assurances to investors that the investment adviser is subject to appropriate oversight and compliance. It is unfair for FINRA to require its regulated entity – the broker-dealer – to apply additional supervision over transactions that are already being supervised by registered entities who are subject to oversight by the SEC or states, particularly when investment advisers are not required to supervise the brokerage activity of registered representatives.

Further, this obligation creates unnecessary confusion for retail investors. The SEC's Regulation Best Interest ("Reg BI")[4] was implemented with careful consideration to provide disclosure that distinguishes between brokerage recommendations subject to Reg BI and investment advice provided under the Investment Advisers Act of 1940 (the "Advisers Act"). The disclosure is designed to inform retail investors of, among other things, which set of rules the financial professional is subject to in the capacity they are acting, and who ultimately is responsible for oversight of the activity. Requiring broker-dealers to supervise outside investment activity of an unaffiliated investment adviser detracts from this by creating the perception that the broker-dealer is somehow responsible for investment advice provided by the investment adviser firm. This perception directly conflicts with Reg BI's goal of clarifying the differences between the brokerage and advice models and corresponding regulatory standards under Reg BI and the Advisers Act, respectively.

[1] Regulatory Notice 17-20 (May 15, 2017) *available at* https://www.finra.org/rules-guidance/notices/17-20; Regulatory Notice 18-08 (February 26, 2018) *available at*: https://www.finra.org/rules-guidance/notices/18-08; *see* Letter from Michelle Oroschakoff, Chief Legal Officer, LPL to FINRA dated April 27, 2018 *available at*: https://www.finra.org/sites/default/files/18-08_LPL-FInancial_Comment.pdf
[2] *See* Regulatory Notice 18-08 (February 26, 2018) pg. 8
[3] Regulatory Notice 25-05 (March 14, 2025) *available at*: https://www.finra.org/rules-guidance/notices/25-05
[4] 17 CFR § 240.15l-1

Imposing on broker-dealers the obligation to supervise unaffiliated investment adviser activities also exposes broker-dealers to unreasonable risk of liability in the event of customer losses stemming from the investment advice they receive from the investment adviser firm. Investors may cite FINRA's current rule and *Notice to Members 94-44* and *Notice to Members 96-33* as a basis for liability even when, in reality, there is no causal connection between the adviser's role as an Associated Person ("AP") of the broker-dealer and the advice provided through an unaffiliated investment adviser. Updated rules will help underscore that it is the investment adviser, and IAR while acting in that capacity, who are responsible for compliance with the Advisers Act through their own policies and procedures. Broker-dealers that have no control over these programs should not be held liable for such misconduct.

Access to Customer Data to Meet Supervisory Obligations Regarding Outside IA Activities is Unduly Burdensome and Raises Privacy and Cybersecurity Concerns

Under the current rule and notices to members, in order to supervise outside IA securities transactions, broker-dealers must record the transactions and supervise the activity as though it were executed on behalf of the member. To do so, the broker-dealer needs access to customer records at both the unaffiliated IA and the custodian that the IA uses. For all entities involved, this requires the use of complex agreements to gain access to systems. This inherently gives rise to potential cybersecurity concerns and requires continuous monitoring and oversight to ensure that the information is being properly transmitted.

Importantly, this requirement also raises significant concerns about customer privacy and data sharing of personally identifiable information ("PII"). Clients of the investment adviser who do not use brokerage services may be unaware that an unaffiliated broker-dealer, that does not provide any direct services to the client or has any relationship with them at all, has access to their PII and retains the information in their books and records. This sensitive information should be maintained in as few places as possible in order to limit the possibility of resulting customer harm from a data breach.

In addition to the privacy concerns outlined above, the requirements from *Notice to Members 94-44* and *Notice to Members 96-33* are unduly burdensome to operationalize. Broker-dealers maintain specialized compliance and supervision teams to meet the obligations, which results in increased operational costs for headcount, technology and the like. This is reflected in broker-dealers implementing an oversight and compliance fee on outside RIAs, which could ultimately be passed on to retail investors in the form of higher advisory fees.

The Definition of "Affiliate" Should Include Certain Third-Party Relationships

Many independent broker-dealers have networking relationships with third-party institutions, including banks, credit unions and insurance companies which are governed by the networking rules and for nationally charted banks, the OCC[5]. These relationships allow an institution to outsource the functions of a broker-dealer and investment adviser to a third-party, such as LPL, to gain efficiency, leverage the scale of a third-party firm for technology, compliance and products, and prioritize spending time with clients. These relationships benefit both the institution and their clients, who can access a larger variety of financial products and services that otherwise might not be available.

[5] FINRA Rule 3160; *see* Letter from Joseph Furey, Assistant Chief Counsel, Division of Trading and Markets, to Eric A. Arnold, Ira Hammerman and Carl B. Wilkerson dated April 23, 2013, *available at* https://www.sec.gov/files/tm/no-action/nal-sifma-120524.pdf; The Retail Nondeposit Investment Products booklet of the OCC Comptroller's Handbook

Under the proposal, the definition of "affiliate" includes "any entity that controls, is controlled by, or is under common control with a member"[6]. This does not include institutions that are affiliated with and have employees who are associated persons of the broker-dealer, but are not under the common control of the FINRA member firm. We believe that the definition of "affiliate" should include an entity or individual that employs or contracts with a FINRA member firm for the use of broker-dealer and other regulated services.

Further Clarification is Needed for the Definition of "Investment-Related Activity"

The proposal introduces a new definition for "Investment-Related Activity"[7] that broadens the current requirements to supervise only unaffiliated outside securities transactions. While we appreciate that FINRA is seeking to capture certain outside business activities that would have been previously reported under Rule 3270, the definition of "investment-related activity" it overly broad and expands the requirements beyond current rules. For example, the proposal would require broker-dealers to keep books and records of each transaction when a registered representative of a broker-dealer sells a non-securities insurance product. Similarly, recorded transactions would be required for certain activities at banks or credit unions where the registered representative receives "selling compensation", which is broadly interpreted. This represents a significant expansion of the current requirements and would inadvertently subject entities outside of FINRA's jurisdiction to its rules and oversight. We ask that FINRA limit the definition of "investment-related activity" to securities transactions.

Support for Proposed Treatment of Non-Investment-Related Outside Business Activities

Reporting and supervising outside business activities that do not include selling compensation or securities transactions requires significant resources within firms, without providing meaningful investor protection. We strongly support the proposal's goal of streamlining this oversight by eliminating the requirement to report and approve benign activities such as volunteer youth sports coaching, serving on a local civic board, farming and the like. These activities are routine, do not create investor harm, and divert firm resources that could be used in other areas. Accordingly, LPL encourages the SEC to swiftly approve these changes.

III. Conclusion

Thank you for your consideration of this letter and for FINRA's continued commitment to modernizing the rules governing outside business activities. We believe that this proposal represents positive progress towards a new rule. However, the new rule should eliminate the requirement to supervise outside IA activity in order to truly modernize the rule and create an efficient process for supervising outside business activities. I look forward to continuing to work with FINRA on this important initiative.

Kind regards,



Althea Brown
Group Managing Director and Chief Legal Officer

[6] *Supra* note 3, Attachment A, Proposed Rule 3290(f)(1)
[7] *Supra* note 3, Attachment A, Proposed Rule 3290(f)(2)

JOURNEY
STRATEGIC WEALTH

April 28, 2025

Ms. Jennifer Piorko Mitchell Office
of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC, Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and Journey Strategic Wealth LLC are not affiliated companies.

JOURNEY
STRATEGIC WEALTH

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Michael C. Brown

47 MAPLE STREET, SUITE 104 · SUMMIT, NJ 07901 · (201) 905-0070 · HELLO@JOURNEYSW.COM

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC, Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and Journey Strategic Wealth LLC are not affiliated companies.

J M BROWN FINANCIAL PARTNERS

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Tulsa, Oklahoma 74136-5740
T 918.496.5460
F 918.496.5160

May 12, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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J M BROWN FINANCIAL PARTNERS

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Sincerely,



Ronald Brown
President

BRIDGEWEALTH
Advisory Group, LLC

May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law

and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Roger Byrd
Wealth Advisor

sifma

May 14, 2025

VIA ELECTRONIC SUBMISSION

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Regulatory Notice 25-05: Outside Activities

Dear Ms. Piorko Mitchell,

SIFMA[1] submits comments on the Regulatory Notice (RN) 25-05,[2] proposing changes to the rules governing the supervision of outside activities of associated persons. SIFMA has long supported FINRA's efforts to reduce unnecessary burdens and simplify requirements with respect to Rule 3270 (outside business activities of registered persons) and Rule 3280 (private securities transactions of associated persons).[3] We appreciate FINRA's incorporation of our past comments in the proposal, most importantly, narrowing the scope of consolidated Rule 3290 to investment-related activities and securities transactions, which will reduce the burden on firms while maintaining investor protection. FINRA should finalize the proposed changes to the supervision of investment-related activities in short order but continue in haste to resolve outstanding issues, including continuing to require supervision of unaffiliated investment

[1] SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.

[2] Regulatory Notice 25-05 (Mar. 14, 2025), https://www.finra.org/rules-guidance/notices/25-05

[3] SIFMA comment on RN 18-08 (Apr. 27, 2018), https://www.finra.org/sites/default/files/18-08_SIFMA_Comment.pdf and RN 17-20 (June 29, 2017), https://www.finra.org/sites/default/files/notice_comment_file_ref/17-20_SIFMA_comment.pdf

advisers, that hinder its stated goals in the notice and clarifying statement.[4]

1. **The disparities between the disclosure requirements of Proposed Rule 3290 and Form U4 must be addressed**

FINRA recognized that the proposal does not "perfectly align" with activities reportable on the Form U4, and therefore it will need to work with the states to address the difference in the "investment-related" definition in Rule 3290 and the Form U4 to achieve its goal of meaningfully reducing unnecessary burdens and simplifying requirements.[5] Section 13 of the Form U4 requires disclosure of a registered person's being "currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent or otherwise" and allows for exclusion of non-investment-related activity. This means that firms are still required to ask their registered employees to answer Section 13 but then must decide how (or if) to supervise activities that are outside the scope of Rule 3290. If firms choose not to supervise, then there is a material risk that regulators with the benefit of hindsight second-guess their decision not to follow up on and supervise outside activity disclosed on the Form U4.

We recognize that any conforming changes to the Form U4 require the approval of the SEC and agreement with state securities regulators. We do, however, request that FINRA affirmatively state in Rule 3290, or provide an FAQ at the very least, that firms are not obligated to comply with Rule 3290 as it relates to non-investment-related outside activities disclosed on the Form U4.

2. **Narrow the scope of the required assessment to a customer of the associated or registered person**

In the proposal rule, FINRA adds a '…minor addition that the member must consider whether the activity or transaction involves the member's customer(s)" on the basis that firms engage in a similar analysis today.[6] However, that is not the case and read broadly this proposed obligation would be impossible to fulfill. Unless an activity or transaction involves a registered person's or an associated person's own customer, they will have no way of identifying for purposes of any adequately notifying the firm whether a customer of the firm is involved. Likewise, a firm's compliance or supervision teams evaluating said outside activity or transaction will have no way of independently verifying whether any of the parties include a customer of the firm. We suggest that FINRA clarify and narrow this assessment criteria to a "customer of such associated or registered person." Doing so will target the concerns that FINRA

[4] FINRA Statement to Correct Misinformation About FINRA's Outside Activities Proposal (May 5, 2025), https://www.finra.org/media-center/newsreleases/2025/finra-statement-correct-misinformation-about-finras-outside

[5] *Supra* note 2 at FN 11. In doing so, FINRA should also remove the requirement to disclose the name and address of these businesses, as required by the Form U4 instructions. These businesses appear on BrokerCheck and could confuse investors about their nature.

[6] *Supra* note 2 at p. 6.

is aiming to address through the assessment in a way that is attainably verifiable for both the associated or registered person and the firm.

3. **Clarify that certain board-related activities are out of scope**

FINRA should clarify in an FAQ that a registered person serving on the board of a nonprofit for compensation and advising on investment strategies in a personal capacity should not be considered an outside activity subject to Rule 3290's requirements.[7] On its face, this commonplace situation could appear as an investment-related activity and the registered person could be construed as receiving selling compensation. Further, FINRA should clarify that an uncompensated board member participating in an investment committee is not considered an outside activity.

4. **Rule 3290 should not be expanded to include outside activities of associated persons**

FINRA requests comment if the proposal should be expanded to include the outside activities of associated persons. The rationale for approving and supervising the outside activities of registered persons does not apply to associated persons. They are not engaged in sales activities and do not present the same risk of investor confusion or conflicts of interest. Such an expansion would impose substantial burdens on firms without commensurate benefit to investor protection. Firms are subject to other requirements under Rule 3110, such as a reasonably designed supervisory system and inspections of non-branch locations, and firm policies, to address any risks posed by associated persons' outside activities. The proposal should not be expanded without clear and convincing evidence that the benefit to investor protection would dramatically outweigh the burden this expansion would impose on firms.

5. **Clarity which real estate activities are within scope of the rule**

The definition of "investment-related activity" in the proposed rule includes "real estate;" however, it is not defined. Notwithstanding the examples of real estate activities excluded, it would be beneficial in the near future for FINRA to clarify through additional examples which real estate activities are considered investment-related. We also think it would be helpful to include the Internal Revenue Code section and its successor in the language of the rule.

6. **Imposing more burden than benefit, the duty to supervise unaffiliated advisory activities and activities known through contractual relationships should be eliminated**

Although we would like the proposed changes to be approved by the SEC in short order, we reiterate our position that FINRA should eliminate the requirement for broker-dealers to supervise unaffiliated investment advisory (IA) activity, as a majority of commenters requested.

[7] When FINRA amended the gifts and gratuities rule to harmonize the NASD and NYSE rules, it did not include supplementary material in the NASD rule regarding business entertainment, deal mementos, etc. As such, it is not clear whether this helpful guidance could be relied upon for Rule 3290.

It imposes a disproportionate burden on a small percentage of members, as FINRA recognizes,[8] without commensurate benefit to investor protection. Proponents' perception that the SEC or states securities regulators have failed to adequately supervise investment advisory activities alone cannot be a justification for imposing requirements on a small group of broker-dealers, unless they voluntarily chose to supervise such activity. FINRA should also consider excluding outside activities that are already known through contractual relationships with the firm, rendering the notification and review of such activity unnecessary. Examples include registered persons who are also employees of a bank, credit union, or insurance company that enter into non-deposit investment products (NDIP) agreements with broker-dealers, or registered persons who own a legal entity that contracts with a broker-dealer.

7. **Immediate family members' personal securities transactions not in scope**

Finally, given how the text of the proposed rule is structured and the specific words used, e.g., "shall," questions have been raised whether the rule has been expanded unintentionally to include notification of immediate family members' own personal securities transactions without the participation of the associated person. For instance, whether simply by way of the relationship, the required elements of participation and a beneficial interest are imputed to the associated person. Our position is that absent participation in the private securities transaction and receipt of selling compensation, an associated person is not required to provide notification to their firm of their immediate family members' own private securities transactions under proposed Rule 3290, as is the case under Rule 3280. We do not believe FINRA intended this result, given its statements, but would be happy to discuss it further for the avoidance of doubt.[9]

***

SIFMA appreciates your consideration of our comments and would be pleased to discuss them in detail and answer any questions you may have.

Sincerely,

Bernard V. Canepa

Bernard V. Canepa
Managing Director and Associate General Counsel

[8] *Supra* note 2 at p. 12.

[9] *Id.* at p. 6 and *supra* note 4.

Carey Wealth Management
A Registered Investment Adviser

Jamie Carey, CFP®, CPA, MBA
President
Direct 925-406-4186
Fax 925-406-4902
Email jamie@careywealthmanagement.com

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Jamie Carey

BRIDGEWEALTH
Advisory Group, LLC

May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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member shall record each transaction on the books and records of the member and

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Joshua Carpenter
Partner



Wealth Management Resources, Inc.
Registered Investment Advisor

Date 5/13/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As owners of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. We appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

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Based on these considerations, We believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Sincerely,



Wealth Management Resources Inc.
Todd Casazza
President

From: Kellie Chase
To: pubcom@finra.org
Subject: Comment for Reg Notice 25-05
Date: Thursday, May 15, 2025 2:21:21 PM

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

I missed the deadline to submit comments in response to FINRA Regulatory Notice 25-05 on Outside Activities. But the webinar encouraged members to still submit comments even after the deadline if we had information we thought was relevant to the topic.

I am in agreement with combing the two rules 3270 and 3280 to reduce burdens. However, my comment is that I think Rule 3210 should be fully eliminated and then combined and incorporated into this new proposed Rule 3290. The rule 3210 on "Accounts at Other Broker-Dealers and Financial Institutions" seems to be another "outside" type of activity/account that I think should be grouped in with these other rules. Combing all three rules 3210, 3270, and 3280 into one comprehensive rule 3290 would help reduce burdens of having separate requirements for associated individuals for all these different "outside" activities and accounts. Even in the proposal, FINRA mentions rule 3210 several times as influential and in direct relation with these other rules 3270 and 3290. It just seems like common sense to include rule 3210 into the proposed new combined rule, which would extremely reduce burdens and streamline compliance and supervision and human hours on these requirements.

If you can confirm that you have received my comment, I would appreciate the confirmation.

Thank you,

Kellie Chase
Financial and Operations Principal
I.E. Investments, Inc.
dba Stark Municipal Brokers
818-735-9880 (direct)
818-735-9860 (office)

Michael Christoforo Comment On Regulatory Notice 25-05

Michael Christoforo

We do not need more regulation. We need less and financial advisors should be allowed to own digital assets!

LIBERTY
Wealth Management
3570 Hamilton Blvd., Suite 301 • Allentown, PA 18103
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www.lwmgmt.com

May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory

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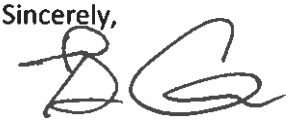
relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Benjamin Chunko

Nick Clay Comment On Regulatory Notice 25-05

Nick Clay
May 5, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

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Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

ALTUM
WEALTH ADVISORS

May 8, 2025

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

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion, and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Miste Cliadakis
Managing Director

KAGAN COCOZZA™
FINANCIAL ADVISORS

New Jersey Office
408 Swedesboro Rd
Suite B
Mullica Hill, NJ 08062
856-381-0550

Pennsylvania Office
200 Barr Harbor Drive
Suite 400
W. Conshohocken, PA 19428
484-334-8200

05/02/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Michael Cocozza
Kagan Cocozza Asset Management
856-381-0550
mcocozza@kagancocozza.com



CONDON
WEALTH MANAGEMENT, INC.

April 30, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

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CONDON WEALTH MANAGEMENT, INC.

15 Caswell Lane, Plymouth, MA 02360 TEL 508-746-7763 FAX 508-746-9242

Investment advisory services offered through Condon Wealth Management, Inc., a registered investment advisor. Securities offered through Purshe Kaplan Sterling Investments, member FINRA/SIPC. Headquartered at 80 State Street, Albany, NY 12207.
Purshe Kaplan Sterling Investments and Condon Wealth Management, Inc. are not affiliated companies.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Sean M. Condon

Sean M. Condon, CFP®

Joseph Connor Comment On Regulatory Notice 25-05

Joseph Connor
Date: May 1, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you. Sincerely,

Joseph Connor

President

Connor Capital Management, LC

Donald Conrad Comment On Regulatory Notice 25-05

Donald Conrad

Date: April 24, 2025

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA 1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05. Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors. Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP. The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows: For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member. Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer. Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality. Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law. Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Donald Conrad

COOPER CAPITAL GROUP
INVESTMENT MANAGEMENT

O: 760-452-6114 | F: 760-452-6669 | www.CooperCapGroup.com
280 N. Coast Hwy 101, Encinitas, Ca 92024

5/5/2025

Ms. Jennifer Piorko Mitchell Office of the
Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and
serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration

Sincerely,

Clinton Cooper
CEO
Cooper Capital Group

Cooper Capital Group is a Registered Investment Adviser. Advisory services are only offered to clients or prospective clients where Cooper Capital Group and its representatives are properly licensed or exempt from licensure. Past performance is no guarantee of future returns. Investing involves risk

Gary Cutson Comment On Regulatory Notice 25-05

Gary Cutson
Re: FINRA Proposed Rule 3290

Proposed Rule 3290 does not address the transition from Rule 3270 to the proposed rule. Specifically, to what extent and for how long would a previous notification and approval of an outside business activity under Rule 3270 satisfy the requirements of the proposed rule? Previous notifications and approvals under Rule 3270 should continue to be applicable or the new rule creates a new opportunity for new compliance violations where none previously existed. If FINRA intends for new notifications and approvals to be required under Rule 3290, the new rule should be explicit on that point and address the timing for generating such requests and approvals.

Footnote 4 in Regulatory Notice 25-05 states that the most common "buying away" transactions are personal investments in private placements; yet, there is no evaluation of why these transactions or which of these transactions warrant continuation of the existing compliance regime. Under the proposed rule, purchases of private placements continue to require notification and pre-approval even in cases where there is little or no reason regulatory concern about the transaction as in the case where the individual is purchasing the interest on the same basis as other passive investors, e.g., the registered person (1) receives no selling compensation, (2) does not participate in the formation, organization, or management of the entity, (3) does not control the entity, (4) does not sell or promote sales of the entity, and (5) receives only distributions, tax benefits, etc. based on its ownership interest on the same as other similarly situated passive investors. Transactions such as these are unlikely to create regulatory concerns but create substantial compliance obligations and opportunities for unnecessary compliance violations. Like the refereeing of sports games example of outside business activities, these transactions are also "white noise" in securities compliance activities that distract from more important activities and undermine the overall objectives of the compliance function. The proposed rule does not balance any minor regulatory concern for these transactions with the cost of compliance. These purchases should be exempted from the definition of outside securities transactions.

Thank you for your consideration of my comments.

Gary Cutson

DANIELSON TATE
CAPITAL PARTNERS

May 12, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

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I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Danielson Tate Capital Partners
4880 Highway 22 // Mandeville, LA 70471
www.danielsontate.com
Advisory Services offered through Concurrent Investment Advisors, LLC an SEC Registered Investment Advisor.
Brokerage services offered through Purshe Kaplan Sterling Investments (PKS), Member FINRA/SIPC Headquartered at 80 State Street, Albany, NY 12207.
PKS and Concurrent Investment Advisors, LLC d/b/a Danielson Tate Capital Partners are not affiliated companies

DEAN WEALTH PARTNERS

Dean Wealth Partners

7200 N. MoPac Expy
Suite 140
Austin, TX 78731-3266

T: 512.346.1703

May 9, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

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Arkansas Insurance Producer License Number 1328099.
California Insurance Producer License Number 0G89801.

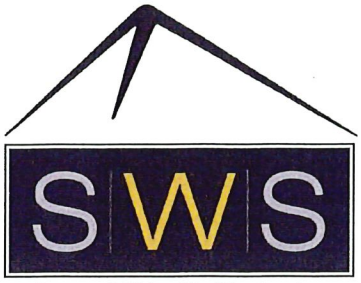
Securities offered through Purshe Kaplan Investments, Member FINRA/SIPC, Headquartered at 80 State, Albany, NY 12207. Purshe Kaplan Sterling Investments and Dean Wealth Partners are not affiliated companies.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Max Dean



5/12/25

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

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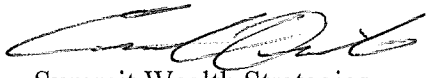
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Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Summit Wealth Strategies

Carlton Dick

5/4/25

Jennifer Piorko Mitchell:

I oppose Finra Regulatory Notice 25-05 & Proposed Rule 3290.

Finra is not merely shooting itself in the foot with this stupid proposal, it's hastening its own demise. If this rule is enacted as-is, tens of thousands of Registered Reps will drop their FINRA licenses & switch to SEC jurisdiction as Registered Investment Advisors. By operating as an Investmet Advisor Representatives of an RIA, these reps will avoid FINRA's antiquated posture, establish themselves as fiduciaries serving their clients' best interests (which will enhance their stature in the eyes of their clients) & enable them to continue ~~CONTINUE~~ to personally own crypto. The FAs will be better off, their clients will be better off, the RIAs they join will be better off, & the losers will be FINRA & the B/Ds it oversees.

Sincerely

[REDACTED]

Barge Donmoyer

[REDACTED]

Molly Dresden Comment On Regulatory Notice 25-05

Molly Dresden

The proposal is a step in the right direction but could be simplified to make it easier to read in conjunction with other rules. I think it needs more explanation as to the historical reasons behind distinguishing between registered persons and associated persons, and clarification in other rules like 3210 where they are referred implicitly by the rule saying "No person associated with a member" instead of "Associated Person", which is how the text appears in 1011. The proposal seems to blur the actual lines between the two. In other words, it would make more sense if FINRA explained the risks posed by APs as compared to registered persons why there is a distinction. Many jobs at modern broker dealers don't have much to do with the reasons we have 3270 and 3280; and I think those are still being swept in a bit too much. The decision tree on whether to report is also too complicated.

From: Christine Drisco
To: Comments, Public
Subject: Request for Comment on Regulatory Notice 25-05
Date: Wednesday, May 7, 2025 5:28:18 PM

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

Date May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

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transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.
Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.
Sincerely,

Christine Drisco
Vice President, Operations and Compliance
New Harbor Financial Group, LLC
146 Main Street, Suite 302
Worcester, MA 01608
Toll Free: 800-930-NHFG (6434)
Phone: 978-537-7701
Fax: 978-537-7702
cdrisco@newharborfinancial.com
www.newharborfinancialgroup.com [newharborfinancialgroup.com]

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World Equity Group, Inc.

Where Relationships Are the Difference

May 13, 2025
Ms. Jennifer Piorko Mitchell
Office of Corporate Secretary
FINRA 1700 K Street, NW
Washington, DC 20006

Re: Comment on Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

World Equity Group, Inc. (WEG) appreciates the opportunity to comment on the recently published Regulatory Notice 25-05 (the Notice), proposal to reduce unnecessary burdens and simplify requirements regarding associated persons' outside activities. It is our opinion that the proposed rules will not have the effect that the Staff is seeking. The proposed Rule and guidance noted in the Notice will add increased burdens on both member firms and unaffiliated Registered Investment Advisers (RIA).

Firstly, the Notice, contrary to the rhetoric contained therein, creates a new standard of oversight for members firms and is literally a contradiction to previous regulatory notices such as Regulatory Notice 18-08, proposed rule governing outside business activities (OBA) and private securities transactions (PST), which sought to "reduce unnecessary burden". The Notice has the effect of a 180 degree turn from Notice 18-08 and does NOT, by any definition, reduce the regulatory burden.

Further, it appears as if FINRA has unilaterally decided to expand its jurisdiction, as if FINRA can suddenly make such decisions, without the Input of other regulators. The Notice clearly increases FINRA's regulatory purview into business lines wholly unrelated to the activities of a member firm. These include real estate, crypto currencies, banking, and insurance, lines of business that are complex, and already heavily regulated.



World Equity Group, Inc.
Where Relationships Are the Difference

WEG respectfully, forcefully disagrees with FINRA's position.

On another note, the Notice claims the guidance issued in prior Notice to Members (NTMs) would remain in effect. We fail to understand this proposed Notice can coexist with previous NTMs and still be bound by them.

In summary our position states:

1. FINRA cannot mandate that broker-dealers supervise the advisory activities at an unaffiliated RIA.
2. Existing rules and regulations, as well as current legal precedent, prohibit a broker-dealer (BD) from executing such a supervisory mandate.
3. Execution of such a mandate is impracticable if not impossible.
4. FINRA cannot mandate supervision of business lines not provided by a broker-dealer or its affiliate.
5. FINRA cannot require broker-dealer supervision of non-securities activities such as real estate, banking, and insurance.

To further explain our position, we took the liberty of responding to FINRA's questions at the end of the Notice:

Guidance FINRA has Requested

What are the alternative approaches, other than the Proposal, that FINRA should consider?

The response to this question is simple: FINRA's proposal should eliminate the oversight of outside RIA activity by FINRA members. The reasons for this are multi-faceted.

- There does not appear to be a "smoking gun" driving the need for additional regulatory oversight of RIA activity. Neither the industry nor a regulator has provided definitive empirical proof such a "smoking gun" exits. If such an



industry-wide problem exists, and there is a systemic failure of RIAs to act as a fiduciary that would be solved by having a BD approving trades; and investors are at risk; then the burden of proof lies with regulators. To date, no regulator has provided such evidentiary substance, or at minimum, a detailed analysis. Thus, it is difficult to imagine a new rule requirement that would satisfy additional investor protection when from an industry standpoint, investors appear to already be protected by the current framework.

- No additional benefit would arise. As a fiduciary, a RIA has a higher standard of conduct than even Regulation Best Interest. Adding additional regulatory restrictions on top of the Advisers Act would be regulatory over-kill.
- The standards of fraud are incompatible. Fraud under Federal RIA securities laws does not require scienter, or intent, but under the 34 Act scienter is required. The Federal Register is rife with 206 fraud cases under the Adviser's Act whereby the activity of an RIA simply occurred, either by intent or mistake. This creates a gap in supervision and surveillance activities.
- The commentators who cite a lack of resources by the SEC and the various state regulators may or may not have a point, but it is not the role of FINRA to close the gap without, again, providing some documentation that investors are, in fact, at risk.

In addition, the inclusion of real estate, crypto currencies, banking, insurance etc. in FINRA jurisdiction/purview can only be described as a regulatory land-grab. Such business lines are regulated by the Comptroller of the Currency and/or State Regulators. There is no role for FINRA.

How would consolidation of the rules governing OBAs and PSTs in the Proposal simplify compliance? What impact would it have on the cost of compliance?

The truth of the matter is there does not appear to be anything wrong or broken with the current framework of the OBA and PST rules. Combining these into one rule is, in essence, superficial. The cost of complying with two rules or a combined rule



would be similar. That is, if FINRA does not impose the additional supervision requirements on outside RIA activity.

As is true today under existing rules, the Proposal would apply to registered persons for outside activities and to associated persons for outside securities transactions. Should the Proposal be expanded to apply to all associated persons? If so, why?

This is a hard no and would increase cost for virtually no additional benefit. Non-Registered Fingerprint personnel pose little harm to the investing public and there are already rules limiting their activities.

Is the proposed scope of the notice requirement appropriately tailored to balance the interest of members to receive information regarding their registered persons outside activities and any investor protection concerns?

The prosed scope is NOT tailored to balance but rather to tip the scales, as noted above. As mentioned above there does not appear to be a specific gap in industry activity that warrants additional regulatory oversight of unaffiliated RIA activity by a BD. It appears FINRA is altering definitions at will. For example, redefining selling compensation as a catch-all whereby virtually all sales by a Registered Representative (RR) fall into the category is in direct contradiction to Federal Securities Laws. The distinction, by statute, between RIA activities and BD activities has always been transaction-based compensation for a BD versus asset-based fees for a RIA.

The other issue(s) with FINRA's scope is the inclusion or proposed inclusion of real estate, crypto currency, banking, and insurance into the supervisory OBA purview. There is no possible enhancement to be reasonably expected by adding FINRA into the mix.

As is true today under existing rules, the Proposal would require prior written approval for outside securities transactions for selling compensation and an acknowledgement for outside securities transactions not for selling compensation. Should the Proposal be expanded to require approval for all



World Equity Group, Inc.
Where Relationships Are the Difference

outside investment-related activity? If not, should the Proposal's acknowledgment for outside securities transactions not for selling compensation be modified? If so, how and why?

Expanding the regulatory framework for outside business activities is unnecessary and onerous. From a reasonable person, standard one must consider this question: does passing a securities exam mandate that the individual has waived his/her right to have an outside life, or his/her right to privacy under the US Constitution? The regulation should strive for reasonable enforcement, not invasive enforcement.

In addition, the proposal should carve out RIA activity as an exemption. There is no workable solution for a BD to approve trading activity of an outside RIA especially if that outside RIA is large with many customers.

Is the definition of "investment-related activity" appropriate given the regulatory objectives of the Proposal, or should other activities be included in or excluded from the definition? If so, why?

As noted in the theme of this letter, a carve out for RIA activity is imperative. The redefining of investment-related activity to include such broad categories puts an unreasonable burden on a BD. FINRA must understand that many firms, ours included, in addition to their broker-dealer activities, also act as a General Agent for their insurance business and are already subject to state insurance regulations for 50 different states. FINRA supervision will offer no benefit.

The Proposal has several exclusions, including for registered persons' personal investments in non-securities and activities conducted on behalf of an affiliate of a member. Are the proposed exclusions appropriate?

This proposal is one of the few items noted in the FINRA notice that are appropriate.

The Proposal does not alter members' obligations for outside RIA activities. What are the challenges members face regarding supervising and recordkeeping outside RIA activities for selling compensation? Would the removal of the requirement for FINRA member oversight of outside RIA



World Equity Group, Inc.

Where Relationships Are the Difference

activities by their associated persons impact investor protection considering that RIAs are regulated by either the SEC or the states? What are the benefits of BD supervision and record keeping of outside RIA activities for selling compensation?

The challenges are many.

- Privacy. Protecting customer privacy and personally identifiable information.
- Obtaining customer activity of Outside RIA's.
- Surveillance. A member firm has no visibility into money and security. movements. or rebalancing conducted by a third-party asset manager (TPAM).
- Enforcement of issues. While FINRA may make the claim members have supervisory responsibility, the outside RIA will be bound to the Adviser's Act and not the 34 Act.
- No visibility into the TPAM or custodian.

In conclusion, it is obvious to all concerned that the Notice and proposed rule 3290, to streamline requirements regarding the outside business activities of registered persons, makes ill-fated attempts to solve one issue while creating a myriad of others. It is our hope that FINRA will consider tabling the entire concept.

Sincerely,

Stephen S Dudas III
President
World Equity Group, Inc

425 N Martingale Road, Suite 1220, Schaumburg, IL 60173
Phone: 847-342-1700 Fax: 847-342-1717 Toll Free: 800-765-5004
MEMBER FINRA/SIPC

FINANCIAL PERSPECTIVES

May 6, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate
Secretary FINRA
1700 K Street, NW
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Daniel J Dugan, CEO

3300 Fernbrook Lane N, Suite 250 | Minneapolis, MN 55447
P 763-553-7779 | F 763-553-7782 | www.fpwealth.com

Advisory services through Financial Perspectives, a Registered Investment Adviser
Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC, headquartered at 80 State Street, Albany NY 12207
FP and PKS are not affiliated

Ryan Ehmen Comment On Regulatory Notice 25-05

Ryan Ehmen

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these

transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you. Sincerely,

Ryan J Ehmen, CPA, PFS

VISION FINANCIAL GROUP llc

616-931-1000 | www.visionfn.com

April 30, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Forcing an investment advisor to provide non-public personal information of an advisory client

Investment advisory and financial planning services offered through Advisory Alpha, LLC, a Registered Investment Advisor. Insurance, coaching, and education services offered through Vision Financial Group. Vision Financial Group is a separate and unaffiliated entity from Advisory Alpha, LLC.

VFG

to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Ryan M Elenbaas

VISION FINANCIAL GROUP LLC

616-931-1000 | www.visionfn.com

April 30, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,
Ryan M Elenbaas

250 S. State Street, Zeeland, MI 49464

Investment advisory and financial planning services offered through Advisory Alpha, LLC, a Registered Investment Advisor. Insurance, coaching, and education services offered through Vision Financial Group. Vision Financial Group is a separate and unaffiliated entity from Advisory Alpha, LLC.

BRIDGEWEALTH
Advisory Group, LLC

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Derek Elrod, CFP®, MBA, MS
Partner

TOWERPOINT WEALTH

April 30, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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500 Capitol Mall | Suite 2060 | Sacramento, CA 95814
916.405.9140 main | 916.405.9155 fax
info@towerpointwealth.com
www.towerpointwealth.com

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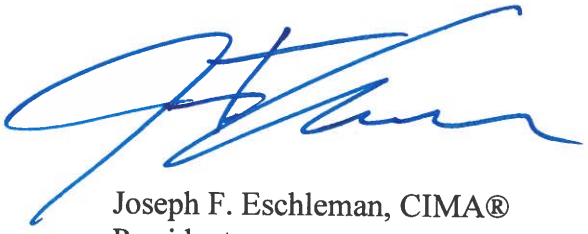
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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Joseph F. Eschleman, CIMA®
President
Towerpoint Wealth, LLC

Ben Feldmeyer Comment On Regulatory Notice 25-05

Ben Feldmeyer

May 13, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Commenton Regulatory Notice25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Finally, this additional oversight is unsupported anywhere in federal or statelaw.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you. Sincerely,

Ben Feldmeyer CFP,CDFA,CLTC

Odyssey Personal Financial Comment On Regulatory Notice 25-05

Robert Fezza
Odyssey Personal Financial

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section3290 provides, at subsection (d)(4)thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

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Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Robert Fezza, CFP

Odyssey Personal Financial Advisors

Mark Finelli Comment On Regulatory Notice 25-05

Mark Finelli
Ms. Jennifer Piorko Mitchell Office of the CorporateSecretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice25-05

Dear Ms. Mitchell,

Asan owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposedRule claims jurisdiction over real estate,banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments againstpromulgating the proposedRule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subjectto FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and

serves no purpose other than an unwarranted expansionof FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis providedwithin Regulatory Notice25-05, should not be adopted.I respectfully ask thatFINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Mark Finelli

Sterling Investment Advisors, Ltd.

1055 Westlakes Drive | Suite 150
Berwyn, Pennsylvania 19312
Phone: 610.560.0400 | Fax: 610.560.0401

April 21, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Pres. & CEO

Timothy E. Flatley
President & CEO

Dina L. Fliss Comment On Regulatory Notice 25-05

Dina L. Fliss
Monday, May 12, 2025

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

RE: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

Our RIA firm is in the middle of its third SEC audit and the original exam request letter included hundreds of items which required us to respond with hundreds of thousands of documents and records. Just responding to the requests took hundreds of hours from all staff. Plus, three auditors have spent countless hours reviewing our responses both on-site and off-site. After several months, we are still in audit mode.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance business, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

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I strongly believe that the proposed Rule 3290 as currently written together with the guidance and analysis provided within Regulatory notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you for your consideration.

Sincerely,

Dina L. Fliss



PETER F. FLORIO
CFP, CLU, ChFC, CExP, CLTC
Phone: 516-758-2433 Fax: 516-758-2431

Date: May 12, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

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Peter Florio is a Registered Investment Advisor of and offers securities and investment advisory services through PSF Financial Services, Inc., DBA, The Florio Wealth Management Group. Supervisory Office: 1025 Old Country Rd., Suite 312, Westbury NY 11590. 516-758-2430
Peter F. Florio is a Registered Representative of and offers securities through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and PSF Financial Services, Inc., DBA, The FLorio Wealth Management Group are not affiliated companies.

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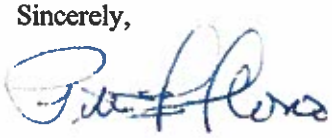
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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Peter F Florio, CFP, CLU, ChFC, CLTC

The Florio Wealth Management Group
1025 Old Country Rd. | Suite 312 | Westbury, NY 11590

Peter Florio is a Registered Investment Advisor of and offers securities and investment advisory services through PSF Financial Services, Inc., DBA, The Florio Wealth Management Group. Supervisory Office: 1025 Old Country Rd., Suite 312, Westbury NY 11590. 516-758-2430
Peter F. Florio is a Registered Representative of and offers securities through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and PSF Financial Services, Inc., DBA, The Florio Wealth Management Group are not affiliated companies.

BROADSTONE SECURITIES

Member FINRA/SIPC

May 5, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Comment on Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Piorko Mitchell,

Broadstone Securities, Inc., appreciates the opportunity to comment on the recently published Regulatory Notice 25-05 ("Notice 25-05" or "25-05").

Notice 25-05 states that the purpose of issuing this notice is to streamline and reduce unnecessary burdens regarding the existing requirements. However, should proposed Rule 3290 be promulgated, it would do nothing to streamline FINRA Rules 3270 and 3280. For the reasons set forth below, the proposed rule would instead significantly expand member firms' compliance requirements for supervising a newly created class of "outside investment-related activity," raise numerous compliance and regulatory questions and increase burdens on member firms.

First, the proposed Rule includes, in its definition of "investment-related activity," securities, fee-based advice, crypto assets, commodities, derivatives, currency, banking, real estate, and insurance. This broadly expanded class of activities encompassed in the proposed rule includes investments that are, by any measure, rule, or guidance, not securities.

Second, requiring a member firm to approve and supervise non-securities-related activities would impose additional compliance burdens on the firm and raise questions currently unaddressed in Notice 25-05.

For example, how would member firm obtain access to the information necessary to approve and supervise the trading activity of its registered representatives'

80 State Street
Albany, New York 12207

518-478-2025/877-360-4210
Facsimile 877-211-5679

customers for cryptocurrency trading (which occurs through a crypto exchange or a crypto broker using Blockchain)?

Also, for commodities transactions, would a FINRA member firm be required to be registered with the National Futures Association and employ a person with a FINRA Series 3 license to conduct the supervision of those activities conducted away from the member broker-dealer? Would a member firm be required to submit a 1017 application to add this as a line of business?

Also, what specific types of banking and real estate transactions would be subject to the proposed Rule and how would supervision work? How would a broker-dealer obtain internal information from a bank necessary to conduct meaningful supervision? What is the rationale for requiring supervision of outside activities at a bank, given that banking is already a heavily regulated industry?

Also, what is the rationale for requiring oversight of non-securities-related insurance products, such as term life, whole life, and disability insurance? Many associated persons conduct insurance business away from their FINRA member firms through an insurance agency, carrier, or insurance marketing organization. Traditionally, this activity has always been considered an "outside business activity" under FINRA Rule 3270, which requires only notice and prior approval for the associated person to participate and does not require member firm supervision.

Third, the proposed Rule 3290 does nothing to resolve the currently existing confusion, referenced in FINRA Regulatory Notice 18-08 (page 8), related to the application of FINRA Rule 3280 and its related guidance, to an associated person's activities at an unaffiliated RIA firm. Notice 2025-05 states that the guidance issued in the 1990's would remain in effect under the proposed Rule 3290. However, this guidance appears to be in conflict with the express language in the proposed Rule 3290.

As noted in footnote 7 of Regulatory Notice 25-05, the current obligation outlined in "Notice to Members 96-33 (May 1996). "The Board of Governors...has interpreted [then Rule 40, now Rule 3280] to require prior notice of the investment advisory services that will be provided by the RR/IA for an asset-based or performance-based fee, rather than prior notice of each trade effected by an RR/IA for a particular customer." (Emphasis added).

However, the text of the proposed Rule 3290 does not provide that a single notice of the activity will suffice for investment advisory services. The proposed language of Rule 3290 clearly states that when an associated person participates in any of the defined "outside investment-related" activities for selling compensation, the

associated person would have to provide prior notice and obtain prior approval for each transaction.

As currently written, proposed Rule 3290 will cause significant delays in the timing of transactions and increase costs for advisory clients of unaffiliated RIA firms. Pre-approval of transactions would also impose additional costs on affected Member firms as well, as compliance with the proposed Rule would require them to hire more compliance and supervisory staff members and invest in technology platforms in order to perform these required reviews.

Finally, the proposed Rule is likely to increase member firms' reputational and litigation risks. Contrary to FINRA's stated intention, the current Rule 3280, and its guidance often subjects FINRA member firms to litigation arising out of claims entirely unrelated to their business, by litigants utterly unknown to them. Rule 3290, as proposed, will exacerbate this problem, creating additional non-legal private causes of action that litigants will use against FINRA member firms to assert claims that are totally unrelated to the business of the FINRA firms and to securities generally. More often than not, these litigants are likely to employ the FINRA arbitration process for this purpose, using its broad catch-all definition of "customer" ("not a broker or dealer") to facilitate their easy and inexpensive entry into the forum.

For all of the reasons above, I strongly urge FINRA not to adopt the proposed Rule 3290.

In conclusion, and in response to FINRA's request for alternative approaches, I submit the following.

As noted above, FINRA Regulatory Notice 18-08 recognized that the existing approach to the investment advisory activities of FINRA member associated persons, "under Rule 3280 and related guidance," has "...caused significant confusion and practical challenges." The proposals set forth in Notice 25-05 do nothing to alleviate these concerns.

However, Regulatory Notice 18-08 proposed sensible solutions to these concerns that merit reconsideration. Specifically, 18-08 proposed that for "investment-related activities" the member firm would need to conduct a risk assessment, and further proposed that if the member firm approved the activity it would not be required to supervise the underlying activities, unless the member firm (1) imposed conditions or limitations on the associated

person's participation in the activity or (2) such activity would require registration as a broker or dealer (such as a true private security transaction).

We believe that promulgation of Rule 3290, as initially proposed in Notice 18-08, would ultimately achieve the goal previously articulated by FINRA in Notice 18-08, to "reduce unnecessary burdens while strengthening investor protections related to outside activities."

We respectfully request that FINRA reject the currently proposed Rule 3290 and in its place promulgate Rule 3290 as initially drafted in FINRA Regulatory Notice 18-08.

Thank you for your consideration.

Sincerely,



Katherine M. Flouton
CEO

CONCENTRUM WEALTH MANAGEMENT

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Jeffery E. Fong
Managing Partner
Concentrum Wealth Management

353 Piercy Road | San Jose, CA 95138 | office # 408 840 4030 | toll free # 855 306 8390 | fax # 408 840 4031

Securities offered through Purshe Kaplan Sterling Investments, member FINRA/SIPC, Headquartered at 80 State Street, Albany, NY, 12207.
Purshe Kaplan Sterling Investments and Concentrum Wealth Management, Inc. are not affiliated companies.

From: Daniel Forrester
To: Pubcom@finra.org; outreach@rickscott.senate.gov
Subject: Comment on proposed rule 25-05
Date: Friday, May 2, 2025 11:48:37 AM

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

Concerning (2) “Investment-related activity” means pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance.

The rule is to add additional protections to clients, however, I do not understand how an advisor buying precious metal currency, a 2nd home or life, health, auto and homeowners insurance or opening a checking account at a bank would be a risk to clients. I live in Florida where my homeowners insurance changes every year or two because they keep cancelling me and under this rule I will have to get written approval from my broker dealer to purchase new homeowners insurance?

I believe this is the definition of government agency overreach.

Thank You
Daniel Forrester

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May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory

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relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Richard Frable, CFP

Jack Frazee Comment On Regulatory Notice 25-05

Jack Frazee

I oppose Rule 3290. It is serious over reach into both the professional and personal lives of Financial Advisors. As I read elsewhere, this is akin to not allowing Real Estate Agents and there families from owning a home.

Do not pass this rule!

CANOPY
ASSET MANAGEMENT, LLC

May 2, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration.

Sincerely,

Jennifer M. Fussell

Jennifer M. Fussell
Chief Operating Officer
Canopy Asset Management

GALLUGI WEALTH MANAGEMENT, LLC
Michael J. Gallugi
CERTIFIED PUBLIC ACCOUNTANT
FINANCIAL CONSULTANT
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May 5, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Michael J. Gallugi

The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts 02133

William Francis Galvin
Secretary of the Commonwealth

May 13, 2025

Via e-mail to pubcom@finra.org

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Comments in Opposition to Proposed Rule 3290. Outside Activities

Dear Ms. Mitchell:

I am writing in my capacity as the chief securities regulator for Massachusetts to oppose FINRA's proposed Rule 3290 (the "Proposed Rule"). As explained in Regulatory Notice 25-05 (the "Notice") the Proposed Rule would overhaul and merge the frameworks for member supervision of outside business activities ("OBA") and private securities transactions ("PS"). As FINRA marks 85 years of protecting investors, the changes set out in the Proposed Rule Notice are decidedly a step back. I urge FINRA to reconsider the Proposed Rule in its current form because it would establish reduced standards and oversight, to the detriment of investors and savers.

As I commented in 2018, when FINRA proposed a similar rule change, investor protection is a responsibility that is shared by regulators and industry participants.[1] It is noteworthy that in response to previous attempts to redefine and consolidate OBA and PST rules, certain members and industry organizations called to retain the existing rules on OBA and PST. In fact, at least one industry commenter recognized the holistic role broker-dealers play in safeguarding the savings of Main Street investors. This is a realistic position, because clients are likely to view the different kinds of services they receive from firms or associated persons as connected.

[1] https://www.finra.org/rules-guidance/notices/18-08/comment/commonwealth-massachusetts-comments-regulatory-notice-18-08

There have been no industry or regulatory developments that alter my concerns about how investors will be protected by the removal of supervisory oversight in these areas. Such oversight is at the core of any well-run compliance apparatus. Unfortunately, my office continues to receive complaints and take action concerning the harmful conduct of FINRA member firms and their agents in the absence of reasonable supervision, including misconduct in connection with OBAs and PSTs.

1. Investor Protection Requires Broker-Dealer Supervision of Investment Adviser and Affiliate Activity.

FINRA should not move away from its current framework mandating member supervision of an agent's participation in PSTs involving investment advisory accounts. Removing such basic investor protection requirements would increase investor exposure to unethical and dishonest business practices.

In fact, my office recently resolved allegations concerning a Massachusetts registered broker-dealer in connection with leveraged and inverse leveraged ETF transactions effected by individuals who were dually-registered as both broker-dealer agents and investment adviser representatives. In this case, the broker-dealer failed to detect, and therefore review, transactions effected by its Massachusetts agents. In total, the broker-dealer failed to review the suitability of thousands of leveraged exchange-traded fund transactions executed by its dually-registered agents in the accounts of Massachusetts investors. As a result of supervisory failures, Massachusetts investors—often holding short-term leveraged ETF positions for periods in excess of one-year—experienced significant losses. Based on these failures in supervision, investors were offered restitution and my office required the firm to enhance its supervisory practices.

The artificial line that the Proposed Rule attempts to draw between unaffiliated and affiliated investment advisers, is an attempt to find a distinction where none exists. Affiliation alone does not assure investor protection. While there may be greater cooperation and ease of record sharing between affiliates, it is just as possible that an affiliate may have less stringent compliance than a non-affiliate.

The Proposed Rule would create significant conflict of interest concerns by excluding affiliate transactions. Such exposure is especially concerning given Massachusetts' fiduciary duty rule and its requirements concerning a broker-dealer and agent's review of conflicts. While it may be true that broker-dealers and investment advisers compete for customers and clients based on similar skill sets, it is absolutely not the case that these individuals are subject to fiduciary requirements outside of Massachusetts. Thus, given that fiduciary standards do not govern the activities of these registrants in most jurisdictions, it is necessary for broker-dealer firms to have increased disclosure and review responsibilities in order to protect investors.

2. Limiting Outside Activities to Only Those Defined as Investment Related Is Too Narrow.

The Proposed Rule's narrowing of mandated OBA notice to "investment-related activity" overlooks wide swaths of OBA activity that are likely to cause investor harm. A broader

definition is necessary to ensure supervision is evergreen and able to evolve with regulatory requirements governing broker-dealer conduct—including Massachusetts' fiduciary duty rule.

The Proposed Rule's limited subset of practices critically excludes consulting, legal, tax, and marketing functions, as well as accountancy and financial control positions that can be precursors to larger fraudulent activity—and all of which occupy positions of trust relied upon by investors. A system that has no reporting requirement for activities that are "not investment-related" leaves it up to the associated/registered person to determine what they need to report. This opens a Pandora's Box of characterization risk and, at a minimum, creates a blind spot concerning what registered persons may be doing outside of the member.

My office's recent action against a broker-dealer in connection with its supervision of an agent's OBA demonstrates that notice of and supervision over a broader set of outside activities is needed to protect investors. In this case, the failure of the broker-dealer to conduct reasonable supervision of the agent's OBA left undetected a multi-million dollar fraud stemming from an agent's OBA. The member firm failed to reasonably review outside business activities conducted by the agent – purportedly a "marketing" entity. For nearly 30 years, spanning multiple broker-dealers, the agent defrauded his clients by creating fake account statements and invoices under the guise of the marketing arm. Under the Proposed Rule, such conduct would go underreported at best and unreported at worst.

The Proposed Rule would also exclude or inject unnecessary discretion as it pertains to some of the market's highest-risk assets and products, which are often replete with conflicts. These include non-fungible tokens, event contracts, tokenized securities, credit cards, and loans (including reverse mortgages), and collectibles, among others. These products represent the fringe of assets available to retail investors. These products are replete with risk, are often misunderstood by retail investors, and are typically expensive. As such, they should be subject to multiple layers of oversight. These products would benefit from ongoing supervision to prevent inappropriate cross-selling efforts. Further, FINRA member firms with affiliated entities, including crypto and commodity partners, should not be exempt from supervision standards to ensure that products that may be cross-sold will be in the best interest of its customers.

3. The Exception for Outside Business Activities Is Too Broad.

The Proposed Rule is also problematic in its exclusion of portfolio managers and investment committee members. If the broker-dealer approves the activity, it would not be required to supervise and maintain records for an associated person who is acting as a portfolio manager or investment committee member for registered investment companies, unregistered investment companies, business development companies, real estate investment trusts, and entities that are recognized as tax exempt, unless the associated person is selling such entities' shares for selling compensation.

In these roles, an associated person may be subject to a range of conflicts. In some cases, the associated person could have fiduciary duties to the fund and its investors. In the context of a tax-exempt organization, there may be risks and conflicts that could harm the organization.

There should not be a *per se* exclusion of these activities from the requirements to supervise and maintain records.

In the end, the Proposed Rule is a solution in search of a problem. I urge FINRA to reconsider the degree to which the Proposed Rule would absolve FINRA's member firms of supervisory obligations needed to protect investors. Please contact me or Anthony R. Leone, Deputy Secretary of the Commonwealth, at 617-727-3548 if you have questions or we can assist in any way.

Sincerely,

William F. Galvin
Secretary of the Commonwealth
Commonwealth of Massachusetts

PIABA
PUBLIC INVESTORS ADVOCATE BAR ASSOCIATION

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May 7, 2025

Via Email Only: *pubcom@finra.org*

Ms. Jennifer Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, N.W.
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 25-05 – Proposed New Rule Governing Outside Business Activities and Private Securities Transactions

Dear Ms. Mitchell:

I write on behalf of the Public Investors Advocate Bar Association ("PIABA"), an international bar association comprised of attorneys who represent investors in securities arbitration and litigation. Since its formation in 1990, PIABA has promoted the interests of the public investor in all securities and commodities arbitration forums, while also advocating for public education regarding investment fraud and industry misconduct. Our members and their clients have a strong interest in rules promulgated by the Financial Industry Regulatory Authority (hereinafter "FINRA") related to investor protection.

FINRA Regulatory Notice 25-05 seeks comments concerning reforms to FINRA Rules 3270 and 3280. While FINRA has proposed retaining most aspects of the supervisory requirements in these rules, there are several exceptions and modifications which PIABA believes increases risk for the investing public. FINRA proposes to exempt member firms from supervising:

- Investment related activities at member affiliates including IAs, banks, and insurance companies;
- Non-investment related work and outside business activities; and
- Personal investments in non-securities;

PIABA's position is that FINRA's proposed rule changes would result in member firms implementing supervisory procedures that would be deemed unreasonable under the Exchange Act, subject members to substantial reputational and litigation risk, and increase investor harm and exploitation by representatives who would exploit the rules. Further, PIABA believes that the proposed rule change would not result in meaningful differences in supervisory practices while potentially increasing confusion. Consequently, PIABA strongly disfavors the implementation of this rule.

FINRA's supervisory rules concerning outside business activities ("OBAs") and private securities transactions (a/k/a "selling away") have serious consequences for investors and members alike. Despite the existing rules, selling away remains a top concern. Each year FINRA brokers engage in dozens of fraudulent schemes costing investors their irreplaceable life savings.[1] For over 30 years the NASD and now FINRA have emphasized that private securities transactions "presents serious, regulatory concerns." Notice To Members ("NTM") 85-84. The SEC has stated that:

> [FINRA] Conduct Rule 3040 [prohibiting "selling away"] is designed not only to protect investors from unsupervised sales, but also to protect securities firms from liability and loss resulting from such sales. Such misconduct deprives investors of a firm's oversight, due diligence, and supervision, protections investors have a right to expect.

In re Siegel, 2008 SEC LEXIS 2459 at *36 (Oct. 2, 2008), *aff'd Siegel v. SEC,* 592 F.3d 147, 156 (D.C. Cir. 2010) (citation omitted).

Selling away is the practice of a registered representative who has a license to legally sell securities to engage in the unlicensed sale of securities. Those who do so act as brokers within the meaning of Section 3(a)(4) of the Exchange Act [15 U.S.C. §78c(4)] and are not registered with the SEC in accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)]. Firms that fail to supervise their registered representatives to reasonably detect and prevent such activities run the risk of being sanctioned by the SEC because firms are responsible for preventing their registered representatives from violating the securities laws.

Exchange Act Section 15(b)(4)(E) provides that the SEC can sanction or revoke the registration of any member firm "if it finds… that such broker or dealer… has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, [the Securities Exchange Act of 1934], the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, ***or has failed reasonably to supervise, with a view to preventing violations of the provisions of such statutes, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision."*** 15 U.S.C. § 78o(b)(4)(E) (emphasis added).

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[1] For the past 15 years the sales of unregistered securities by unlicensed salesman have been noted as one of the top violations that The North American Securities Administrators Association ("NASAA") reports each year. *See* NASAA 2024 Enforcement Report (available at: https://www.nasaa.org/wp-content/uploads/2024/10/FINAL_2024-Enforcement-Report.pdf) ("The top three violations charged were the offer or sale of securities/investment advice by unlicensed parties (394 actions), the offer or sale of unregistered securities (386 actions)..."); 'Selling away' again a concern for regulators, InvestmentNews, (Oct. 14, 2011) (available at: https://www.investmentnews.com/broker-dealers/selling-away-again-a-concern-for-regulators/39244#:~:text=Stockbrokers%20who%20sell%20products%20that,concern%20for%20state%20securities%20regulators) (NASAA reported that in 2011 there were 54 enforcement actions involving selling away.)

The Exchange Act was written with the understanding that those who commit securities fraud might abuse their securities registration and association with licensed firms to perpetrate fraud. The Exchange Act requires broker-dealers to supervise all of a representative's investment activities, no matter how the activity is executed, providing a prophylactic approach to supervision designed to prevent violations of the securities laws. Registration by a representative under the Investment Advisor Act or any other securities act in no way lessens a broker-dealers responsibility to reasonably supervise the activity of the representative to prevent violations of the securities laws.[2] In sum, The Exchange Act has no provision allowing for the delegation of supervision to another securities statute.

FINRA and the SEC have both reinforced members' need to comply with the requirements of the Exchange Act. *See* Staff Legal Bulletin No. 17: Remote Office Supervision, SEC Rel. No. SLB-3A(CF), 2004 WL 5698359 (Mar. 19, 2004) ("Sections 15(b)(4)(E)1 and 15(b)(6)(A) 2 of the Securities Exchange Act of 1934 (Exchange Act) authorize the Commission to impose sanctions on a firm or any person that fails to reasonably supervise a person subject to their supervision that commits a violation of the federal securities laws."). In a joint notice FINRA and the SEC stated:

> The responsibility of broker-dealers to supervise their associated persons is a critical component of the federal regulatory scheme. Sections 15(b)(4)(E) and 15(b)(6)(A) of the Exchange Act authorize the Commission to impose sanctions on a firm or any person that fails to reasonably supervise someone that is subject to the supervision of such firm or person who violates the federal securities laws. In order to defend such a charge, a broker-dealer could show that it has established procedures that would reasonably be expected to prevent and detect a violation by such other person, and has a system for applying such procedures that has been effectively implemented. Such a system must be designed in such a way that it could reasonably be expected to prevent and detect, insofar as practicable, securities law violations.

[2] FINRA also incorrectly states in its Proposal that the "current rules and the Proposal impose a regulatory burden for members that is not matched by equivalent requirements in the IA industry." Pg. 10. This is not true as the duty is exactly the same on the IA side. IA's have the same duty to reasonably supervise their representatives to prevent them from violating the Exchange Act and other securities statutes. *See* 15 U.S. Code § 80b-3(e)(6) SEC may sanction any IA that "has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], subchapter I of this chapter, this subchapter, the Commodity Exchange Act [7 U.S.C. 1 et seq.], the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or has failed reasonably to supervise, with a view to preventing violations of the provisions of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision."

National Examination Risk Alert: By the Office of Compliance Inspections and Examinations in cooperation with the Financial Industry Regulatory Authority, Vol. 1, Iss. 2, pg. 4 (Nov. 30, 2011). Both Staff Legal Bulletin No. 17 and National Examination Risk Alert focused on the need to supervise OBAs and selling away activity to prevent violations of the Exchange Act.

I. Associated Person's Non-BD Activity On Behalf of a Member Or its Affiliate

FINRA's proposal excludes from a Member's supervisory responsibility an associated person's non-BD activity conducted on behalf of a member or its affiliate. FINRA provides examples as being IA activity at a dually registered firm and insurance or banking activity conducted at an affiliate. FINRA states that the justification for the exclusion for activity conducted at an affiliate recognizes members' ability to implement meaningful controls across business lines.

PIABA's position is that FINRA firms must supervise the activities of their registered representatives' investment related activities no matter where such activities occur in order to comply with the Exchange Act's requirements. The Exchange Act provides no exemption for reasonable supervision based on the fact that the investment activity takes place through an affiliate of a broker-dealer. As such, FINRA's proposal would leave firms potentially vulnerable to failure to supervise claims by the SEC and other regulators.

Further, FINRA's statements are inconsistent. On the one hand, FINRA claims that members implement meaningful controls across business lines. On the other hand, FINRA claims that activity performed on behalf of a dually registered firm is not considered activity performed away from the member as if there is no corporate distinction between a broker-dealer and an investment advisor if they are affiliates. Any activity performed away from a FINRA member cannot be the member's activity and must be supervised as if it was conduct through the member.

Finally, FINRA does not even identify any regulatory burden that it is alleviating through its proposed rule change. As noted, the "vast majority of member affiliates are under common control; thus, these affiliates may share compliance resources and systems." Proposal, pg. 10. Those compliance resources would include common compliance officers, supervisors, unified books and records, email systems, examination cycles, clearing firms, etc. Accordingly, the Proposal not only fails to protect member firms against failure to supervise claims, but is a solution in search of a problem that does not exist.

II. Non-Investment Related Work and Outside Business Activities

FINRA's Proposal's limits the scope of OBAs to those that are investment related and excludes the need to report non-investment related OBAs. FINRA claims that non-investment related activities are common and varied and that removing reporting requirements for such activities would relieve both registered persons and members from costs associated reporting and review of these activities. FINRA concludes that "there is likely little risk that noninvestment-related activities could be perceived by the investing public as part of the member's business." Pg. 9.

PIABA's position is that FINRA firms must supervise the OBAs of their registered representatives' in order to detect and prevent violations of the securities laws in compliance with the Exchange Act's requirements.

The SEC has stated that all OBAs should be assessed for potential risks.

> a firm should be alert to and investigate "red flags" indicating possible undisclosed outside business activities and assess all outside business activities by a representative, whether or not related to the securities business. The Commission has recognized that there is a risk that representatives will use outside business activities to carry out or conceal securities law violations.

Staff Legal Bulletin No. 17.

In the National Examination Risk Alert, FINRA and the SEC stated that OBAs should be inspected during branch examinations to confirm "that the scope of outside business activities of registered branch office personnel conform to those activities authorized by the firm[,] is an important component of the branch office inspection, and addresses a risk that may be more difficult to monitor." pg. 3.

PIABA members' experience has been that registered representatives use a variety of OBA businesses to solicit investors for financing. Such schemes include all manner of businesses including real estate, restaurants, health care related facilities, equipment, or medications, leasing or equipment companies, film companies, software related companies, and other private equity ventures. Arguably none of the foregoing types of businesses that result in common selling away activity and investor harm would be classified as investment-related activity under the Proposed FINRA Rule 3290(f)(2).

In addition, FINRA's Proposal appears to place the registered representative in charge of determining what an "investment-related activity outside the scope of such person's relationship with the member that is not in connection with a securities transaction" is. An outside investment-related activity that is not a securities transaction has not been previously defined by any regulator or securities statute. Due to the confusing nature of the Proposal's application most firms are likely to continue to document all OBAs and require their registered representatives to bring all OBAs to the firm's attention for review. It is likely firms would continue to make determinations as to whether or not the disclosed OBA would have to be reported on the representatives Form U4 or be internally classified and monitored as an outside non-investment related activity.

Proposed Rule 3290(a) also requires firms to monitor for a "material change to the outside activity" that would render the activity either an outside investment-related activity that is not a securities transaction or an outside investment-related activity that is a securities transaction (a/k/a private securities transaction). Firms would have to have documentation of even non-investment related activity in order to keep track of disclosed activity that may be subject to the rule's material change provision.

FINRA's proposed changes to disclosures of OBAs does little to either protect investors or provide firms and registered representatives with clarity while failing to provide any meaningful supervisory relief. Moreover, FINRA does not identify any significant regulatory burden on registered representatives and firms to disclose activities such as refereeing sports games or being an Uber driver.

III. PIABA's Comments on Dually Registered Representatives with Unaffiliated RIAs

As PIABA noted with respect to FINRA Regulatory Notice 18-08 a rule change with respect to dually registered unaffiliated IAs would result in member firms implementing supervisory procedures that would be deemed unreasonable under the Exchange Act, subject members to substantial reputational and litigation risk, and increase investor harm and exploitation by representatives who would exploit the rules. PIABA continues to strongly disfavor the implementation of rules that expose members and public to harm and regulatory sanctions.

Registration by a representative under the Investment Advisor Act or any other securities act in no way lessens a broker-dealers responsibility to reasonably supervise the activity of the representative to prevent violations of the securities laws under Sections 15(b)(4)(E) and 15(b)(6)(A) of the Exchange Act. Neither the current Proposal nor NTM 18-08 addressed how such rule proposals would change member's supervisory responsibilities under Exchange Act's explicit supervisory requirements.

The current FINRA Rules 3270 and 3280 and NTMs 91-32, 94-44, and 96-33[3] are designed to reasonably achieve compliance with a member's supervisory obligations under the Exchange Act. Repealing existing guidance and rules will endanger member firms and remove guidance essential for firms to understand their supervisory obligations under Federal law. No FINRA study or notice has provided evidence or justification that outside businesses or activities engaged in by dually registered representatives no longer pose a risk that such activities would not be used to conceal securities laws violations. Failing to supervise disclosed investment activities or those discovered by "red flags" would subject member firms to charges of failing to supervise and increase the likelihood of investor harm.

It has been the experience of PIABA members that registered representatives establish solo or small IA firms and use OBAs in order to avoid member supervision to the harm of investors. Below are just some examples of investors losing hundreds of millions in investment frauds perpetrated by registered representatives through third-party IAs established by the registered representative:

[3] NASD NTM 91–32 (the NASD states that Rule 3040 "should apply to all investment advisory activities" and "to conclude otherwise would permit registered persons to participate in securities transactions outside the scope of the oversight and supervision of the employer member and of a self-regulatory organization to the potential detriment of customers."

Registered Representative	Securities Violation Details
Patrick Churchville (CRD#: 2245842)	FINRA panel found that Churchville's member firm failed to supervise Churchville's private equity fraud conducted through his IA. The award was later confirmed in court. Churchville's fraud caused $27 million in losses to more than 220 victims and was subject to an SEC action and criminal charges.
Adam Nugent (CRD#: 4549399)	SEC found that advisor Adam E. Nugent defrauded clients to invest in Agronomic Capital, LP. In addition, to Agronomic, Mr. Nugent also engaged in other PSTs including the Auto Loan Fund LLC, Union Commercial Service Group, Candera Capital LLC, Mountain Bike, and in one instance a personal loan to finance Mr. Nugent's business endeavors. Mr. Nugent was dually registered as an IA through Foresight Wealth Management ("FWM") while also being registered as a broker. Investors brought a claim against the broker-dealer alleging over $13 million in investor losses.
In re Purshe Kaplan Sterling Investments, Inc., Docket No. E-2021-0014 (Mass. Jan. 4, 2024	From September 2016 through 2024 the State of Massachusetts found that PKS failed to have in place written policies and procedures to review the investment advisory transactions of its dually registered advisors ("DRAs") in 2017 and 2018 for transactions that occurred in accounts managed solely by unaffiliated registered investment advisers. The unaffiliated RIA engaged in leveraged ETF transactions that were not supervised and PKS never flagged any of the transactions for review.
Brendan Shaw (CRD#: 4721215)	PKS paid a $1.6 million settlement with 50 clients for failing to supervise Brendan Shaw. Mr. Shaw defrauded the Claimants by trading their accounts through his RIA firm, Thomsen Financial Advisors LLC ("TFA"). Mr. Shaw and his business partner engaged in reckless options trading that caused his clients tremendous losses.
Dean Mustaphalli (CRD#: 2792038)	Some victims have alleged that Mustaphalli's member firm failed to supervise a hedge fund operated through his IA. Mustaphalli's fraud caused $10 million in losses to 58 victims and was subject of an action by the New York Attorney General's office.
Cory Burnell (CRD#: 3260340)	Some victims have alleged that Burnell's member firm failed to supervise extraordinarily risky leveraged ETF trades conducted through Burnell's IA. Burnell's fraud caused about 30 investors more than $2 million.
Tamara Steele (CRD#: 3227494)	Some victims have alleged that Steele's member firm failed to supervise private placement sales conducted through Steele's IA. Steele's sales caused approximately 100 investors more than $7.5 million in losses
Vetea Ribet (CRD#: 4823379)	Mr. Ribet was an IA through Westside Investment Management's ("WIM"). Mr. Ribet recommended that an investor engage in a speculative options investment strategy involving a bear call spread that caused over $2 million in losses. Correspondence showed that Mr. Ribet represented the speculative strategy to as conservative.

In addition, FINRA and members that advocate for this rule change fail to provide a realistic vision of how such a rule could be realistically implemented. FINRA members would still be required to supervise emails, gather information about IA OBAs, and inspect branch locations for 'red flags' for violations of the securities laws. A firm with red flags of Ponzi scheme activities or other fraud would not be able to turn a blind eye and continue to employ that individual just because the broker-dealer believed the activity was only occurring at an IA.

Moreover, such schemes would most likely be conducted as an unregistered broker-dealer and not as an IA creating an enormous blind spot in members' ability to supervise violations not of the Investment Advisors Act but of the Exchange Act. If the IA sells a private venture to a client without having the asset custodied in an advisory account that charged an advisory fee the broker-dealer would not be able to show that the activity was IA activity as opposed to unregistered broker-dealer activity. If we change the above fact pattern so that Ponzi scheme victims never sign opening account forms with the IA and no accounts are established at the IA firm a member firm would also be unable to show that the scheme was conducted through the IA. FINRA should not propose a private securities transaction rule where a fraudster's unsupervised paperwork lapses have the effect of altering a member's supervisory responsibilities in the first instance. As repeated throughout this response a member's supervisory responsibilities stem from the Exchange Act which does not permit broker-dealers to claim supervisory loopholes based on dual registration.

The foregoing example is not a made up example but one that continues to occur in scenarios PIABA members encounter. For example, IA Adam Nugent ran several private equity funds. Mr. Nugent was dually registered as an IA through Foresight Wealth Management ("FWM") while also being registered as a broker. The broker-dealer argued in federal court that the private securities transactions occurred through FWM. However, these investments were never custodied in a FWM account nor was any evidence provided that FWM charged an advisory fee on these investments. A federal judge found that the "Agronomic investment was not made through the [investor's] accounts with Foresight." *Purshe Kaplan Sterling Invs., Inc. v. Thomsen,* No. 2:24-CV-00002-JNP, 2024 WL 1307268, at *9 (D. Utah Mar. 26, 2024). Accordingly, Mr. Nugent was engaged in unlicensed broker-dealer while being registered with a broker-dealer. In this example we can see how an IA can conceal violations of the Exchange Act within an IA firm. The only way to comply with the Exchange Act's requirements to protect member firms and the investing public is to supervise securities activities.

In addition, any such rule proposal would have to be harmonized with multiple NTMs as far reaching as suitability, record keeping, and branch audits. If the proposed rule were implemented FINRA would have to spend years clarifying whether or not dozens of previously issued NTMs were intended to be modified by the proposed rule or how firms would be expected to comply with prior guidance.

For example, a recommendation to a registered representative's client to sell all of their assets at a member firm to invest entirely in private placements at the registered representative's IA would be a recommendation or investment strategy that the registered representative's member would have to supervise under RN 12-25. *See* pg. 6. Under the proposed rule, registered representatives would be incentivized to move assets from brokerage accounts to their IA in order to make

recommendations in products and services that their member firm would not approve. Yet, the movement of such assets would be a transaction that would still need to be supervised under prior guidance.

Other aspects of previous suitability guidance are also implicated. FINRA has stated that the suitability rule "requires a broker to seek to obtain and analyze a customer's other investments. The rule thus explicitly permits a suitability analysis to be performed within the context of a customer's other investments." RN 12-25, pg. 13. A FINRA member would have to have access to the IA's investments in order to ensure that member firms were acting in their client's best interests.

Likewise, member firms are obligated under Rule 17a-4 to record and supervise communications of their registered representatives related to firm business. *See* SEC Rel. No. 34-38245 (Jan. 31, 1997). Any potential rule would not clarify FINRA's past guidance on member firm's requirements to record correspondence and investigate "red flag" communications through OBAs, through affiliated firms or third-party IAs that share joint clients with members and other scenarios. It is unlikely that FINRA would be able to devise a correspondence supervisory protocol that would achieve compliance with Rule 17a-4 without requiring firms to monitor and record all investment-related emails.

Finally, any such proposed rule would clearly contradict prior SEC guidance and fails to clarify whether or not FINRA is proposing to limit the scope of branch audits and its joint guidance with the SEC under RN 11-54.

FINRA and member firms have provided weak justifications for providing guidance that is contrary to the Exchange Act's Section 15(b)(4)(E) supervisory requirements. Common arguments include that the SEC overseas RIAs, privacy concerns, and that RIAs are held to a fiduciary standard. None of these reasons provide much cause for concern.

The fact that the SEC overseas RIAs is irrelevant. The SEC also overseas broker-dealers, yet FINRA has yet to propose that firms should stop supervising their own representatives. Moreover, the SEC has repeatedly held that firm supervision is the first line of defense to prevent violations of the securities laws.[4]

Privacy concerns are routinely taken care of through disclosure of how investor information is shared and FINRA has never provided examples of firms' being sanctioned for supervising their representatives due to privacy law violations.

[4] Richard Y. Roberts, SEC Commissioner, "The Role of Compliance Personnel" (Apr. 7, 1995) (available at: https://www.sec.gov/news/speech/speecharchive/1995/spch030.txt#:~:text=Section%2015(b)(4)(E)%20authorizes%20the%20Commission%20to%20impose,is%20subject%20to%20his%20supervision.%22%20It%20is) ("It should come as no surprise to you that the Commission views the role of inhouse compliance personnel as being critical to the maintenance of the integrity of our securities markets. You are the first line of defense against fraud and sales practice abuse…")

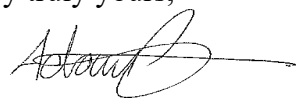
Finally, there are many situations where fiduciary duties are imposed on broker-dealers and a number of states apply a general fiduciary duty on broker-dealers. In addition, the SEC has stated that "Regulation Best Interest ("Reg BI") for broker-dealers and the fiduciary standard for investment advisers under the Investment Advisers Act (the "IA fiduciary standard") are drawn from key fiduciary principles that include an obligation to act in the retail investor's best interest and not to place their own interests ahead of the investor's interest."[5] "Both Reg BI and the IA fiduciary standard require your account recommendations to be in the retail investor's best interest and require you not to place your or your firm's interests ahead of the retail investor's interest." *Id.* Accordingly, the standard of care is more similar than dissimilar.

In addition, as FINRA itself has noted for RIAs affiliated with a broker-dealer, the "vast majority of member affiliates are under common control; thus, these affiliates may share compliance resources and systems." Proposal, pg. 10. It cannot be that the rules governing RIAs and broker-dealers are so vastly different that the same compliance and systems could be used by RIAs affiliated with broker-dealers and at the same time so different as to make it impossible to supervise effectively.

The current rules and guidance were issued in order to protect member firms from litigation risk and investors from unsupervised investment activity. Rule changes under consideration appear aimed at ensuring that members will be exposed to increased litigation and investors to increased potential harm.

In sum, PIABA is concerned that FINRA continues to entertain rule proposals that will lead to industry non-compliance with the supervisory requirements of the Exchange Act and provide unscrupulous advisors with a road map to commit securities laws violations to the danger of members and the investing public alike. PIABA thanks you for the opportunity to comment on this important topic.

Very truly yours,



Adam Gana, President Public Investors
Advocate Bar Association

[5]*Staff Bulletin: Standards of Conduct for Broker-Dealers and Investment Advisers Conflicts of Interest* (available at: https://www.sec.gov/tm/iabd-staff-bulletin-conflicts-interest)

gerber

May 1, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I **strongly object** to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. **We are fiduciaries and subject to those standards, which provides the end client holistic and thorough protections**. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Randall T Gerber
Gerber, LLC

614.431.4343 580 N Fourth Street, Suite 400, Columbus, OH 43215



Securities Arbitration Clinic
St. Vincent DePaul Legal Program, Inc.
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Queens, NY 11439
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Fax (718) 990-1961
www.stjohns.edu/law/sac

May 13, 2025

Via Email to pubcom@finra.org
Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: FINRA Regulatory Notice 25-05, Outside Activities

Dear Ms. Mitchell,

Thank you for the opportunity to provide feedback in response to FINRA's request for comment on a proposal to reduce unnecessary burdens and simplify requirements regarding associated persons' outside activities. We write this comment on behalf of the Securities Arbitration Clinic at St. John's University School of Law. The Clinic is part of the St. Vincent de Paul Legal Program, Inc., a not-for-profit legal services organization. The Clinic represents underserved investors with small dollar claims and is committed to investor protection and education. We have had numerous investors seek the help of the Clinic due to financial losses related to brokers' outside activities. Accordingly, the Clinic has a strong interest in ensuring that investors' interests are protected as FINRA works to enhance efficiencies for members.

The Clinic generally supports the proposal to streamline current Rules 3720 and 3280 into a single new Rule 3290. We recommend that FINRA incorporate or provide easy access to the helpful flow charts in Attachment B of the Notice as part of the new rule and highlight these charts as part of any accompanying guidance.

In addition, the Clinic appreciates the distinction made in the Notice between outside investment-related activities that may pose a greater risk to the investing public and members

(e.g., selling crypto assets, fixed annuities, commodities, or private placements away from the member) and lower-risk activities that create white noise (e.g., refereeing sports games, driving for a car services, or bartending on weekends). We do not object to the elimination of the reporting and assessment of the lower-risk activities. However, we believe that the proposed definition of "investment-related activity" excludes some outside activity that could be viewed by investors as being undertaken as part of a broker's work at the member firm, including financial planning, tax advice, business advice, and broker-customer business relationships. For example, if a broker is also acting as an investor's accountant, the investor may perceive tax advice as part of or connected to the broker's investment advice. Additionally, if the broker is providing business advice or engaging in a business relationship with a customer, such as providing or facilitating investment in a customer's business, the customer may perceive those actions as implicit investment advice related to the business activity.[1] Therefore, we recommend that the definition of "investment-related activity" be expanded to encompass these types of activities to avoid potential confusion or conflicts related to the nature of the activity in question, particularly for small or unsophisticated investors.

We appreciate the opportunity to provide feedback on the proposed changes to simplify the outside activities rules while maintaining a focus on investor protection.

Respectfully Submitted,

St. Vincent De Paul Legal Program, Inc.
Securities Arbitration Clinic
St. John's University School of Law

Elissa Germaine, Esq.
Elissa Germaine, Supervising Attorney

Christine Lazaro, Esq.
Christine Lazaro, Supervising Attorney

[1] Such a relationship may also create a closer than arm's length relationship that raises concerns similar to a broker being named as a trustee or beneficiary, as addressed by FINRA Rule 3241.

Michael Gilberg Comment On Regulatory Notice 25-05

Michael Gilberg

None

I oppose this legislation it will cause a massive dip in the markets.

we do not need more bureaucracy.

Equity
WEALTH PARTNERS

4/24/25

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



David Gilmore, CFP®, BFA™, APMA®
Financial Advisor

american securities association
America's Voice for Main Street's Investors

May 13, 2025

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Regulatory Notice 25-05, FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities

Dear Ms. Mitchell,

The American Securities Association[1] (ASA) appreciates the opportunity to comment on FINRA's proposal to streamline and reduce unnecessary burdens regarding the outside business activities (OBA) of associated persons, as outlined in Regulatory Notice 25-05. We are writing to express our support for several key aspects of the proposal, as well as to provide suggestions to further ease onerous burdens for FINRA's consideration.

Support for Consolidation and Streamlining
We strongly support FINRA's initiative to consolidate Rules 3270 and 3280 into a single rule, narrowing the scope of reportable outside activities to those that are investment-related. This approach will reduce unnecessary compliance burdens for both firms and registered persons by eliminating the requirement to report and assess non-investment-related activities, such as refereeing sports games, driving for a car service, or bartending on weekends. These activities do not pose an investment risk to investors and do not warrant regulatory oversight, but do require significant resources in order to meet current obligations. Eliminating these and similar activities from the parameters of the rule will allow firms to focus on activities that are more likely to impact clients or create conflicts of interest.

Focus on Registered Representatives Only
We recommend that FINRA narrow the scope of outside business activity disclosure and review requirements to registered representatives actively engaged in securities transactions. Individuals who are not registered and do not have client contact generally do not pose a risk to investors and should not be subject to OBA monitoring. This targeted approach would reduce unnecessary compliance burdens and allow firms and regulators to focus resources on the population that directly impacts investor protection.

[1] ASA is a trade association that represents the retail and institutional capital markets interests of regional financial services firms who provide Main Street businesses with access to capital and advise hardworking Americans how to create and preserve wealth. ASA's mission is to promote trust and confidence among investors, facilitate capital formation, and support efficient and competitively balanced capital markets. This mission advances financial independence, stimulates job creation, and increases prosperity. ASA has a geographically diverse membership base that spans the Heartland, Southwest, Southeast, Atlantic, and Pacific Northwest regions of the United States.

Limiting Supervision to Investment-Related Activities by Registered Representatives
While we support the proposal's focus on investment-related activities, this focus should be explicitly limited to activities conducted by registered representatives in connection with securities transactions or client relationships. Expanding supervision beyond this scope, particularly to non-registered persons or unaffiliated registered investment adviser (RIA) activities, risks regulatory overlap, investor confusion, and unnecessary burden on broker-dealers.

Existing Rule Language Supports Narrower Scope
A literal reading of current OBA rules supports limiting monitoring and disclosure requirements to registered representatives engaged in securities transactions. FINRA's expansive guidance over the years has broadened the scope beyond the original intent, creating regulatory uncertainty and inefficiency. We urge FINRA to clarify the rules to reflect this narrower, more precise focus rather than relying on guidance that is more than thirty years old.

Exclusions for Low-Risk Investment-Related Activities
We support the proposal's exclusion of certain non-investment-related activities, such as weekend jobs or personal pursuits that do not involve securities or client impact, from reporting requirements. Similarly, rental property activities generally do not impact investors and should be excluded unless there is direct client involvement warranting supervision.

Concerns Regarding Supervision of Unaffiliated RIA Activities
We urge FINRA to remove any obligation for broker-dealers to supervise outside investment activities conducted at unaffiliated RIAs. This requirement is outdated and inconsistent with modern regulatory frameworks, including Regulation Best Interest, which clearly delineates the standards and responsibilities applicable to broker-dealers and investment advisers. Imposing broker-dealer supervision over unaffiliated advisory activities risks investor confusion, regulatory overlap, and disproportionate burdens on broker-dealers without reciprocal obligations for RIAs. It is unfair for broker-dealers to be subject to this duplicative requirement and investors should be reasonably assured that SEC and state securities regulators are adequately supervising RIA compliance with their regulatory regimes.

Flexibility for Firms to Adopt Enhanced Supervisory Procedures
We recommend that FINRA explicitly acknowledge that member firms may adopt additional reporting and supervisory requirements through their Written Supervisory Procedures (WSPs) to capture non-investment related activities as necessary to fulfill their supervisory obligations. Incorporating such a provision into the proposal would enable firms to establish clear expectations for registered representatives as they determine necessary to assess without requiring firms to acquire such oversight authority contractually or otherwise with their representatives.

Clarification and Practical Considerations for Private Securities Transactions and Beneficial Ownership
We urge FINRA to reconsider the requirement that firms receive prior written notice for "buying away" private securities transactions involving registered representatives. In 2017, when FINRA announced in *Regulatory Notice 17-20* (May 2017) a retrospective review of these rules, it was clear that the intention of these rules was to require supervisory and recordkeeping obligations on "selling away"

activity, but not on passive investments made by registered representatives. While firm awareness of selling away PSTs is important for investor protection, passive "buying away" activity does not provide protection to consumers and imposes significant and unnecessary administrative burdens on member firms. Instead, we recommend adopting a more flexible risk-based approach that eliminates obligations for supervision of buying away PSTs. This would allow firms to focus resources on transactions that pose genuine supervisory concerns while reducing unnecessary compliance overhead. Additionally, we encourage FINRA to clarify and limit reporting obligations related to beneficial ownership interests in private securities held by spouses and other family members, as firms lack the ability to enforce disclosure or attestations from non-associated persons. Eliminating these requirements would better align regulatory expectations with practical realities, focusing oversight on activities directly involving the representative.

Additional Requests for Clarity

While we support the overall direction of the proposal, we encourage FINRA to provide further guidance and illustrative scenarios, particularly regarding:

- The definition of "investment-related activity," ideally focused on client investments or activities that could impact clients.
- The treatment of complex ownership structures, such as LLCs used to facilitate investments, to clarify when disclosures or Form U4 amendments are required.
- The application of disclosure requirements to activities involving spouses, domestic partners, or household members.
- The scope of "affiliate" definitions to ensure clarity on activities performed at affiliated entities versus unaffiliated firms, recognizing that there are legitimate relationships between broker-dealers and banks, credit unions and insurance companies, where the registered representative should not be required to report their activity with their primary employer as an outside activity.

Conclusion

The proposed changes represent a positive step toward modernizing the OBA framework, reducing unnecessary burdens, and focusing regulatory oversight where it is most needed. However, FINRA should reconsider the continued imposition of unnecessary oversight of unaffiliated RIA activity and non-registered persons without client contact. We look forward to continued engagement and offer our assistance in developing further guidance as the rulemaking process progresses.

Thank you for considering our comments.

Sincerely,

Jessica Giroux

Jessica R. Giroux
General Counsel
American Securities Association

Timothy Githens Comment On Regulatory Notice 25-05

Timothy Githens

Thank you for the opportunity to comment on Regulatory Notice 25-05. While I support efforts to streamline oversight, I oppose the proposed consolidation of Rules 3270 and 3280 in their current form.

The definition of "investment-related activities" is overly broad and risks encompassing low-risk or personal activities that do not warrant regulatory scrutiny. This may overwhelm firms with unnecessary reporting while distracting from truly material conflicts.

Additionally, the proposal could create inconsistent burdens for dual-registered individuals and introduce privacy concerns by requiring disclosures that may conflict with client confidentiality.

Rather than reducing burdens, this rule may increase compliance costs and uncertainty. I urge FINRA to reconsider this approach and work more closely with stakeholders to craft a rule that is effective but reasonable.

Sincerely,

Timothy Githens

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April 24, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Audrey Glafkides

Audrey Glafkides



May 6, 2025

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

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am the co-owner of a Registered Investment Advisory (RIA) firm registered directly with the U.S. Securities and Exchange Commission (SEC), and I am also a registered representative of an unaffiliated FINRA-member broker-dealer. I appreciate the opportunity to comment on proposed Rule 3290, as outlined in FINRA Regulatory Notice 25-05.

Our RIA operates independently and in compliance with SEC regulations and fiduciary standards. The brokerage business we conduct through our FINRA affiliation accounts for less than 5% of our total firm revenue. That business is limited to servicing a **legacy group of clients** who have held broker-dealer products for many years. We are not actively adding new brokerage business or products in any meaningful way.

The proposed Rule 3290 would impose broad new supervisory obligations on broker-dealers related to outside business activities—including oversight of advisory firms like ours that are already fully regulated by the SEC. This would effectively place our independent RIA business under the supervision of an unaffiliated broker-dealer, even though there is no legal, operational, or regulatory connection between the two.

This proposal raises several serious concerns:

- It would require sharing confidential client information with an unaffiliated broker-dealer, potentially violating Regulation S-P and state-level privacy laws.
- It undermines the fiduciary relationship between advisors and clients by introducing oversight from entities with no direct responsibility for advisory outcomes.
- It creates an uneven regulatory playing field, where SEC-registered RIAs with dually registered personnel are subjected to duplicative and conflicting supervisory regimes.

1355 Beverly Rd, Suite 310
McLean, VA 22101
703-566-9573
www.4jwealth.com

4J Wealth Management, LLC is a Registered Investment Adviser. Advisory servicess are only offered to clients, or prospective clients where 4J Wealth Management, LLC and its representatives are properly licensed or exempt from licensure. Past performance is no guarantee of future returns. Investing involves risk and possible loss of principal capital. No advice may be rendered by 4J Wealth Management unless a client service agreement is in place.

4J WEALTH
MANAGEMENT

- It risks disincentivizing the continued servicing of brokerage clients by small advisory firms, not because of any compliance failure, but due to an untenable compliance burden.

If adopted as proposed, this rule would force us to seriously consider relinquishing our broker-dealer registrations entirely, not because of wrongdoing or lack of investor protection, but because the cost and complexity of compliance would be disproportionate to the scale of our legacy brokerage business. The ultimate consequence would be fewer options and less continuity of service for a loyal group of long-standing clients.

I urge FINRA to reconsider the proposed rule and avoid expanding broker-dealer supervisory obligations into advisory businesses that are already robustly regulated by the SEC. Thank you for your thoughtful attention to this matter.

Sincerely,

Joshua Goulding

Co-founder 4J Wealth Management

Josh@4jwealth.com

P: 703-566-9573

4J Wealth Management, LLC is a Registered Investment Adviser. Advisory servicess are only offered to clients, or prospective clients where 4J Wealth Management, LLC and its representatives are properly licensed or exempt from licensure. Past performance is no guarantee of future returns. Investing involves risk and possible loss of principal capital. No advice may be rendered by 4J Wealth Management unless a client service agreement is in place.



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Suite 185
Indianapolis, IN 46240

317-663-4180 *main*
www.adisa.org

May 27, 2025

Via electronic submission to pubcom@finra.org.

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Regulatory Notice 25-05: Outside Activities

Dear Ms. Mitchell:

On behalf of The Alternative & Direct Investment Securities Association ("ADISA"),[1] we are submitting this comment letter regarding Regulatory Notice 25-05: Outside Activities (the **"Notice")** which requests comments on FINRA's proposal to adopt a new rule to govern the outside activities of member firms' associated persons. ADISA appreciates the opportunity to provide comments on behalf of its members, which include both members firms as well as registered investment advisers. ADISA has drawn upon its understanding of these firms and their differing business models, services and product offerings in putting together this comment letter, which we hope will enhance the credibility of the points made herein.

As set forth below, ADISA is focused on the Notice's request for input on the obligations of member firms to supervise and keep records for so-called "Outside IA" activities of its registered persons who are associated with unaffiliated investment advisers ("**IAs**"). At bottom, ADISA does not believe that significant benefits can and will be achieved by requiring that such activities be supervised by member firms, particularly in light of the burdens that such an obligation places on member firms. Requiring a member firm to involve itself with the advisory activities of persons who are employed by or otherwise working with an unaffiliated investment advisory firm is not likely to lead to informed supervision despite the significant costs that will otherwise be associated with meeting that obligation. From a simple cost-benefit standpoint, we believe that imposing high costs in return for a relatively modest (at best) benefit is not good regulatory policy and that the current supervisory and recordkeeping requirements should be removed.

[1] ADISA is the nation's largest trade association for the non-traded alternative investment space (i.e., retail vs. institutional). Through its 5,000 financial industry members (over 1,000 firms), ADISA reaches over 220,000 finance professionals, with sponsor members raising in excess of $200 billion annually, serving more than 1 million investors. ADISA is a non-profit organization (501(c)(6)), registered to lobby, and also has a related 501(c)(3) charitable non-profit (ADISA Foundation) assisting with scholarships and educational efforts.

Background:

In the Notice, FINRA seeks comment on a proposed new rule "to streamline and reduce unnecessary burdens involved with existing requirements applicable to the outside activities of member firms' associated persons, including registered persons (the "**Proposal"**)." The Proposal, which resulted from of FINRA's review of FINRA's rules governing outside business activities ("**OBA**s") and private securities transactions ("**PSTs**"),[2] would replace two rules – Rules 3270 and 3280 – with one rule. In FINRA's view, the Proposal is intended to enhance efficiency without compromising protections for investors and members relating to outside activities.

Current Rules and Interpretations:

Rule 3270 prohibits a registered person from being an employee, independent contractor, sole proprietor, officer, director or partner of another person, or being compensated, or having the reasonable expectation of compensation, by another person for any business activity outside the scope of the relationship with his or her member unless he or she has provided prior written notice to the member. Once notified pursuant to Rule 3270, the member must consider whether the proposed OBA will: (1) interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers or (2) be viewed by customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered. Based on the member's review of such factors, the member must evaluate the advisability of imposing specific conditions or limitations on a registered person's OBA, including where circumstances warrant, prohibiting the activity.

Rule 3280 provides that, prior to participating in any PST, an associated person must provide written notice to the member with which he or she is associated, describing in detail the proposed transaction and the person's proposed role, and indicating whether the associated person has received or may receive selling compensation in connection with the transaction. If the PST does not involve selling compensation, the member must provide prompt written acknowledgement of the notice and may, at its discretion, require the person to adhere to specified conditions in connection with the person's participation in the transaction. If the PST involves selling compensation, the member must inform the associated person in writing whether it approves or disapproves the person's participation in the transaction. If the member approves participation in the PST for selling compensation, the member must supervise the associated person's participation as if the transaction were executed on behalf of the member.

Through a series of *Notices to Members* issued in the 1990s, FINRA applied these PST obligations to outside IA activities. These *Notices* stated that an associated person's outside IA activities constitute "participation in" PSTs if the person did more than simply recommend the securities transaction. In addition, the *Notices* provide that an associated person's receipt of asset-based or performance-based fees when participating in a PST at an outside IA constitutes "selling compensation," meaning that the member would have supervisory and recordkeeping obligations if it approved the activity.

Proposed Changes (2018)

FINRA by means of *RN 18-08* (February 2018) proposed changes to the current rules and interpretations (the "**2018 Proposal**"). Among other things, the 2018 Proposal would have eliminated members' supervisory and recordkeeping obligations for Outside IA activities. FINRA did not move forward with the 2018 Proposal.

[2] FINRA Rule 3270 (Outside Business Activities of Registered Persons) and FINRA Rule 3280 (Private Securities Transactions of an Associated Person), respectively.

New Proposed Approach (2025)

The Proposal addresses activities that are outside the regular scope of an individual's employment with a member, but narrows the focus to "investment-related activities" to reduce unnecessary burdens.[3] "Investment-related activities" are defined in the Proposal as those "pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance." The term therefore "includes, but is not limited to, acting as or being associated with a broker-dealer; issuer; insurance agent or company; investment company; investment adviser; futures commission merchant; commodity trading advisor; commodity pool operator; municipal advisor; futures sponsor; bank; savings association; or credit union."

Under this approach, the decision by a member firm's registered person to associate him- or herself with an investment advisory firm would mandate that the member firm assess whether the outside activity "will interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers" and will be "viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered." In addition, a member firm that has a registered person that has applied for and received permission to "participate in an investment-related activity outside the scope of such person's relationship with the member "would be required to keep a record of its compliance with the obligations under this Rule…," including records of the member firm's evaluation of the "advisability of imposing specific conditions or limitations on [the] registered person's outside activity," including "where circumstances warrant" prohibiting the activity.

The Proposal relaxes (technically, removes) a member firm's obligation to supervise and keep records for these investment-related activities where the activities are performed at an advisory firm that is affiliated with the member: "This Rule shall not apply to an associated person's (including a registered person's): (1) non-broker-dealer activity on behalf of a member or its affiliate (e.g., investment advisory activity conducted for a dually registered broker-dealer/investment adviser or investment advisory, insurance or banking activity conducted at an affiliate of the member)." In other words, the full panoply of oversight and recordkeeping duties under the proposed new Rule would not apply only where the outside IA activity is performed for an affiliated firm (or a dual registrant). They apply in full, therefore, where the firms in questions are not affiliated. In simplest terms, then, having one registered person of a member firm join or work with an advisory firm that is otherwise unrelated to the member firm would bring to the member firm an obligation to supervise that person's "investment-related activity" at such unaffiliated firm.

Request for Comment.

While the Proposal leaves an obligation on members firms to supervise non broker-dealer activities of its registered persons at unaffiliated IA firms, FINRA stated that it is "interested in updating the prior feedback it received" and "learning of current experiences and views with respect to Outside IA activity." In the Notice, FINRA requested comment *inter alia* on the following:

- What are the alternative approaches, other than the Proposal, that FINRA should consider?

- What are the challenges members face regarding supervising and recordkeeping outside IA activities for selling compensation? Would the removal of the requirement for FINRA member oversight of outside IA activities by their associated persons impact investor protection considering that IAs are regulated by either the [Securities and Exchange Commission, or "**SEC**"] or the states?

[3] The Proposal intentionally focuses on outside investment-related activities "that may pose a greater risk to the investing public and members."

What are the benefits of BD supervision and recordkeeping of outside IA activities for selling compensation?

We address each of FINRA's requests below.

1. Alternative Approaches.

ADISA believes that, for the reasons stated below, where a registered person of a broker-dealer is working for or is otherwise associated with an unaffiliated investment adviser, the best approach is to impose no duty on the broker-dealer to supervise the activities of the registered person that are not brokerage-related in nature.[4]

Apart from this fully "hands off" approach, however, ADISA submits that FINRA could adopt an approach whereby the member firm' supervision of its registered person is limited to those activities or tasks that bear directly on the person's interactions with the IA's clients. To our thinking, this would mean focusing solely on activities of the person that constitute a recommendation to a client or clients that is clearly and demonstrably attributable to the person acting in their advisory capacity. While the line in question is not as clear and defined a line as that drawn by SEC in Regulation Best Interest and while we recognize that an IA's duty under the federal securities laws "is principles-based and applies to the entire relationship between the adviser and its client,"[5] the SEC has made it clear that the duties placed on IAs are "imposed under the Advisers Act in recognition of the nature of the relationship between an adviser and its client—a relationship of trust and confidence."[6]

We believe that this client-centric language supports an approach that would locate the duty to supervise in the relationship between the registered person acting for the adviser and the adviser's client with regard to recommended or proposed course(s) of actions, and not across the entire spectrum of activities that comprise an IA's business. This focus on the client-directed activities of a registered person employed by or associated with an IA also ensures that there would be no supervision required where the registered person is not in a client-facing role at the IA. While it is somewhat likely that the person will have client-facing duties, there is no assurance that the registered person will in fact be in any kind of client-facing role at the advisory firm. There in fact may be little about the registered person's role at an unaffiliated IA firm that can be (much less should be) overseen by a member firm. The advisory business is different than the brokerage business, and the skill and knowledge needed to supervise registered persons may be very different than those needed to supervise the advisory activities of a person working for an unaffiliated advisory firm.

2. Benefits and Burdens Associated with Supervising Outside IA Activities

In its request for comment, FINRA ask three separate but interrelated questions: In brief, they are: (i) what are the challenges members face regarding supervising and recordkeeping outside IA activities for selling compensation? (ii) would the removal of the requirement for FINRA member oversight of outside IA activities by their associated persons impact investor protection considering that IAs are regulated by either the SEC or the states? and (iii) what are the benefits of BD supervision and recordkeeping of outside IA activities for selling compensation?

(a) Absence of Proven Benefit.

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[4] According to the Proposal, roughly 11 percent of members have one or more registered persons associated with an unaffiliated registered IA.

[5] Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Release No. IA-5248 (July 12, 2019).

[6] Ibid.

We start with real questions about the efficacy of member supervision of the non-brokerage activities of a registered person of a member firm that are performed for or with an unaffiliated IA. There are real challenges in asking a member firm to supervise the IA (or non-brokerage) activities of a registered person in their role with an unaffiliated IA. Those challenges make it clear, in ADISA's view, that the benefits associated with such supervision are not significant even if potentially attractive, such that their "removal" would not greatly impact investor protection:

- It is not necessarily true that the business of an IA is well understood by a member firm or that the set up and operation of the IA firm will naturally lend itself to supervision by the member firm. IA firms can and typically do operate under very different fee and advice parameters than member firms typically do; they provide advice or recommendations differently, charge differently for their services and typically have large differences in the scope of services provided. While both types of organizations deal with financial instruments in the form of securities, the nature of their interactions with clients is often very different and the goal of each type of firm's relationship with its clients different greatly as well.

- As ADISA has repeatedly said in testimony and comment letters dealing with regulatory issues involving member firms and IA firms, the models are so different that it is worthwhile to ensure that each survives in a robust form so that investors and savers have real options when it comes to how advice and guidance involving securities is obtained and compensated for. Those differences, moreover, include different types of products and services, as well as the pricing and delivery model for each. There is no reason to think that member firm compliance and oversight personnel will have the industry or product knowledge necessary to properly supervise the non-brokerage activities of a registered person taken at an unaffiliated IA firm.

When it comes to what would be lost by ending the requirement, therefore, there is a genuine question as to whether there is any meaningful supervisory benefit achieved under the current approach. Asking the supervisory element of one type of regulated entity – a FINRA member firm – to oversee the conduct of a person who works at another entirely different type of entity – an IA – raises a host of important issues that act as hurdles or bars to effective supervision. The assets that the latter type of firm provides advice and guidance regarding, the way that such advice and guidance is communicated and implemented and the fees charged for such are very different. There is no reason to believe that the familiarity of member firms with the recommendation and purchase of securities by their clients gives them any particular insight into the way in which those activities are conducted in an IA, thereby diminishing any potential benefit associated with the "second set of eyes."

(b) Significant Costs and Inefficiencies

In ADISA's view, there are numerous negatives or "cons" that weigh against maintaining the supervisory and recordkeeping requirements. These go to the question of good regulatory policy, which seeks to avoid where possible redundancy, customer confusion, undue cost and insufficient native expertise. Requiring that a firm that is managing and overseeing a firm with one distinct business model to supervise activities carried out at another firm with a different model (and different products and services, in all likelihood), does not make it likely that the oversight element will contribute meaningfully to the supervisory goal.

- Many member firms faced with the current obligations request all manner of records from the unaffiliated IAs where their registered persons work or are associated with, in many cases generating voluminous amounts of data that are difficult to distill and which may contain confidential, private or proprietary information. Despite these infirmities, requesting

member firms often attempt to utilize this data to supervise their registered persons' non-brokerage activities, thereby heightening privacy and confidentiality concerns.

- Many member firms feel compelled to insert themselves into the business operations of the unaffiliated IA to better understand their registered persons' activities, thus creating cost, redundancy, confusion and delay. There is not necessarily any knowledge or other experience at the member firm with the products used or the models employed, or the pricing charged by the IA firm, thus increasing the likelihood that the supervisory element will either be uninformed or expensive and delaying (or both).

Thus, whether one focuses on the absence of expertise on the member firm's part to supervise the IA's business, or the host of issues associated with having one entity effectively supervise another, unaffiliated one – e.g., cost, redundancy, confusion and privacy concerns – the negatives appear to far outweigh the benefits of the obligations. That is not the hallmark of an effective supervisory requirement.

One final point on the question of the benefits and challenges associated with maintaining the current supervisory requirement for unaffiliated IAs. As discussed in more detail below, many of the comments submitted in response to the 2018 Proposal that were in favor of maintaining the current supervisory standards were based on the notion that IA regulatory oversight was insufficient and that IA resources dedicated to compliance were not adequate. These claims should be heavily discounted, as they were made prior to the SEC's implementation of Regulation BI and, more importantly, the agency's issuance of guidance regarding the "Standard of Conduct for Investment Advisers" under the Investment Advisers Act. These developments, and in particular the SEC's prominent statement on (and enforcement of) how the duties imposed on IA need to be effectuated, have enhanced and will continue to enhance the level and quality of IA compliance. In the final analysis, quality IA oversight and compliance can and will do more than secondary oversight accomplished by member firms in relation to certain of their associated persons.

In regard to FINRA's goal to "learn" from current experiences and views with respect to outside IA activities, it is hard to deny that the drawbacks presented by the current approach when it comes to unaffiliated IAs are substantive and substantial. The supervisory efforts of the member firm add costs and more, without any discernible improvement in oversight (in fact, if an IA were to rely on a member firm for supervisory contributions respecting its registered persons, the quality of supervision might be lessened due to differences in business models, services provided, and products offered. An extra pair of eyes can be useful – but given the differences outlined above, it is hard to believe that the member firm's supervisory efforts will prove more effective than those of IA own compliance resources.

Prior Comments

As stated in the Notice, commenters responding to the 2018 Proposal "had opposing views on whether FINRA members should be responsible for supervising and recordkeeping Outside IA activity, including activity performed at unaffiliated IAs." While noting that "many commenters strongly supported eliminating or substantially modifying the requirements for outside IA activities," FINRA also pointed out that "concerns were [] raised that doing so could pose risks to investors."

ADISA has reviewed the comments noted by FINRA in the Proposal. Even a relatively brief look makes clear that the "cons" of requiring supervision greatly outweigh the "pros," especially when the IA and the member firm are not affiliated. We have set out summaries of the comments below, but note that, in general, most of the "pro" comments go to potential or perceived process benefits (e.g., standardization of the process), while most of the "con" comments go to such core issues as cost, redundancy, knowledge and customer confusion associated with the practice, along with genuine concerns for the privacy of IA client data (There were even comments that suggested that the practice

under the current rules is a revenue producer for member firms, which even if true is not a basis for continuing the practice.).

In sum, inasmuch as FINRA's goal is to "update" prior feedback received, ADISA believes that the points made above show that the "cons" associated with the current approach – cost, duplication of effort, privacy and confusion concerns – are the same ones expressed by many commenters on the 2018 Proposal. They detracted from FINRA's regulatory policy then, and continue to do so now.

A. Comments in Favor of Maintaining FINRA Member Supervision and Recordkeeping for Outside IA Activities

Commenters in favor of maintaining BD oversight of IA activities performed by associated persons away from the FINRA member expressed the following points in support of continuing the practice:

- Standardizing the assessment that members must conduct, upon receiving notice of registered persons' outside activities or associated persons' outside securities transactions, would potentially benefit customers through better investor protection.

- The level of regulatory oversight of IA activities is not as rigorous as oversight of FINRA members' activities. These commenters claimed that the lack of meaningful oversight of IA activities could lead to IA client harm if FINRA members did not oversee some aspects of IA activities performed by associated persons at third-party IAs unaffiliated with a member.

- Many IA firms lack the resources and ability to properly supervise their own IA activities.

B. Comments in Favor of Eliminating FINRA Member Supervision and Recordkeeping for Outside IA Activities

As FINRA noted in the Notice, a majority of commenters favored FINRA's proposal to eliminate the requirement for FINRA member oversight of IA activities performed by associated persons away from FINRA members. Here are the areas and arguments cited by various commenters supporting the elimination of such an oversight requirement (citations omitted):

- Since IAs are regulated by the SEC, FINRA member oversight of outside IA activities is redundant and creates unnecessary compliance costs and burdens. Moreover, IA activities are regulated by the states.

- Member firms may be ill-equipped to supervise outside IA activities as they may not be familiar with the outside IA's services, advice and obligations. As one commenter stated. "IAs often engage in products and strategies that are not supported by the [BD]. Accordingly, to properly supervise such activities, [BDs] need to develop expertise in such products and strategies, which is simply not feasible for small firms, nor would it be a good use of their supervisory resources."

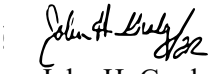
- There are privacy concerns over providing IA client information to a BD that is unaffiliated with the IA. There are risks associated with requiring the BD to handle private, personal information for unaffiliated IA clients."

- Requiring BDs to oversee outside IA activities could lead to customer confusion regarding which entity is responsible for the IA activities.

- BDs may have a business reason for preferring to oversee the outside IA activities of their associated persons. One commenter noted that "an [IA] will be forced to pay an average of 5 percent to 8 percent of its gross advisory fees to a [BD] for oversight…These costs are usually passed on to the client."

ADISA appreciates the opportunity to provide input on this important issue. We would be happy to discuss our concerns further and to continue to assist FINRA in creating appropriate protections for investors.

Sincerely,



John H. Grady
President

cc: Drafting Committee: Deborah S. Froling and Catherine Bowman, Co-Chairs ADISA Legislative & Regulatory Committee; John Grady.



Date: April 30, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State Street, Albany, NY 12207.
Purshe Kaplan Sterling Investments and Graver Capital Management are not affiliated companies.

GRAVER
CAPITAL MANAGEMENT

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.
Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

James H. Graver

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State Street, Albany, NY 12207.
Purshe Kaplan Sterling Investments and Graver Capital Management are not affiliated companies.

April 29, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.
Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these
transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor

directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.
Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



David Gutierrez, CFP®, CIMA®
Co-Founder and Chief Compliance Officer
Gutierrez Wealth Advisory, LLC



Comments by GVC Capital LLC regarding FINRA Regulatory Notice 25-05 ("Outside Activities") (Submitted March 13, 2025)

FINRA member GVC Capital LLC ("GVC") appreciates the opportunity to comment regarding this Regulatory Notice and respectfully submits the following comments and proposals.

Introduction:

GVC appreciates the efforts that FINRA personnel expended to issue Regulatory Notice 25-05 and draft proposed new FINRA Rule 3290 ("Outside Activities Requirements"). Obviously, these FINRA efforts took years, the subject matter is very important, and the rule drafting for these specific matters is complex.

Of course, GVC did not participate in these FINRA efforts. And in analyzing Regulatory Notice 25-05 and draft proposed new FINRA Rule 3290, GVC spent a small fraction of the time that FINRA personnel expended. Therefore, GVC may have missed important points, not read properly and/or not understand fully the fundamental intent, language and structure of proposed new FINRA Rule 3290. As such, we with GVC would be happy to consider additional materials and/or discuss these matters with FINRA personnel.

The Big Picture Problems that The Proposed Rule Seeks to Address:

In our view, these big picture problems are relatively straightforward and easy to describe. Even so and as noted above, it is not easy to draft a rule to carefully and properly address these big picture problems.

Outside Business Activities: The overarching principle in these regards, in our view, is that (unless the associated person is part time or other mutually agreed association arrangements are in place) an associated person of a FINRA member securities broker dealer (registered or unregistered) owes and is required to devote his/her full time, "regular business hours" efforts to the FINRA member with which he/she is associated. Any substantive business work away from the FINRA member that interferes or conflicts with the person's association with the FINRA member (the old term for this is "moonlighting") is authorized only if the FINRA member receives full details about it and approves the specific outside business activity. The FINRA member has the right to determine if the outside

business activity materially conflicts with the associated person's duties and responsibilities with the FINRA member, presents potential for conflicts of interest or potential customer harm or confusion, and/or otherwise is materially inconsistent with the associated person's duties and responsibilities with the FINRA member firm.

In these respects, and with due respect, it makes no sense, and it is entirely illogical, that current FINRA Rule 3270 applies only to **registered** associated persons. Indeed, in our experience many if not all FINRA members have internal "house rules" that expressly make FINRA Rule 3270 apply equally *mutatis mutandis* to both registered and unregistered associated persons.

Private Securities Transactions:

In our view, the overarching principle in these regards is clear: all associated persons of a FINRA member (registered and unregistered) must conduct and/or pursue all "securities" transactions and/or "securities" business for or related to third party customers/clients and/or the FINRA member firm's business as such ONLY through/via the FINRA member with which the associated person is associated. In long time industry parlance: "**no selling away**", and "**selling away is prohibited**".

"Securities" versus Non-"Securities" Business and/or Transactions":

In our view, any proposed FINRA Rule in these regards must incorporate and reflect clearly and logically certain key overarching points and principles, *inter alia*, that:

- FINRA's authority and jurisdiction over its member firms and associated persons is limited to "securities" and "securities"-related business/transactions.
- There is a critical legal and substantive distinction between an associated person's activities "away from" his/her FINRA member firm that involve or relate to "securities" and "securities"-related business/transactions -- and those do not. FINRA has valid self-regulatory interests only in the former.
- An associated person's PERSONAL and PASSIVE securities investments (including buying and selling "securities" for his/her own personal account) "away from" his/her FINRA member firm that do not present any conflicts of interest, do not involve or relate improperly to any customers of his/her FINRA member firm and/or do not present any confusion *vis a vis* his/her FINRA member firm -- do not present any investor protection and/or any other valid legal, regulatory and/or self-regulatory concerns and therefore should not be part of any FINRA rule(s) that prohibit or relate thereto.

If any of these comments or proposals reflect misunderstanding and/or fail to consider properly the draft proposed new Rule 3290, GVC personnel would be happy discuss these matters with FINRA personnel and/or consider any additional guidance or references related thereto.

Further and in addition to the above, our more specific comments and proposals are set forth below.

"Investment-Related Activity"

The proposed definition of "investment-related activity" in proposed new Rule 3290(f)(2) is too broad and overinclusive because it extends beyond FINRA's jurisdiction which, as noted above, is limited to "securities" and "securities"-related matters. Of course, all defined terms in proposed new Rule 3290 are critical in its meaning and application. And despite good intentions, defined terms can have adverse unintended consequences.

Proposed new Rule 3290(f)(2) states that "[i]nvestment-related activity means **pertaining to financial assets**, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance." (emphasis added). Of course, there are a variety of "financial assets" including some related to the list in proposed new Rule 3290(f)(2) that are not "securities", are not "securities"-related and/or do not involve the "securities" business.

Proposed new Rule 3290(f)(2)(A) states *inter alia* that the term "investment-related activity" "includes, but is not limited to, acting as or bring associated with ... [an] insurance agent or company ...." And it lists entities that do not necessarily conduct "securities" business or "securities" transactions with customers.

This definitional flaw is not cured by the proposed rule's definition of "outside activity" in proposed new Rule 3290(a) because its proposed scope is for a registered person "who intends to participate in an investment-related activity outside the scope of such person's relationship with the member that is not in connection with a securities transaction ("outside activity") ...." (emphasis added). *Cf.* proposed new Rule 3290(b) (discussing an "associated person who intends to participate in an investment-related activity outside the scope of such person's relationship with the member that is in connection with a securities transaction ("outside securities transaction")...."). (emphasis added).

Similarly, this definitional flaw is not cured by the proposed rule's "Exclusions" in proposed new Rule 3290(g) (*see also* the discussion below regarding "Exclusions").

"Buying Away"

Proposed new Rule 3290(f)(2)(B) addresses an associated person's (and his/her family and/or other related persons) possible personal securities transaction(s) away from the associated person's FINRA member firm.

Provided that the associated person's "participation in any manner in a personal investment involving a securities transaction" (a) is passive, (b) does not involve receipt of any "selling compensation", (c) does not improperly implicate or involve any customer(s) of the FINRA member, (d) does not present any interference or conflict with the associated person's duties or responsiblities with his/her FINRA member firm and (e) does not present any concerns, confusion or risks that the personal investment is somehow part of the FINRA member's business, the proposed rule's provisions regarding "buying away" do not serve any valid purpose, do not provide any investor protection and should be deleted in their entirety.

Footnote 4 of Regulatory Notice 25-05 states that "a personal securities investment away from the" associated person's FINRA member firm not otherwise covered by FINRA Rule 3210 is considered "buying away" subject to FINRA Rule 3280. Footnote 4 states also that the "most common 'buying away' transactions are personal [securities, presumably] investments in private placements."

Proposed new Rule 3290(g)(3) ("**Exclusions**") includes "the following personal investments" to which the proposed new Rule 3290 do not apply:

(A) securities transactions subject to or delineated in Rule 3210;
(B) personal investments in non-securities; and
(C) the purchase, sale rental or lease of a main home or dwelling unit or personal-use rental property, as defined for purposes of the Internal Revenue Code.

These are all well and good, but do not go far enough.

At the very least, a new (D) to Rule 3290 part (g)(3) **Exclusions** should be added, reading substantially and with effect follows:

(D) personal investments in securities of any kind that are passive (*i.e.,* the associated person plays no active operational or management role in respect of the investment), do not involve the associated person's receipt of any "selling compensation", do not improperly implicate or involve any customer(s) of the FINRA member, do not present any interference or conflict with the associated person's duties and responsibilities with his/her FINRA member firm and do not involve or present any concerns or risks that the personal investment somehow is part of the FINRA member's business.

Coordination and Consistency with Form U4

Footnote 11 of Regulatory Notice 25-05 states that the "Proposal does not impact reporting on Form U4 [Question 13 ("Other Business")]." This presents ongoing frustration and implementation issues for FINRA member firms.

FINRA should work with the SEC to make proposed Rule 3290 consistent and coordinated in all respects with Form U4.

Attachment C to Regulatory Notice 25-05:

This Attachment C is very helpful for understanding how proposed Rule 3290 would, in FINRA's view, apply in the listed scenarios versus application of current Rules 3270 and 3280. (Note: GVC is not registered as an investment adviser, is not currently affiliated with any registered investment adviser and is not currently associated with any registered associated persons who are affiliated with any registered investment advisers. Therefore, GVC makes no substantive comment about the FINRA answers in the investment adviser scenarios and/or in respect of the investment adviser provisions of proposed Rule 3290.)

For the reasons and based on its discussion above, GVC respectfully disagrees with FINRA's conclusions and rationales regarding the following Scenarios:

- **Scenario 1**.
- **Scenario 3**.

GVC agrees with the essential outcome of **Scenario 2** because the registered person **recommended** a securities transaction private placement and substantially participated in the private securities transaction away from the member firm. GVC would not permit its associated persons to engage such activities, and based on its industry experience GVC believes that most if not all FINRA member firms would do the same.

GVC agrees with the basic outcome of **Scenario 4** but, as discussed above, GVC has concerns about the proposed definition and application of the term "investment-related activity."

Because they relate to investment adviser situations, GVC makes no outcome related comments about **Scenarios 5, 6, and 7**. However, GVC notes it is very important in **Scenario 5** that the registered associated person made securities recommendations to a client; however, the discussion (with citations) in **Scenario 5** regarding providing "more than mere securities advice" (what does that mean?) in relation to effecting or placing a securities order muddies the waters.

GVC believes that **Scenario 7** is confusing because it states that the dually registered person "only provides advice and does not place any securities orders ...." Did the dually registered person make any securities "recommendations"? The incorporation of facts from Scenario 6, which in turn incorporates the facts from Scenario 5, along with the language of Scenario 7 itself ("only provides advice"), leaves the reader to wonder about securities "recommendation" considerations. Of course, a securities "recommendation" must be made to trigger application of Reg BI and FINRA suitability Rule 2111 – and whether a securities "recommendation" is made also is critical for consideration and scope of an investment adviser's fiduciary obligations.

Subject to its comments and discussions above, GVC agrees with the basic outcomes of **Scenarios 8, 9 and 10.**

Some Additional Scenarios of How Any Final FINRA Rule Regarding Outside Activities Should Work:

1. A registered associated person who is a licensed insurance agent should be permitted to conduct any insurance-related business away from his/her FINRA member firm as an "outside activity" "not in connection with a securities transaction" within the scope of proposed (or similar successor rule) FINRA Rule 3290(a).
2. A registered associated person who is a licensed real estate agent should be permitted to conduct any real estate-related business away from his/her FINRA member firm as an "outside activity" "not in connection with a securities transaction" within the scope of proposed (or similar successor rule) FINRA Rule 3290(a).
3. Subject to the above comments, conditions and discussions regarding private personal investments away from the associated person's FINRA member firm:
    a. An associated person should be permitted to make a passive personal investment in a private equity firm and/or hedge fund that may or may not invest in "securities".
    b. An associated person should be permitted to make a passive personal investment in a private real estate partnership that may or may not invest in "securities".
    c. An associated person should be permitted to make a passive personal investment in a private placement that may or may not involve "securities".

Conclusion:

Respectfully, the proposed new FINRA Rule 3290 should be revised to address and incorporate fully and properly the important matters discussed herein.

Thank you for your consideration, and we with GVC would be happy to discuss this document and related matters with FINRA personnel.



May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As the Chief Compliance Officer of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and
serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I

respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Courtney Haddad

Courtney Haddad
Chief Compliance Officer
813-709-8800

HBKS | Wealth Advisors

Date: 05/12/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

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HBK Sorce Insurance LLC and HBKS Wealth Advisors are not affiliated with Purshe Kaplan Sterling Investments.
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Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Gerald W. Hall

Gerald W. Hall

HBKS® | Wealth Advisors

Date 05/12/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

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Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC, headquartered at 80 State Street, Albany, NY 12207.
HBK Sorce Insurance LLC and HBKS Wealth Advisors are not affiliated with Purshe Kaplan Sterling Investments.
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Sincerely,

Gerald W. Hall

Gerald W. Hall



SUMMIT
FINANCIAL, LLC

May 13th, 2025
Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006
Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Brittany G Halpern Bailey

4 Campus Drive, Parsippany, NJ 07054
Phone: 973-285-3600 ▪ Direct: 973-588-8280
bhalpern@sfr1.com

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A Registered Investment Advisor

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Toll Free 888-50-INVEST (888) 504-6837
Website: www.harrisadvisory.com
CA Insurance Lic #0826411

May 12, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,
I am an owner of a Registered Investment Advisory firm, HARRIS & ASSOCIATES, and a registered representative of an unaffiliated FINRA member firm, PKS Investments. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

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Headquartered at 80 State Street, Albany, NY 12207.
Purshe Kaplan Sterling Investments and Harris & Associates are not affiliated companies.

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A Registered Investment Advisor

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Website: www.harrisadvisory.com
CA Insurance Lic #0826411

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 not helpful to me, my clients and the public. Therefore, I strenuously urge proposed Rule 3290 should not be adopted.

Thank you.

Sincerely,



David L. Harris, PhD, ChFC, CFP®
Wealth Advisor
CA Department of Insurance License #0826411

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC.
Headquartered at 80 State Street, Albany, NY 12207.
Purshe Kaplan Sterling Investments and Harris & Associates are not affiliated companies.

Harry V Comment On Regulatory Notice 25-05

Harry V

Dear Ms. Mitchell,

I appreciate the opportunity to comment on FINRA's proposal to streamline the requirements governing outside business activities (OBAs) and private securities transactions (PSTs), as outlined in Regulatory Notice dated April 2025.

I would like to express my support for the proposed exclusions, particularly the exclusion of registered persons' personal investments in non-securities from the rule's coverage. This aspect of the Proposal reflects a pragmatic and risk-based approach that appropriately distinguishes between high-risk investment-related activities and routine personal financial decisions that do not pose significant risks to investors or member firms.

Requiring firms to monitor or review personal investments in non-securities—such as real estate purchases for personal use, or private, non-commercial investments—would impose undue compliance burdens without corresponding benefits to investor protection. These activities are typically unrelated to the registered person's role at a member firm and do not reasonably raise concerns of customer confusion or conflicts of interest. By excluding these low-risk activities, the Proposal enables firms to focus resources on higher-risk conduct that may directly impact investor confidence and market integrity.

The Proposal's thoughtful exclusions, including those for immediate family transactions without selling compensation and activities conducted at affiliates, reflect FINRA's careful consideration of efficiency, proportionality, and regulatory effectiveness. I commend FINRA for advancing a rule that maintains essential investor protections while reducing unnecessary compliance burdens on member firms and their associated persons.

Thank you for considering these comments, and for your continued efforts to modernize and refine the regulatory framework in a balanced and practical manner.

Triple h
financial services

May 12, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

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Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Triple H Financial Services, LLC
717 S. State Street, Suite 100
Fairmont, MN 56031

Triple h
financial services

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

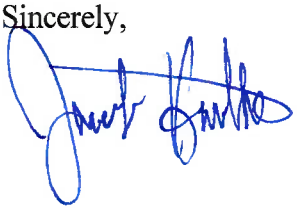
Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank

you.

Sincerely,



Triple H Financial Services, LLC
717 S. State Street, Suite 100
Fairmont, MN 56031

Hasenberg Financial Group

April 30, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

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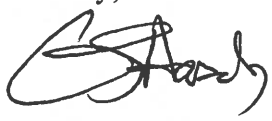
Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Chris Hasenberg

Owner

[Douglas Keith Hervey
[DKHervey&Associates
[127 Steeplechase Circle
[Gibsonia Pa 15044
dhervey@4kmc.com

412-491-8471

5/2/2025]

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

RE: Comments on FINRA Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

I am writing to express my strong opposition to FINRA's proposed Rule 3290, as outlined in Regulatory Notice 25-05. While I fully support FINRA's mission to protect investors, this proposal overreaches its scope and places an excessive burden on licensed professionals.

Under the proposed rule, representatives holding a FINRA license would be required to obtain prior written approval from their broker-dealer before engaging in a broad range of personal financial activities — including the purchase of cryptocurrency, securities, commodities, real estate, insurance, and banking products. Extending this requirement to spouses, partners, and household members is not only intrusive, but it also sets a concerning precedent.

Expecting written approval for routine personal decisions — such as purchasing a home, opening a savings account, or buying life insurance — does nothing to enhance investor protection. Instead, it compromises personal autonomy and burdens both advisors and broker-dealers with unnecessary administrative friction.

The rule's broad definition of "investment-related activity" risks stifling innovation and diversity in financial strategies. It could push many financial professionals to abandon their FINRA licenses in favor of operating under SEC jurisdiction — ultimately weakening the value and relevance of FINRA oversight.

I urge FINRA to withdraw or significantly revise this proposal. A more focused approach that targets genuine conflicts of interest, rather than ordinary financial behavior, would better serve both the investing public and the professionals who advise them.Thank you for considering this feedback.[

Douglas Keith Hervey

Douglas Keith Hervey

Sound Financial Strategies
GROUP

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the

member shall record each transaction on the books and records of the member and

supervise the person's participation in the transaction as if executed on behalf of the member.

116 One Madison Plaza, Ste. 1100
Madison, MS 39110
601.856.3825 • TF: 877.462.3744 • soundfsg.com

Investment Advisory Services offered through Sound Financial Strategies Group, LLC ("SFSG"), a Registered Investment Adviser. Certain representatives of SFSG are also Registered Representatives offering securities through APW Capital, Inc., Member FINRA/SIPC, 100 Enterprise Drive, Suite 504, Rockaway, NJ 07866 (800)637-3211. SFSG and APW Capital are separate and unrelated companies.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

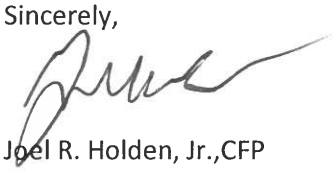
Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Joel R. Holden, Jr.,CFP
CCO/COO/Partner

Sean Hollitz Comment On Regulatory Notice 25-05

Sean Hollitz

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking, and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms are already regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. The imposition of FINRA Rules, which are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290, as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration.

Sean

BRIDGEWEALTH
Advisory Group, LLC

May 8, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law

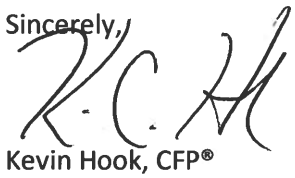
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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Kevin Hook, CFP®
Partner

WEALTH MANAGEMENT CORPORATION
WHERE VALUES MATTER

2941 Kerry Forest Parkway · Tallahassee, FL 32309 · (850) 894-7526 · FAX (850) 894-7363 · www.wealthmanagementcorp.com

April 28, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

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I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

William S. Horak, CFP®

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Headquartered at 80 State Street, Albany, NY 12207
Purshe Kaplan Sterling Investments and Wealth Management Corporation are not affiliated companies.



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MANAGEMENT
CORPORATION
WHERE VALUES MATTER

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April 28, 2025

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Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

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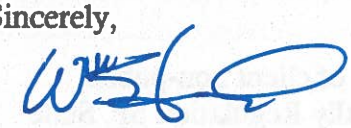
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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



William S. Horak, CFP®

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Headquartered at 80 State Street, Albany, NY 12207
Purshe Kaplan Sterling Investments and Wealth Management Corporation are not affiliated companies.

HUDOCK
CAPITAL GROUP, LLC
WEALTH PARTNERS WITH PURPOSE®

May 8, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

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Hudock Capital Group, LLC, is a Registered Investment Advisor. Certain representatives of Hudock Capital Group, LLC, are also Registered Representatives offering securities through APW Capital, Inc., Member FINRA/SIPC, 100 Enterprise Drive, Suite 504, Rockaway, NJ 07866 (800)637-3211. (11/22)

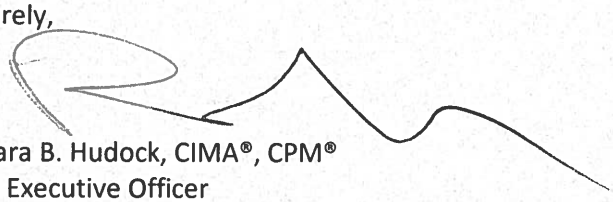
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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Barbara B. Hudock, CIMA®, CPM®
Chief Executive Officer
Founding Partner

SECTOR ANALYSTS

A Registered Investment Advisor

April 28th, 2025

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS investments, and i fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

6126 Hamilton Boulevard, Suite 103, Allentown, PA 18106 • 610.945.8014 • Fax: 610.290.6876

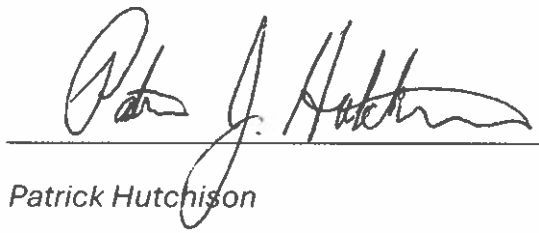
Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC
Headquartered at 80 State Street, Albany, NY 12207
Purshe Kaplan Sterling Investments and Sector Analysts LLC are not affiliated companies.

SECTOR ANALYSTS

A Registered Investment Advisor

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Patrick Hutchison

6126 Hamilton Boulevard, Suite 103, Allentown, PA 18106 • 610.945.8014 • Fax: 610.290.6876

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Headquartered at 80 State Street, Albany, NY 12207
Purshe Kaplan Sterling Investments and Sector Analysts LLC are not affiliated companies.

Ronald M. Ivanick Comment On Regulatory Notice 25-05

Ronald M. Ivanick
LPL Financial

Absolutely the worst rule proposal I could imagine hearing. Please vote no on this.

This rule would certainly cause a major disruption to advisor's and their clients, especially,

to smaller clients who may not qualify for RIA status.



Cornell Law School
Lawyers in the Best Sense

WILLIAM A. JACOBSON
Clinical Professor of Law
Director, Cornell Securities Law Clinic

G28J Myron Taylor Hall
Ithaca, New York 14853-4901
T: 607-255-6293
F: 607-255-8887
E: waj24@cornell.edu

May 12, 2025

Via Electronic Filing (pubcom@finra.org)

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Regulatory Notice 25-05 (Proposed Modifications to Rule 3270 and 3280)

Dear Ms. Mitchell:

The Cornell Securities Law Clinic ("Clinic") welcomes the opportunity to submit Comments on the Request for Comment regarding proposed amendments (the "Proposal") to Rule 3270 and 3280 regarding the reporting requirements for Outside Business Activities and Personal Securities Transactions (the "Request for Comment"). The Clinic is a Cornell Law School curricular offering in which law students represent public investors and public education regarding investment fraud in the largely rural "Southern Tier" region of upstate New York. For more information, please see http://securities.lawschool.cornell.edu.

I. The Clinic supports the continuation of Members' reporting obligations for outside IA activities with the following stipulations:

FINRA has proposed to remove the requirement that its members supervise the outside investment adviser (IA) activities of their associated persons when such activities are conducted outside the broker-dealer's operations. Under the Proposal, oversight would no longer be necessary when the IA activities are already regulated under the Investment Advisers Act of 1940 or corresponding state law. We support the Proposal's objectives of reducing duplicative regulatory burdens and better aligning supervisory obligations with operational control. However, we recommend that FINRA develop a template agreement to clarify cost allocation and supervisory responsibilities at the personnel onboarding stage to ensure that neither responsibility nor liability is improperly shifted and to preserve investor protection standards.

.

Investment advisers are already subject to regulatory oversight by the SEC or state securities regulators, including requirements for fiduciary duty, disclosure of fees and conflicts, Form ADV filings, and regular examinations. FINRA is not the regulator of IA activities, and requiring broker-dealers (BDs) to supervise conduct fully regulated by separate authorities creates unnecessary redundancy. In particular, dual-hatted personnel—those registered with both a BD and an IA—currently must duplicate compliance reporting and supervision for the same IA activities, significantly increasing compliance costs without materially enhancing investor outcomes.

Moreover, broker-dealers frequently have little or no operational control over the outside IA activities conducted by their associated persons. Many advisory activities take place on separate platforms, involve separate client relationships, and are subject to policies, procedures, and compliance systems outside the BD's authority.

Nonetheless, we recognize that BD supervision of outside IA activities involving selling compensation can provide certain investor protection benefits. These include monitoring potential conflicts of interest associated with product recommendations or referral fees, ensuring consistent client-facing conduct, maintaining comprehensive records for dispute resolution, and preventing unauthorized securities activities, such as selling away. However, the same investor protection objectives can be achieved without duplicative BD oversight when IA activities are fully supervised under SEC or state law and where selling compensation, conflicts, and client risks are properly disclosed and documented.

Accordingly, we recommend that, to prevent potential abuses and safeguard investors FINRA encourage the use of a standard form agreement between BDs and IA firms. This agreement should require mutual confirmation of cost allocation and supervisory responsibilities during the onboarding of associated persons engaged in outside IA activities. Explicit agreement at the outset will ensure that neither firm improperly shifts supervisory burdens and that associated persons are properly monitored within the appropriate regulatory framework.

II. The Clinic believes that the definition of "investment-related activity" is generally appropriate, but suggests that <u>modifications should be made</u> for emerging financial activities

FINRA has proposed a definition of "investment-related activities" intended to capture a broad range of financial activities involving securities, crypto assets, banking, insurance, and real estate. We support the general scope of the current definition, which aligns with FINRA's investor protection objectives by ensuring that activities involving financial assets are appropriately supervised. However, we recommend that FINRA provide additional clarification regarding emerging activities and certain low-risk activities to ensure that the rule remains practical and does not impose unnecessary compliance burdens.

First, the definition should explicitly address new and emerging financial activities that currently fall into regulatory gray areas. For example, associated persons increasingly participate in decentralized autonomous organization (DAO) governance, token advisory services, and NFT

investment consulting. Without clear guidance, firms may face uncertainty regarding whether such activities must be reported, increasing compliance risk and potential underreporting. Explicitly including or addressing these emerging activities would ensure consistent application of the rules and protect investors engaged with novel financial products and services.

Second, we recommend that FINRA clarify the treatment of certain low-risk activities that may not warrant reporting. Examples include passive equity investments where the associated person holds no management or advisory role, or financial content creation (such as blogging or podcasting) where there is no client solicitation or receipt of compensation. Reporting such activities would impose compliance burdens without materially advancing investor protection. To address this, FINRA should consider publishing interpretive guidance or examples that delineate the boundaries of "investment-related activity." In addition, establishing a safe harbor for activities that are non-compensated, non-client-facing, and passive would help firms and associated persons focus reporting efforts on higher-risk activities that more directly implicate investor protection concerns.

In sum, while the current definition appropriately captures core financial activities, further clarification would enhance regulatory certainty, reduce unnecessary reporting, and better align compliance efforts with FINRA's overarching investor protection mission.

III. The Clinic believes that exclusions from reporting obligations for registered persons' personal investments and activities conducted on behalf of an affiliate of a member are generally appropriate and consistent with the amended rule proposal, but notes that caution is warranted, particularly with activities conducted on behalf of an affiliate of a member

The Proposal has several exclusions, including for registered persons' personal investments in non-securities and activities conducted on behalf of an affiliate of a member. Exempting registered persons' personal investments in non-securities from the reporting requirements seems to be consistent with the purpose of the Proposal, which is to streamline the reporting of personal investments and outside activities for registered and associated persons and to allow BDs to focus oversight on matters more directly pertinent to investor protection.

It does not seem likely that a registered person's personal non-securities investments would be particularly relevant to investor protection. As to the exemption from reporting for activities conducted on behalf of an affiliate of a member, it is not clear that the exemption should apply to these activities. The breadth of activities conducted on behalf of an affiliate of a member is wide. For example, a registered representative could act as an investment advisor through an affiliated third-party investment advisor. This could involve recommending securities transactions for the clients of the affiliated investment advisor. While the reporting requirements for outside investment advisor activities remain in effect under this revised proposal, they only seem to go into effect if the person does more than recommend the securities transaction. This limitation seems to give a great deal of leeway to registered representatives to remain involved in outside investment advisor activities without having to report it.

Careful thought should be given to what kind of activities conducted on behalf of an affiliate of a member should be exempted from the reporting requirements of the rule, with focus given on how a customer may perceive the outside activity

Conclusion

The Clinic appreciates the opportunity to provide input on FINRA's Request for Comment. For the foregoing reasons, the Clinic is generally supportive of the proposed modifications with noted potential adjustments so that the modifications better protect investors.

Respectfully Submitted,

William A. Jacobson

William A. Jacobson, Esq.
Clinical Professor, Cornell Law School
Director, Cornell Securities Law Clinic

Justin Cwiklinski

Justin Cwiklinski
Cornell Law School, 2026

Jing Huang

Jing Huang
Cornell Law School, 2027

John Comment On Regulatory Notice 25-05

John

RE: Comment on FINRA Regulatory Notice 25-05: Outside Activities Requirements

To Whom It May Concern:

We appreciate the opportunity to comment on FINRA Regulatory Notice 25-05, which proposes a new rule to streamline and reduce unnecessary burdens regarding existing requirements addressing the outside activities of member firms' associated persons. As a FINRA member firm with registered representatives exclusively serving institutional clients, we strongly support FINRA's objective to consolidate Rules 3270 and 3280 into a single framework while maintaining essential investor protections.

Support for Focusing on Investment-Related Activities

We commend FINRA for focusing the proposed rule on investment-related activities, which will eliminate reporting requirements for non-investment-related activities such as coaching sports, driving for a ride-share service, or bartending on weekends. As FINRA correctly notes in the proposal, these activities create "white noise" that detracts from meaningful compliance efforts.[1] This targeted approach will allow member firms to dedicate resources to activities presenting higher risk to investors and market integrity.

The FINRA retrospective review data showing that approximately 40% of registered persons submitted OBA notices[2] underscores the significant compliance burden under the current rules. Narrowing the scope to investment-related activities represents a meaningful step toward more efficient regulation that maintains investor protection while reducing unnecessary administrative burden.

Refinement of "Investment-Related Activity" Definition

While we support narrowing the scope to investment-related activities, we believe the proposed definition remains overly broad. The current definition encompasses "financial assets, including securities, crypto assets, commodities, derivatives, currency, banking, real estate or insurance"[3] and could capture activities with minimal potential for conflicts of interest or customer confusion.

For example, under this broad definition, a registered representative who helps manage a family member's rental property, provides basic tax advice, or serves in a volunteer financial capacity for a non-profit organization would need to provide full disclosure and undergo assessment by the member firm, despite minimal investor protection concerns.

We recommend FINRA consider refining the definition to focus more explicitly on activities with genuine potential to create conflicts of interest or customer confusion. This could include establishing clearer parameters for when real estate or insurance activities warrant regulatory scrutiny versus when they present minimal risk.

Risk-Based Framework for Assessment

The proposal appropriately standardizes the assessment criteria for both outside activities and outside securities transactions, requiring members to consider whether the activity: (1) is properly characterized; (2) involves the member's customer(s); (3) will interfere with the person's responsibilities; and (4) will be viewed by customers or the public as part of the member's business.[4]

While these assessment factors are appropriate, we suggest FINRA consider implementing a more explicit risk-based framework that scales requirements based on the actual risk presented. This could include consideration of:

- The nature and sophistication of any customers involved

- The degree of overlap between the outside activity and securities business

- The potential for customer confusion about which entity is responsible for the activity

- The scale and scope of the outside activity relative to the person's role with the member

A more graduated approach would enable members to focus resources on activities presenting genuine investor protection concerns while streamlining oversight for lower-risk activities.

Outside IA Activities Considerations

Regarding FINRA's request for comment on outside IA activities, we recognize the complexity of this issue. The proposal maintains current supervisory and recordkeeping obligations for outside IA activities performed at unaffiliated firms, while excluding those conducted at affiliates.

As FINRA acknowledges in both the 2018 proposal (Regulatory Notice 18-08) and the current notice, these requirements create practical challenges, including "privacy challenges with a member obtaining account information for customers of an unaffiliated IA through which a member's registered person may be acting in an IA capacity."[5] The notice also recognizes that "these activities are subject to another regulatory regime."[6]

We believe a more coordinated approach between FINRA and SEC/state securities regulators would better serve investor protection while reducing duplicative oversight. Such coordination could involve clear delineation of supervisory responsibilities and information-sharing protocols that respect client privacy while ensuring appropriate oversight.

At minimum, we encourage FINRA to consider revisiting aspects of the 2018 proposal that would have provided more tailored treatment of outside IA activities, balanced against the legitimate investor protection concerns raised by some commenters to that proposal.

Implementation Considerations

If adopted, we recommend FINRA provide clear implementation guidance and appropriate transition periods for member firms to:

1. Update written supervisory procedures to reflect the new consolidated rule

2. Modify existing reporting systems and documentation

3. Develop assessment protocols that align with the new criteria

4. Train compliance personnel on the new requirements

Additionally, we suggest FINRA develop educational resources to help registered persons understand their obligations under the new rule, particularly regarding which activities require reporting and which are excluded.

Conclusion

We appreciate FINRA's thoughtful approach to streamlining these important requirements. The proposed consolidation of Rules 3270 and 3280 and focus on investment-related activities represent meaningful progress toward more efficient, risk-based regulation.

We believe the refinements suggested above would further enhance the proposal's effectiveness in balancing investor protection with operational efficiency. We welcome the opportunity to discuss these comments further and to participate in any future discussions regarding implementation of the final rule.

[1] FINRA Regulatory Notice 25-05, p. 10, discussing the Proposal's focus on investment-related activities.

[2] FINRA Regulatory Notice 25-05, p. 19, Economic Baseline: "Approximately 40 percent of the registered persons of those members provided written notices."

[3] FINRA Regulatory Notice 25-05, p. 10, defining "investment-related activity."

[4] FINRA Regulatory Notice 25-05, pp. 11-12, detailing members' responsibilities upon receiving notice.

[5] FINRA Regulatory Notice 25-05, p. 22, quoting Regulatory Notice 18-08 (February 2018).

[6] FINRA Regulatory Notice 25-05, p. 22, referencing Regulatory Notice 18-08 (February 2018).

John Comment On Regulatory Notice 25-05

John

Na

I completely and totally oppose such a useless and tyrannical rule. It's gross overreach and does not benefit the people of this country its industries or our institutions. I'm ok with FAs having crypto without your knowledge. Again this rule proposal is overreach

Mark Johnson Comment On Regulatory Notice 25-05

Mark Johnson

5/5/2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these

transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you. Sincerely

JAFFE | TILCHIN
WEALTH MANAGEMENT

May 7, 2025

Investment Management

Trust & Estate Services

Retirement Planning

Corporate Benefits

Insurance Services

Auto, Home & Business

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

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15350 N. Florida Avenue, Tampa, Florida 33613 | Main 813.960.5293 | Toll Free 866.218.7906 | Fax 866.804.3032 | info@jaffetilchin.com
Jaffe Tilchin Investment Partners is a Registered Investment Advisor. Certain representatives of Jaffe Tilchin Investment Partners are also Registered Representatives offering securities through APW Capital, Inc., Member FINRA/SIPC. 100 Enterprise Drive, Suite 504, Rockaway, NJ 07866 (800) 637-3211.

JAFFE | TILCHIN
WEALTH MANAGEMENT

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

M. Scott Jones, CLU

CCO/ Registered Principal

15350 N. Florida Avenue, Tampa, Florida 33613 | Main 813.960.5293 | Toll Free 866.218.7906 | Fax 866.804.3032 | info@jaffetilchin.com

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Keaton Capital Management L.L.C. Comment On Regulatory Notice 25-05

Jerry M Keaton
Keaton Capital Management L.L.C.
Ms. Jennifer Piorko Mitchell Office of the

Corporate Secretary FINRA

1700 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the

proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right

to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy

mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis

provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the

proposed Rule as originally drafted and discussed in Regulatory Notice 18-08

Thank you for your consideration.

Sincerely,

Jerry M. Keaton / Keaton Capital Management L.L.C.

Berkshire Advisors, Inc.

REGISTERED INVESTMENT ADVISOR

May 5, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

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2240 Ridgewood Road, Wyomissing, PA 19610
Phone: 610-376-6970 * Fax: 610-376-9588 * www.BerkshireAdvisors.net

Securities offered through Purshe Kaplan Sterling Investments. Member FINRA/SIPC, 80 State Street, Albany, NY 12207

Berkshire Advisors, Inc.

REGISTERED INVESTMENT ADVISOR

Providing unaffiliated broker-dealers' access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

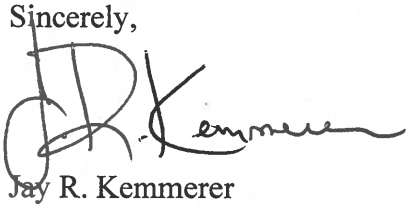
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Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Jay R. Kemmerer
CEO

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Berkshire Advisors, Inc.

REGISTERED INVESTMENT ADVISOR

May 5, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

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This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration.

Sincerely,

Jay R. Kemmerer
CEO

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Phone: 610-376-6970 * Fax: 610-376-9588 * www.BerkshireAdvisors.net

Securities offered through Purshe Kaplan Sterling Investments. Member FINRA/SIPC, 80 State Street, Albany, NY 12207

12 May 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

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Sincerely,

Nicholas D. Kennedy

724-293-4500 **Kennedy@TR-EC.com** **3000 Stonewood Dr. Ste. 330 Wexford, PA 15090**

Investment Advisory Services are offered through Three Rivers Executive Consulting, a registered investment adviser. Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and Three Rivers Executive Consulting are not affiliated companies.

From: Jacob Kilpatrick
To: pubcom@finra.org
Subject: Opposition 25-05
Date: Monday, May 5, 2025 8:06:09 PM

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

All,

If this passes it will completely ruin my family. Is this what you all want to do to our veterans… complete [REDACTED] and it's politically driven. Don't stop what the people want!

Thanks,

Jacob Kilpatrick
Sent from my iPhone

May 13, 2025

Via FINRA Website

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

Re: FINRA Regulatory Notice 25-05
FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities

Dear Ms. Mitchell:

We are submitting this letter on behalf of the Committee of Annuity Insurers (the "Committee"),[1] in response to FINRA Regulatory Notice 25-05, *FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities* (the "Notice"), issued by the Financial Industry Regulatory Authority, Inc. ("FINRA") on March 14, 2025.[2] The Notice solicits comment on a proposed new rule that would replace current FINRA Rules 3270 (Outside Business Activities of Registered Persons) and Rule 3280 (Private Securities Transactions of an Associated Person) with a single rule – Rule 3290 (Outside Activities Requirements) (the "Proposed Rule").

BACKGROUND

Current FINRA Rules 3270 and 3280 require registered representatives to notify their firms of proposed outside business activities ("OBA(s)"), and associated persons to notify their firms of proposed private securities transactions ("PST(s)"), respectively, so firms can determine whether to limit or allow those activities to proceed. The notifications required in these rules assist firms in identifying and determining how to mitigate potential risks posed by OBAs and PSTs, including by placing conditions on, or prohibiting, participation in the proposed OBA or PST.

[1] The Committee is a coalition of many of the largest and most prominent issuers of annuity contracts. The Committee's 33 member companies represent approximately 80% of the annuity business in the United States. The Committee was formed in 1981 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of insurance, securities, banking, and tax policies regarding annuities. For over four decades, the Committee has played a prominent role in shaping government and regulatory policies with respect to annuities at both the federal and state levels, working with and advocating before the SEC, CFTC, FINRA, IRS, Treasury Department, and Department of Labor, as well as the NAIC and relevant Congressional committees. A list of the Committee's member companies is available on the Committee's website at www.annuity-insurers.org/about-the-committee/.

[2] FINRA Regulatory Notice 25-05, FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities (March 14, 2025), available here.

FINRA has long recognized the need to simplify and streamline the requirements imposed by Rules 3270 and 3280. In May 2017, FINRA issued Regulatory Notice 17-20, which launched a retrospective review of its OBA and PST rules to assess their effectiveness and efficiency.[3] FINRA's review revealed that the current rules could benefit from revisions. As a result, FINRA issued Regulatory Notice 18-08, which solicited comment on a single streamlined rule (also referred to as Rule 3290) to address OBAs and PSTs (the "2018 Proposal").[4] The Committee submitted a comment letter in response to RN 18-08 that generally supported the direction of the 2018 Proposal but asked FINRA to align the outside activity reporting requirements with Form U4 and exclude from reporting certain low-risk outside activities.[5]

The Proposed Rule, similar to the 2018 Proposal, again seeks to streamline Rules 3270 and 3280 into a single rule. The Committee again supports the direction of the Proposed Rule, but notes that, for the most part, its comments in response to the 2018 Proposal were not addressed. As a result, many of the reporting burdens that the Proposed Rule attempts to ease will remain in place if it is adopted as proposed. Just two days before issuing the Notice, FINRA launched its rule modernization initiative, with the goal of reviewing FINRA Rules in the context of "further[ing] FINRA's mission of investor protection and market integrity by supporting *more efficient and effective regulatory requirements*... (emphasis added)."[6] FINRA's focus on *efficiency* is repeated in the Notice, with FINRA noting that the Proposed Rule is intended to "*enhance efficiency* without compromising protections for investors... (emphasis added)."[7]

The Committee's comments are focused on enhancing efficiency, reducing unnecessary regulatory burdens, and ensuring the continued protection of firms and investors.

COMMITTEE COMMENTS

The Committee appreciates the opportunity to comment on the Proposed Rule and is generally supportive of the proposed changes. The Committee specifically supports FINRA's decision to narrow the reporting requirement under the Proposed Rule to those activities that are "investment-related," which the Committee believes will allow firms to focus on those outside activities that are most likely to raise investor protection concerns. The Committee's comments are focused, in part, on areas where greater efficiency could be achieved through: (1) aligning the outside activity reporting requirement in Item 13 of Form U4 with the Proposed Rule; (2) providing additional exclusions from the Proposed Rule for certain low-risk activities; and (3) providing additional guidance around the exclusion from reporting income related to certain rental properties.

1. FINRA Should Undertake a Rulemaking Initiative to Align Form U4 with the Proposed Rule

Currently, registered representatives are required to report outside business activities on their Form U4 and to update that information promptly. More specifically, Item 13 of Form U4 requires a registered representative to report whether they are "currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent, or otherwise," excluding "non-investment related activity that is exclusively charitable, civic, religious or fraternal

[3] FINRA Regulatory Notice 17-20, FINRA Requests Comment on the Effectiveness and Efficiency of its Rules on Outside Business Activities and Private Securities Transactions (May 15, 2017), available here.

[4] FINRA Regulatory Notice 18-08, FINRA Requests Comment on Proposed New Rule Governing Outside Business Activities and Private Securities Transactions (February 26, 2018) ("RN 18-08"), available here.

[5] The Committee's comment letter in response to Regulatory Notice 18-08 is available here.

[6] FINRA Regulatory Notice 25-04, FINRA Launches Broad Review to Modernize Rules Regarding Member Firms and Associated Persons (March 12, 2025), available here ("RN 25-04").

[7] *See* the Notice at pg. 1.

and is recognized as tax exempt."[8] While the outside activity reporting requirement in Item 13 of Form U4 does not perfectly align with current Rules 3270 and 3280, in the ordinary course, the reporting requirements align closely enough where, in most cases, an outside activity that is reportable under current Rules 3270 and 3280 is reportable under Item 13 of Form U4.

The Proposed Rule would narrow the outside business activity reporting requirement to those activities that are "investment-related." The Committee supports this change but notes that registered representatives will still be required to report non-investment-related activities in response to Item 13 of Form U4, which lacks a carve out for non-investment related activities that matches the carve out under the Proposed Rule. Unless FINRA engages in rulemaking to align Form U4 reporting with the Proposed Rule, FINRA's goal of "decreas[ing] burdens on members by eliminating the reporting and assessment of low-risk activities" will not succeed.[9] Firms will still be required to collect information about non-investment-related, low-risk activities and, in fact, may experience increased compliance burdens as a result of being required to evaluate those activities when they are reported to ensure that they are not "investment-related" and subject to the Proposed Rule.

The Committee further notes that the definition of "investment-related" in the Proposed Rule differs from the definition in Form U4 in that it includes references to "crypto assets" and "currency" – neither of which are found in the Form U4 definition.[10] The evaluation of whether a particular activity is "investment-related" is crucial under both the Proposed Rule (where it serves as a gatekeeping question to the applicability of the Rule) and Item 13 of Form U4 (where a registered person is required to disclose whether a particular outside activity is "investment-related"). Because of the different definitions, broker-dealers and their registered persons will be required to evaluate each reported outside activity under each definition, which is inefficient and will increase compliance burdens.

The Committee strongly recommends that FINRA initiate a parallel rulemaking to amend the reporting requirement under Item 13 of Form U4 and the "investment-related" definition in Form U4 to make them consistent with the Proposed Rule. As noted above, failing to do so could result in the Proposed Rule decreasing efficiency and increasing compliance burdens. The Committee notes that amending Form U4 to be consistent with the Proposed Rule would satisfy one of the primary goals of FINRA's modernization initiative – looking at how FINRA's rules may overlap and/or cause unnecessary burdens when compared with other regulatory requirements.[11] Here, the Committee's comments are focused on burdens imposed on member firms because of an overlap between *two FINRA requirements* – an area that FINRA is uniquely positioned to address.

2. FINRA Should Specifically Exclude Additional Low-Risk, "Investment-Related" Activities from the Proposed Rule.

The Committee supports the express exclusion of certain activities from the scope of the Proposed Rule, such as personal trading, income received from rental properties, and activities performed on behalf of an affiliate, such as an affiliated insurance company. The exclusion of these

[8] *See* Rev. Form U4 (05/2009), available here.

[9] *See* the Notice at pg. 4.

[10] *See* Form U4 Explanation of Terms, available here (defining the term "investment-related" as "[p]ertains to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, issuer, investment company, investment adviser, futures sponsor, bank, or savings association)").

[11] *See* RN 25-04, at pg. 5.

activities supports FINRA's goal of "enhanc[ing] efficiency without compromising protections for investors and members...."[12]

In addition to these exclusions, the Committee suggests that FINRA explicitly exclude the following activities from the Proposed Rule's reporting requirement, which are commonly engaged in by registered representatives and create little risk to investors or broker-dealers: (1) ongoing or intermittent fundraising for a non-profit organization; and (2) the receipt of residual insurance commissions (e.g., when a registered representative no longer has a relationship with his or her prior firm but is due residual commissions). The Committee believes that adding additional exclusions for these two categories of low-risk activities would reduce unnecessary regulatory burdens while enhancing the efficiency and effectiveness of the Proposed Rule.

3. FINRA Should Provide Guidance Regarding the Exclusion from Reporting the Purchase, Sale, Rental, or Lease of Certain Properties

The Committee requests that FINRA provide additional guidance on the scope of properties that are contemplated within Proposed Rule 3290(g)(3)(C). Proposed Rule 3290(g)(3)(C) notes that the rule "shall not apply to an associated person's... personal investments" including "the purchase, sale, rental or lease of a main home or dwelling unit or personal-use rental property, as defined for purposes of the Internal Revenue Code." Despite a reference to the Internal Revenue Code ("IRC") in the Proposed Rule text, neither the Proposed Rule text nor the Notice provide a citation to any specific section of the IRC. Further, it is not apparent whether the reference to the IRC in the Proposed Rule text is with respect to both the terms "main home or dwelling unit" and "personal-use rental property" or just with respect to the latter. It is also not apparent whether the exclusion is available only for a single property or whether it can apply to multiple properties owned by the same person. The Committee believes that additional guidance is warranted to ensure that the exclusion is applied consistently and uniformly across the industry.

CONCLUSION

Upon adoption of the Proposed Rule, FINRA staff should be prepared to entertain many questions that will likely arise, including (among other things) with respect to the different ways that property may be owned (e.g., directly through an associated person or through legal entities that might have multiple-owners) and/or used (for personal use or "hybrid" personal and investment use). Therefore, the Committee believes any rule adoption should be followed by a detailed series of FAQs to assist with interpretive issues associated with the new rule.

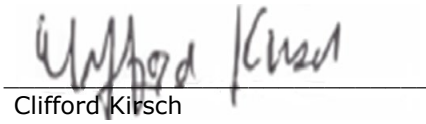
The Committee appreciates the opportunity to provide these comments on the Notice. Please do not hesitate to contact Clifford Kirsch (212.389.5052 or CliffordKirsch@eversheds-sutherland.com) or Eric Arnold (202.383.0741 or EricArnold@eversheds-sutherland.com) with any questions or to discuss this comment letter.

* * *

[12] *See* the Notice at pg. 1.

Respectfully submitted,

EVERSHEDS SUTHERLAND (US) LLP

BY: 
Clifford Kirsch

BY: 
Eric Arnold

FOR THE COMMITTEE OF ANNUITY INSURERS



KITSMAN
INVESTMENT
MANAGEMENT

600 S. Tyler, Suite 1702
Amarillo, Texas 79101
806-322-4825

Charles B. Kitsman
chuck@kitsmaninv.com

April 21, 2025.

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA

1735 K Street Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm, also being a registered representative at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, which FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

Registered Representative of and securities offered through Purshe Kaplan Sterling investments. LLC. Member FINRA and SIPC. Headquartered at 80 State Street. Albany.NY12207. Investment Advisory services offered through Kitsman Investment Management. A Registered Investment Advisor. 600 S. Tyler St.. Suite 1702. Amarillo.TX 79101.Kitsman Investment Management is not owned or controlled by PKS Investments.LLC.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Registered Investment Advisory firms are already regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to my business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration.

Sincerely,



Charles B. Kitsman

From: Art Klugh
To: pubcom@finra.org
Subject: Comment on Regulatory Notice 25-05
Date: Monday, May 12, 2025 12:14:36 PM
Attachments: Outlook-A close-up.png

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

May 12, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

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The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these

transactions “as if executed on behalf of the member.” Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client’s sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client’s assets, thereby violating the advisor’s ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn’t exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you. Sincerely,

Art Klugh, CFP ®, CPFA®
Founding Partner | Wealth Manager
Phone: 864-986-4242
Fax: 864-712-5454
Address: 129 N Main Street, Suite 200, Anderson, SC 29621
Email: art@coxandklugh.com
Website: www.coxandklugh.com [coxandklugh.com]

COX, KLUGH
& COMPANY

Cox, Klugh & Company provides all investment advisory services through Concurrent Investment Advisors, LLC (“Concurrent”), an SEC Registered Investment Advisor.

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From: Carmen Heslop on behalf of William J Kridel Jr.
To: Comments, Public
Subject: FINRA 250508 Request to Lighten Regulatory Requirements on Pure Advisory Member Firm
Date: Thursday, May 8, 2025 11:32:37 AM

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

To whom it may concern at FINRA,

I am writing on behalf of a FIRNA – registered , NASD member firm, Ferghana Securities, Inc. Like many small corporate finance-oriented member firms, many of the FINRA requirements have NO BASIS IN FACT OR INTENT WITH OUR BUISNESS: we do not have retail or institutional investor customers; we never handle money; we do not advertise to the public; we do not write equity research with investment recommendations; and we do not sell our own investment products or those of someone else. We are strictly an advisory firm.

We have been beseeching FINRA for years to lighten the paper work and reporting load on us (and all other similarly situated and constituted firms). Please give an explicit waiver on all those requirements imposed upon a pure advisory member firm.

Best,
Bill

KEYSTONE
PRIVATE WEALTH

April 21, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

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I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Shad F. Lamm

Shad Lamm CRPC®
Partner and Senior Financial Advisor
D: 760.818.7035
Shad@KeystonePW.com

717 Wild Heron Way
Panama City Beach FL 32413

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC.
Headquartered at 80 State Street, Albany NY 12207. Purshe Kaplan Sterling Investments and Keystone Private Wealth are not affiliated companies.

Robert W. Larsen Comment On Regulatory Notice 25-05

Robert W. Larsen
May 13, 2025

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA

1700 K Street

Washington, D.C. 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am a member of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section3290 provides, at subsection (d)(4)thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these

transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated people with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Robert W. Larsen

TOWERPOINT WEALTH

April 30, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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500 Capitol Mall | Suite 2060 | Sacramento, CA 95814
916.405.9140 main | 916.405.9155 fax
info@towerpointwealth.com
www.towerpointwealth.com

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Jonathan W. LaTurner
Partner, Wealth Advisor
Towerpoint Wealth, LLC

Kenyon Lederer Comment On Regulatory Notice 25-05

Kenyon Lederer
Pinncle Wealth Management, LLC

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Finally, this additional oversight is unsupported anywhere in federal or statelaw.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

From: Sean Lehmann
To: Comments, Public
Subject: RE: Comment on Proposed Rule Streamlining Rules 3270 and 3280 (Regulatory Notice XX-XX)
Date: Thursday, May 1, 2025 1:43:02 PM

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

Dear Ms. Mitchell:

I write to express my strong opposition to the proposed rule changes that would consolidate FINRA Rules 3270 and 3280 into a single new rule governing Outside Business Activities (OBAs) and Private Securities Transactions (PSTs).

While I recognize FINRA's stated intent to "streamline and reduce unnecessary burdens," the Proposal, in its current form, fails to deliver on this promise. In fact, the rule as proposed introduces new complexities, increases the administrative burden on both firms and associated persons, and may have significant unintended consequences for small firms, independent advisors, and entrepreneurial professionals within our industry.

1. The Proposal Creates Additional Burden, Not Less

The new rule expands the scope of reportable and reviewable activities beyond what Rules 3270 and 3280 currently require. The requirement for firms to make a subjective "investment-related" determination in virtually all cases, regardless of the nature of the activity, forces compliance departments to adopt overly conservative stances to avoid regulatory risk. This not only increases internal compliance costs, but also discourages legitimate and harmless business activities that have no bearing on the firm or its clients.

2. Overreach Into Personal and Entrepreneurial Activity

The Proposal, as written, encroaches unnecessarily on the personal and entrepreneurial pursuits of associated persons. Many registered persons engage in benign side activities—teaching, real estate ventures, or consulting work—that do not involve securities, investors, or even financial products. Subjecting these activities to firm oversight, recordkeeping, and potential disapproval is an excessive overreach and potentially violates individual rights to engage in lawful work outside their registration.

3. A Disincentive for Innovation and Financial Independence

The Proposal disproportionately impacts independent broker-dealers and registered representatives operating in hybrid or entrepreneurial models. These professionals rely on the ability to engage in outside ventures to supplement income or build financial independence. The proposed framework—laden with firm discretion, approval processes, and expanded recordkeeping—may dissuade firms from allowing such activity altogether, reducing career flexibility and harming the industry's competitiveness in attracting top talent.

4. Lack of Evidence That Existing Rules Are Deficient

FINRA has not provided compelling evidence that the current regulatory framework under Rules 3270 and 3280 is failing to protect investors or that it results in material gaps in oversight. The retrospective review should have focused on reducing compliance redundancy, not expanding the reach of regulation under the guise of simplification. The Proposal risks solving a problem that does not exist while creating new burdens in the process.

5. Unclear Definitions and Guidance Create Compliance Risk

The proposed rule uses terms such as “investment-related,” “compensation,” and “materiality” in ways that are insufficiently defined and ripe for inconsistent interpretation across firms. This ambiguity increases legal risk and invites uneven enforcement, further deterring firms from approving legitimate outside activity.

Conclusion

Rather than reducing regulatory burden, the Proposal amplifies it. It introduces vagueness, increases compliance costs, threatens personal liberty, and undermines professional autonomy —particularly for small firms and independent advisors. FINRA should not move forward with this proposal in its current form. Instead, I urge FINRA to retain the current bifurcated structure under Rules 3270 and 3280, and, if warranted, issue updated guidance to clarify expectations without resorting to a sweeping new rule.

Respectfully submitted,

Sean A. Lehmann, AIF®
The Sullivan Group
E-mail: Sean@sullivangroup.net
Phone: (949) 388-1888
Cell: (916) 216-8200

CA Insurance License# 0B38959

· Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC, Headquartered at 80 State Street, Albany, NY 12207

· Purshe Kaplan Sterling Investments and The Sullivan Group are not affiliated companies.

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David Lembo Comment On Regulatory Notice 25-05

David Lembo

This is a poorly written proposal and i disagree with much of the content. Please do not pass this.

Morris Licciardello Jr Comment On Regulatory Notice 25-05

Morris Licciardello Jr

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

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I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration.

Reed
FINANCIAL SERVICES
A Registered Investment Advisor

5885 Landerbrook Drive • Suite 110
Cleveland, OH 44124
Tel: 216.464.2090
Fax: 216.464.1163
www.reed-financial.com

May 8, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

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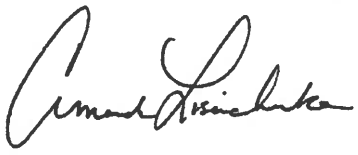
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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Amanda Lisachenko, President®

From: Chris Lott
To: Comments, Public
Subject: Request for Comment on Regulatory Notice 25-05
Date: Thursday, May 1, 2025 11:17:01 AM
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png

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5/1/25

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

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[smithanglin.com]



Chris Lott, CFP®, CPA | Partner and Wealth Advisor
14755 Preston Road, Suite 700, Dallas, Texas 75254
O: (972) 267-1244 | F: (972) 267-1243
clott@smithanglin.com


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[smithanglin.com]


[smithanglin.com]



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Securities offered through Purshe Kaplan Sterling Investments (PKS), Member FINRA/SIPC, headquartered at 80 State Street, Albany NY 12207. Investments through PKS or RIA are not FDIC insured, not bank guaranteed and may lose value, including loss of principal. Not insured by any state or federal agency. Purshe Kaplan Sterling Investments and Smith Anglin Financial, LLC are not affiliated companies.

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

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LEGACY
PRIVATE WEALTH PARTNERS

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transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

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Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.
Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.
Thank you,
Sincerely,



Garner A Mabry IV
Concurrent Investment Advisors
DBA Legacy Private Wealth Partners

Legacy Private Wealth Partners provides all investment advisory services through Concurrent Investment Advisors, LLC, an SEC Registered Investment Advisor. Brokerage Services offered through Purshe Kaplan Sterling Investments (PKS), Member FINRA/SIPC Headquartered at 80 State Street, Albany, NY 12207. PKS and Concurrent Investment Advisors d/b/a Legacy Private Wealth Partners are not affiliated companies.

LEGACY
PRIVATE WEALTH PARTNERS

www.legacypwp.com | 5445 DTC Parkway, Suite 1100, Greenwood Village, CO 80111 | T: 720.381.2669 F: 303.736.6236

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SUMMIT
FINANCIAL, LLC

May 13th, 2025
Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006
Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:
For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

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Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

4 Campus Drive, Parsippany, NJ 07054
Phone: 973-285-3600 ▪ Direct: 973-588-8280

Finally, this additional oversight is unsupported anywhere in federal or state law.
Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Michael MacDougal

MCA
MACLEAN CAPITAL ADVISORS

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

74900 Highway 111, Suite 224 Indian Wells, California 92210
(760) 636-4593

Thank you for your consideration.

Sincerely,



Christian A. MacLean, CFA CPA
MacLean Capital Advisors
President

Main Street
FINANCIAL SOLUTIONS

Jamal L. Mahmood, CFP® CLU®, ChFC®, CAS®, RICP®
Melissa Thier, CFP®

155 Pompton Avenue, Suite 108, Verona, NJ 07044
973-239-0900 (office phone) 973-233-5507 (direct fax)

May 12, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an IAR of a Registered Investment Advisory (RIA) firm, and a registered representative at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule has the potential to expose my RIA firm to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

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Sincerely,

Jamal Mahmood

Main Street Financial Solutions LLC is a Registered Investment Advisor, headquartered at 503 East Washington Avenue, Newtown, PA, 18940; more information is available at www.msfsolutions.com. Securities offered through Purshe Kaplan Sterling Investments (PKS), Member FINRA/SIPC, headquartered at 80 State Street, Albany, NY 12207; more information is available at www.pksinvest.com. PKS and MSFS are not affiliated companies. Traditional insurance and fixed annuity products may be offered through Jamal L. Mahmood, an independent insurance producer licensed in New Jersey and several other states (CA Insurance Producer License #OD94668). This message is not intended to solicit the sale of any insurance product in any jurisdiction where such solicitation is not authorized. None of these entities provide legal or tax advice.

April 28 2025

Dear Jennifer Piorko Mitchell and the FINRA Rulemaking Team,

I am writing to respectfully express my concerns and strong opposition to the proposed changes outlined in **Regulatory Notice 25-05** and the amendments to **Rule 3290** ("Outside Business Activities of Associated Persons").

While I appreciate FINRA's efforts to ensure investor protection and regulatory clarity, the proposed rule change—particularly as it relates to digital assets and the broader cryptocurrency ecosystem—risks **stifling innovation, impeding financial inclusion, and discouraging responsible participation** in one of the most transformative technological sectors of our generation.

The blockchain and digital asset industry is not merely a speculative market; it represents foundational innovation in areas such as finance, identity management, supply chain transparency, and decentralized infrastructure. By expanding the scope of Rule 3290 to capture an even wider array of activities—especially in the digital asset space—FINRA risks **imposing outdated regulatory frameworks** on a rapidly evolving technology, thereby **chilling legitimate entrepreneurial activity** among registered persons.

Specifically, the proposals could:

1. **Unnecessarily Burden Innovation:**
   Requiring extensive pre-approval or monitoring of virtually any outside engagement in digital asset-related ventures creates an environment where talented individuals may **hesitate to engage in or support promising blockchain projects** out of fear of overly complex compliance hurdles.
2. **Erect Barriers to Entry:**
   Early-stage innovation often thrives on agile development and dynamic participation. The proposed rules would **entrench incumbents** and restrict newer entrants, including smaller firms and diverse communities that have historically been underrepresented in financial services.
3. **Misalign U.S. Regulatory Leadership:**
   As other jurisdictions move to embrace crypto and Web3 technologies with **forward-looking policies**, the United States risks ceding leadership if the regulatory environment becomes too hostile. Overreaching rules discourage domestic innovation and push talent and capital abroad.
4. **Overstep Traditional OBA Concerns:**
   Rule 3290 was originally designed to prevent conflicts of interest and protect clients. However, many crypto and blockchain engagements do **not present traditional conflicts**. Rather than blanket regulation, a more tailored, risk-based approach would better serve both investor protection and innovation goals.

Recommendations:

- **Narrow the Scope:** Focus regulatory oversight on OBAs that pose clear risks to investors or the integrity of the securities markets.
- **Recognize Distinct Asset Classes:** Digital assets, especially non-security tokens, should not automatically be subjected to securities-style regulation simply due to association with a registered individual.
- **Support Pro-Innovation Policies:** FINRA should work in collaboration with industry participants to craft rules that encourage responsible innovation rather than discouraging participation altogether.

In conclusion, while I fully support investor protection and market integrity, I urge FINRA to reconsider the broad and chilling impacts of the proposed amendments. A more measured, innovation-friendly approach will help ensure that the United States remains a leader in the responsible growth of blockchain and digital assets, benefitting consumers and the economy alike.

Thank you for considering my comments.

Respectfully,

Josh Manifold

Principal

Compass Ion Advisors

Future Financial
Wealth Management Group

April 29, 2025

Ms. Jennifer Piorko Mitchell Office of the
Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

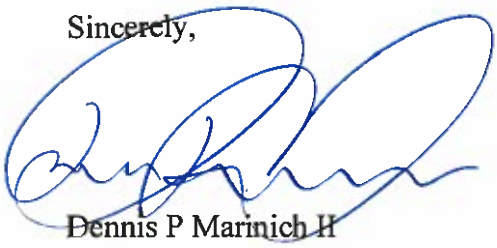
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I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

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serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Dennis P Marinich II
President

Phone: 513.817.3131
fax: 513.817.3134

www.Future-Financial.net

7817 Cooper Road, Suite D
Cincinnati, OH 45242

Mark Comment On Regulatory Notice 25-05

Mark

I oppose FINRA Regulatory Notice 25-05 and Proposed Rule 3290

LIBERTY
Wealth Management
3570 Hamilton Blvd., Suite 301 • Allentown, PA 18103
610-398-7333 • 800-451-9687 • Fax: 610-398-7408
www.lwmgmt.com

May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

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LIBERTY
Wealth Management
3570 Hamilton Blvd., Suite 301 • Allentown, PA 18103
610-398-7333 • 800-451-9687 • Fax: 610-398-7408
www.lwmgmt.com

relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Gary Mayo, CFP

MONUMENT GROUP

Electronic Submission

May 12, 2025

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Notice 25-05: FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities

Dear Ms. Mitchell:

This letter is submitted in response to the request for public comments by the Financial Industry Regulatory Authority ("FINRA") with respect to its proposal to streamline and reduce unnecessary burdens regarding associated persons' (including registered persons') outside activities. We greatly appreciate FINRA's proposal to replace FINRA Rule 3270 and FINRA Rule 3280 with a single rule (the "Proposal").

By way of background, Monument Group is an independent broker-dealer registered with the Securities and Exchange Commission and a member of FINRA. Our principal business is to act as a placement agent in primary offerings and secondary sales of interests in private funds. As such, our registered representatives seek capital for our clients solely from institutional investors.

(i) Support for the Proposal's elimination of "white noise" with a focus on Investment Related Activities

The burden of monitoring low-risk activities (such as coaching a sports league) poses outsized compliance obligations for firms and yet results in little-to-no meaningful investor protections. Therefore, we support the limits on the Proposal's scope to outside activities that are investment-related.

(ii) Request for Clarification: "Investment-Related Activity"

Although we strongly believe that limiting the scope to outside activities that are investment-related is a step in the right direction, we note that, like many of the other commenters, the definition of "Investment-related activity" is overly broad and detracts from the ultimate goal of simplifying and streamlining the requirements regarding associated persons' outside activities.

For example, if a crypto asset is offered for purchase or sale by a FINRA member firm other than the employer member, it is captured under FINRA Rule 3210 and thus exempted from the Proposal[1]. If a crypto asset is separately regulated, by e.g. the Commodity Futures Trading Commission ("CFTC"), we agree with the comment provided by Mr. John Peter Purcell that FINRA cannot (and should not) mandate the supervision of assets that fall outside of the scope of a non-CFTC registered broker-dealer's permitted activities[2]. This is particularly important with respect to the ongoing monitoring obligations required in the Proposal. Many non-CFTC registered broker-dealers are not equipped to either (i) develop specified conditions to be put in place in connection with an outside securities transaction not for selling compensation or (ii) supervise the participation in an outside securities transaction for selling compensation as if it were executed on behalf of the member.

We have similar reservations with respect to the unqualified inclusion of commodities, real estate, banking and insurance. Therefore, we respectfully request clarification regarding the scope of "Investment-related activities" as defined in the Proposal.

(iii) Conclusion

We appreciate FINRA's thoughtful review of the existing rule framework and the Proposal's pragmatic consideration of a scope limited to outside business activities that are investment-related. Thank you for considering our comments.

Very truly yours,

Natalie McClung | Vice President of Compliance & Operations
Monument Group, Inc.
500 Boylston Street, Suite 1150
Boston, MA 02116
www.monumentgroup.com

[1] Regulatory Notice 25-05, Section "Investment-Related Activities" and Attachment A (Proposed Rule, Section 3290(g)(3)(a).

[2] See Bitcoin example provided in Section (I.) of the comment letter by Mr. John Peter Purcell of PKS Investments, dated April 10, 2025.

REDWOOD
FINANCIAL PLANNING

1812 Front Street
Scotch Plains, NJ 07076
908-663-2125
info@redwoodplanning.com
www.redwoodfinancialplanning.com

Date 4/29/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

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I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Michael A. McGraw - Founder

5/1/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

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MEATH
WEALTH ADVISORS
PARTNERED WITH JOURNEY STRATEGIC WEALTH

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC, Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and Journey Strategic Wealth LLC d/b/a Meath Wealth Advisors are not affiliated companies.

MEATH
WEALTH ADVISORS
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Altus Wealth Group, LLC
423 S Cascade Ave
Colorado Springs, CO 80903
Tel 719-900-1295
Toll Free 888-614-3577
www.altuswealthgroup.com

May 5, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

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Sincerely,

Nancy Mercado, Partner
423 South Cascade Avenue, Colorado Springs, CO 80903
719-900-1295
nancy@altuswealthgroup.com

Investment advisory services offered through Altus Wealth Group, LLC, a Registered Investment Advisor. Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and Altus Wealth Group, LLC are not affiliated companies.

Glen Messier Sr Comment On Regulatory Notice 25-05

Glen Messier Sr
individual investor

I just don't see the benefit of this rule change requirement. Especially after the fact. If it were a requirement originally OK, but not afterwards. Maybe make it a requirement for new RIA's or post date it to a future date requirement. If FINRA interferes with Crypto investments at this stage it will just hurt all investors. FA's wiil just go to the alternative route, therefore eliminating the FINRA rule change, or FiNRA itself alltogether. We need pro active Crypto investment support at this point not hindered by a stupid unnecessary rule change.

GLOBAL VIEW CAPITAL®
ADVISORS

Germaine R. Meverden
Executive Director
215 Grand Ave
Wausau, WI 54403
715-298-0313
gmeverden@gvcaponline.com

Date 4/30/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

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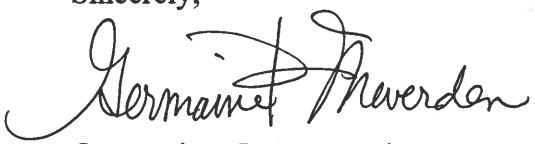
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Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Germaine R. Meverden

From: Brian Meyer
To: Comments, Public
Subject: Proposed Rule 3290
Date: Monday, May 5, 2025 11:49:38 AM

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

I am against Proposed Rule 3290.

Brian Meyer

INSURED RETIREMENT INSTITUTE

May 13, 2025

VIA ELECTRONIC SUBMISSION

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority, Inc. (FINRA)
1735 K Street, NW
Washington, DC 20006

Re: Regulatory Notice 25-05: FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities

Dear Ms. Mitchell:

On behalf of the Insured Retirement Institute (IRI)[1], the leading trade association for the retirement income industry, we appreciate the opportunity to comment on FINRA Regulatory Notice 25-05 (Notice 25-05), which concerns proposed amendments to the rules governing Outside Business Activities (OBAs) of registered persons.[2]

IRI's members include the entire supply chain of insured retirement strategies—life insurers, asset managers, broker-dealers, banks, and marketing organizations—who collectively serve millions of Americans planning for a secure and dignified retirement. As such, we have a strong interest in ensuring that regulatory frameworks governing financial professionals remain effective, transparent, and appropriately tailored to diverse and evolving business models.

IRI supports FINRA's stated objective to modernize and simplify OBA regulations. However, we have significant concerns that, in its current form, the proposal would increase rather than reduce regulatory burdens, introduce ambiguity, and depart from the risk-based principles outlined in Regulatory Notice 18-08.[3]

Increased Burdens and Ambiguity

The expansive definition of "investment-related activity" proposed in Notice 25-05 unnecessarily broadens reporting requirements for associated persons, capturing transactions such as insurance sales, which are already comprehensively regulated at the state level. This approach introduces ambiguity,

[1] The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, broker-dealers, banks, marketing organizations, law firms, and solution providers. IRI members account for 90 percent of annuity assets in the U.S., include the foremost distributors of protected lifetime income solutions, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, diversity, equity, and inclusion, and the advancement of digital solutions within a collaborative industry community.

[2] FINRA Request for Comment, *Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities*, Regulatory Notice 25-05 (Mar. 14, 2025).

[3] FINRA Request for Comment, *Proposed New Rule Governing Outside Business Activities and Private Securities*, Regulatory Notice 18-08 (Feb. 26, 2018).

compelling firms to report and supervise numerous business operations of minimal risk, thereby countering FINRA's intent to streamline regulation.

Separately, although we appreciate the specific exclusions in proposed Rule 3290(g) for "personal investments", including for real estate rentals, and in general for non-investment-related activities, firms will still need to comply with the broader meaning of "other business" activity in Question 13 to the Form U-4, and, thus, as a practical matter will still require firms to collect from its employees such OBAs to answer that question, and the individual to report it on their Form U-4. We urge FINRA to work with the SEC and the States to harmonize Question 13 of the Form U-4 with the exclusions set forth in proposed rule 3290(g). Firms will still need to supervise such disclosures until such uniformity in the meaning of "outside activities" is harmonized.

Given that insurance is regulated at the state level, we recommend that FINRA revise the definitions across all relevant forms to explicitly exclude insurance in order to ensure consistency and clarity. IRI stands ready to collaborate with FINRA on this effort and offer industry expertise to support the development of appropriately tailored definitions.

Departure from FINRA Regulatory Notice 18-08

The current proposal significantly deviates from the principles articulated in FINRA's Regulatory Notice 18-08, which sought to clarify obligations and reduce unnecessary burdens by recognizing that certain outside activities, such as unaffiliated investment advisory services, are sufficiently regulated by other authorities. Notice 25-05 reintroduces obligations for broker-dealers to supervise activities already effectively overseen by other regulators, thus contradicting FINRA's previous stance.

Removal of Supervisory Obligations for Outside Investment Activities

IRI firmly believes broker-dealers should not bear supervisory responsibility for activities outside their control, such as advice offered by unaffiliated investment advisers. Such obligations lead to duplicative oversight and potential investor confusion regarding regulatory accountability, particularly when the industry and regulators have sought to clearly differentiate between brokerage and advisory services offered by a financial professional. Requiring member firms to supervise activity conducted through unaffiliated investment advisers creates a number of practical and policy concerns, including the following:

- Unaffiliated investment advisers are responsible for implementing their own policies and procedures to comply with securities laws. They are subject to the robust oversight of the SEC and/or state securities regulators, which makes it duplicative and onerous to require additional broker-dealer oversight. We urge FINRA to eliminate these unnecessary supervisory requirements and clearly delineate oversight responsibilities.
- Investment advisers are subject to a fiduciary standard when providing investment advice to customers. Broker-dealers are subject to the "best interest" standard set forth in SEC Regulation Best Interest[4] (Reg. BI). While the adviser conduct standards in Reg. BI and the fiduciary standard applicable to investment advisers are similar, they contain substantive differences. In particular, the fiduciary standard includes an ongoing duty of

[4] 17 CFR § 240.15l-1. (SEC's Regulation Best Interest, 2019).

loyalty that persists beyond the time of the investment recommendation. This ongoing duty is a substantial factor in determining if an investment advisory relationship exists.[5] In adopting Reg. BI, the SEC properly noted that recommendations to customers in brokerage accounts do not include an ongoing duty of monitoring as investment advisory relationships typically do. Asking a FINRA member to supervise investment transactions that are subject to different standards, and with which the FINRA member may not even be familiar, adds little to investor protection and may even be counter-productive in that it may create an unfounded belief on the part of the investor that supervision by the broker-dealer is providing them an incremental benefit. This will likely result in confusion on the part of investors and FINRA member firms.

- Acquiring and reviewing data regarding transactions executed by unaffiliated investment advisers is cumbersome and often unreliable. Perhaps more importantly, FINRA members often only possess customer profile information that they collect in connection with the establishment or maintenance of brokerage accounts. Investment advisers typically utilize other facilities for the collection of customer profile information, such as extensive "Risk Tolerance" questionnaires that collect much more detailed information about customer risk tolerance and investment time horizons. Not only do investment advisers have a better ability to supervise activities conducted at their firms, but asking FINRA members to conduct an additional level of supervision without access to all of the relevant information is likely to result in inconsistent or conflicting conclusions.

Exclusion of Non-Securities Insurance Activities

The broad categorization of insurance products within the definition of "investment-related activity" is inappropriate. Fixed annuity and other non-securities insurance products are effectively regulated by state insurance departments and pose no demonstrable securities-related risk. We strongly recommend that FINRA explicitly exclude these products from OBA reporting and supervisory obligations.

Recognition of Dual-Licensed Professionals and Regulatory Coordination

Modern financial professionals often maintain multiple licenses and affiliations. FINRA should broaden the proposal's affiliate exclusions to recognize legitimate, industry-standard dual-licensing arrangements that do not necessarily involve formal corporate affiliations. For example, insurance companies can opt to utilize a third-party broker-dealer and investment adviser for certain services. These arrangements allow firms to leverage a third-party for operational efficiency, scale, and broader access to services, all of which benefit retail investors. These arrangements are legitimate and contractual, and as such should not be subject to onerous oversight by a broker-dealer. Additionally, we emphasize the need for enhanced coordination with other regulators, including the SEC and state insurance authorities, to ensure consistent, non-duplicative oversight of the distinct services offered.

Recommendations

To reiterate our comments above, IRI urges FINRA to:

- Eliminate supervisory obligations for unaffiliated outside investment advisory activities.

[5] 84 FR 33669 (Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Nov. 23, 2023).

- Narrow the "investment-related activity" definition to exclude non-securities insurance products.
- Provide broader recognition for dual-licensed business structures beyond formal affiliates.
- Enhance clarity and adopt a risk-based regulatory framework.
- Strengthen coordination with relevant regulatory authorities.

* * * * *

Thank you again for the opportunity to provide these comments. If you have questions about any of our comments or if we can be of any further assistance in connection with FINRA's request for comments on the proposal related to outside business activities, please feel free to contact the undersigned.

Respectfully submitted,



Emily Micale
Director, Federal Regulatory Affairs
Insured Retirement Institute

emicale@irionline.org

STEWARDSHIP
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Boulos G. Michael, CRPC®, AAMS®
Wealth Advisor
Managing Partner

04/25/25

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

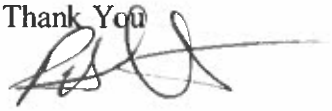
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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank You



Boulos G. Michael

STEWARDSHIP
WEALTH MANAGEMENT SOLUTIONS

Boulos G. Michael, CRPC®, AAMS®
Wealth Advisor
Managing Partner

04/25/25

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely



Boulos G. Michael

THE WELLINGTON GROUP

April 29th, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

Nate Miller, CLU®, ChFC®, CLTC®, LUTCF®, RICP®
Chief Operating Officer
9000 Keystone Crossing #400, Indianapolis, IN 46240 * 317-846-5055 x140 * nmiller@wellingtonws.com

Advisory services are offered through The Wellington Group , a registered investment adviser.
Securities offered through Purshe Kaplan Sterling Investment, Member FINRA/SIPC Headquartered at 80 State Street, Albany, NY 12207.
Purshe Kaplan Sterling Investments and Wellington Wealth Strategies LLC are not affiliated companies.

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

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Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Nate Miller, CLU®, ChFC®, CLTC®, LUTCF®, RICP®
Chief Operating Officer
9000 Keystone Crossing #400, Indianapolis, IN 46240 * 317-846-5055 x140 * nmiller@wellingtonws.com

Advisory services are offered through The Wellington Group , a registered investment adviser.
Securities offered through Purshe Kaplan Sterling Investment, Member FINRA/SIPC Headquartered at 80 State Street, Albany, NY 12207.
Purshe Kaplan Sterling Investments and Wellington Wealth Strategies LLC are not affiliated companies.

MOK CAPITAL MANAGEMENT
A Registered Investment Advisor

Stanley Q. Mok
President

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Los Altos, CA. 94022-1456

650 318 8077 tel 650 229 0433 fax 866 822 4384 toll free
stan@mokcapital.com www.mokcapital.com

May 1, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

This report is prepared for general circulation and is for informational purposes only. It is not a solicitation for the purchase or sale of any financial instrument or service. Market prices and other data may be obtained from outside sources and is not warranted as to completeness or accuracy. Past performance does not guarantee future results.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Stanley Q. Mok, President

Mok Capital Management

ISC FINANCIAL ADVISORS

May 5, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

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Thank you for your consideration.

Sincerely,

Richard J Murray

200 North Broadway Avenue, PO Box 171 | Albert Lea, MN 56007 | Ph: 507.373.8216 | Fx: 507.373.6220
Murray Financial Group
Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and ISC Financial Advisors are not affiliated companies.

Inscription Capital

May 13, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an advisor of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Inscription Capital

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Jillian Nel, CFP®, CDFA
Director of Financial Planning
Inscription Capital
jillian@inscriptioncapital.com

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Headquartered at 80 State Street, Albany, NY 12207
Purshe Kaplan Sterling Investments and Inscription Capital Advisors are not affiliated companies

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610-398-7333 • 800-451-9687 • Fax: 610-398-7408
www.lwmgmt.com

May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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610-398-7333 •800-451-9687 •Fax: 610-398-7408
www.lwmgmt.com

relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Charles J Noti, IV

Purshe Kaplan Sterling Investments Comment On Regulatory Notice 25-05

William J. Ogles
Purshe Kaplan Sterling Investments
May 12, 2025

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA

1735 K Street Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an Investment Advisor Representative of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05. Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors. Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP. The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows: For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member. Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer. Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality. Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law. Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

William J. Ogles

COLLABORATIVE PORTFOLIO MANAGEMENT

May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05. Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

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The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

10985 Cody Street, Suite 140 .• Overland Park, KS 66210 • (816) 471-5556 office .• (866) 580-1945 fax
www.cpm-llc.com
Securities offered through APW Capital, Inc., Member, *FINRA/SIPC/MSRB, 100 Enterprise Drive, Suite 504*,
Rockaway, Securities NJ 07866, 800-634-3211, Collaborative Portfolio Management LLC is independent of APW Capital Inc.

COLLABORATIVE PORTFOLIO MANAGEMENT

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.
Sincerely,

John P. Orindgreff
Owner

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Janice Parise Comment On Regulatory Notice 25-05

Janice Parise

Rule 17a-5 requires all member firms to file Schedule 1 of Form X-17A-5. This Schedule is a calendar year--end report filed by all registrants as a supplement to the regular fourth quarter FOCUS report. Schedule 1 requires the reporting of general information designed to measure certain economic and financial characteristics of the registrant. I believe this form is redundant, requesting information that is already available on the Firm's FINRA Gateway Profile (# of RRs, # of branches), FOCUS report, and Form Custody. I think Schedule 1 should be eliminated as a requirement of Rule 17a-5.

Christopher Parrado Comment On Regulatory Notice 25-05

Christopher Parrado

I am strongly opposed to this rule!! This is 2025, this will out us back into the dark ages!! This is another attempt at regulatory overreach!! Biden and Gensler are gone, thank God!!! Lets move forward not backwards!!

John Picardi
PKS Financial / Bison Wealth
3550 Lenox Rd NE
Suite 2550
Atlanta, Georgia 30326

Date 05/01/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

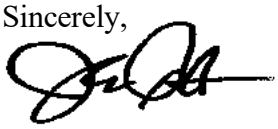
Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



John Picardi

Desiree Moreno Pineyro Comment On Regulatory Notice 25-05

Desiree Moreno Pineyro
Citi Global Markets

Re: Comment on FINRA Regulatory Notice 25-05 – Proposed Rule 3290

Submitted by: Desiree Moreno Pineyro

Date:05/05/2025

To:

Jennifer Piorko Mitchell

Office of the Corporate Secretary

Financial Industry Regulatory Authority (FINRA)

1700 K Street, NW

Washington, DC 20006

Dear Ms. Mitchell,

As a fully licensed financial professional and manager with Series 7, 66, 9, 10, and 31 registrations, I am writing to express strong opposition to Proposed Rule 3290 under FINRA Regulatory Notice 25-05. While I respect FINRA's mission to ensure ethical conduct in our industry, this proposed rule would impose disproportionate restrictions on personal freedom, privacy, and professional autonomy—particularly regarding investments in digital assets.

The requirement that financial advisors obtain written broker-dealer approval before investing in any crypto asset—including extending this rule to spouses, partners, and household members—is overly invasive. It imposes a level of surveillance into personal financial choices that is not only unnecessary, but potentially damaging to the trust and independence we work so hard to maintain in our households and professional environments.

Additionally, this rule introduces severe operational challenges. Broker-dealers are not uniformly equipped to evaluate or manage personal crypto investment requests in real time. Unlike traditional securities, the digital asset market operates 24/7, with price volatility and liquidity windows that require timely, agile decision-making. By mandating prior written approval, the proposed rule could force financial professionals to miss critical entry or exit points—creating real financial risk through delay. In effect, it penalizes licensed professionals for responsibly participating in an emerging asset class.

From a risk-management standpoint, the rule conflates personal investment activity with outside business activity, which are two distinct matters. Advisors investing their own post-tax capital in widely available, non-proprietary assets for educational or long-term purposes should not be subject to pre-clearance requirements designed for conflict-prone activities.

In summary, while transparency is vital, this proposal overreaches. It compromises personal and familial privacy, disrupts firm operations, and introduces timing risk that is uniquely problematic in a 24/7 real-time market like crypto. I strongly urge FINRA to revise or reconsider this rule in favor of a more balanced, targeted approach that addresses legitimate regulatory concerns without inhibiting the financial freedom or market access of its own members.

Thank you for your time and consideration during this important comment period.

Sincerely,

Desiree Moreno Pineyro

[LinkedIn: www.linkedin.com/in/desireemoreno]

CANOPY
ASSET MANAGEMENT, LLC

May 2, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration.

Sincerely,

Tye Pipkin
Wealth Management Advisor/Founder
Canopy Asset Management

sigma FINANCIAL CORPORATION Member FINRA/SIPC

parkland SECURITIES, LLC Member FINRA/SIPC

May 12, 2025

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Comments on Regulatory Notice 25-05 and Proposed FINRA Rule 3290

Dear Ms. Mitchell:

Sigma Financial Corporation and Parkland Securities, LLC (collectively, the "Companies" or "we") are registered broker-dealers and FINRA member firms located in Ann Arbor, Michigan.[1] The Companies value FINRA's longstanding self-regulatory compact with member firms,[2] and we appreciate the opportunity to comment on proposed FINRA Rule 3290 as it pertains to the supervision of investment advisory activities.

Overall, the Companies were very supportive of the approach proposed in Regulatory Notice 18-08, which would have eliminated the requirement for members to supervise outside investment advisory activities.[3] Conversely, the Companies are not supportive of the recent about-face in Regulatory Notice 25-05, which would leave in place the general

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[1] The Companies' CRD numbers are 14303 and 115368, respectively.

[2] This compact was articulated by one of FINRA's former CEOs. *See* Richard G. Ketchum, Chief Regulatory Officer, NYSE, Keynote Speech at the Practising Law Institute, Nov. 11, 2004 ("if we do not accept the fact that the burden of self-regulation is collaborative with equal responsibility to the industry and those in this hall who advise them, as it is with the SROs, then we have already failed").

The Companies believe FINRA fills an essential role in supervising member firms and protecting investors. To that end, the Companies do not support recent efforts to eliminate FINRA, such as H.R. 2689 introduced by Representative McClain on April 7, 2025, and referred to the House Committee on Financial Services.

[3] "[T]he proposed rule would not impose a general supervisory obligation over the IA activities and would not require the member to record on its books and records transactions resulting from such IA activities." FINRA Regulatory Notice 18-08, p. 8 (Feb. 26, 2018).

supervision requirements of FINRA Rule 3280, Notice to Members 94-44, and Notice to Members 96-33.[4]

The stated purpose of the Proposal is to "streamline and reduce unnecessary burdens regarding existing requirements addressing the outside activities of member firms' associated persons[.]"[5] Respectfully, the Companies believe that proposed FINRA Rule 3290 will have the opposite effect because the Proposal fails to address or resolve—and leaves in place—significant legal and regulatory ambiguities that have existed for decades. These issues are discussed below in the Companies' responses submitted in connection with the request for comments in Regulatory Notice 25-05.

1. Request for Comment: The Proposal does not alter members' obligations for outside IA activities. What are the challenges members face regarding supervising and recordkeeping outside IA activities for selling compensation?

Members face at least three significant challenges with respect to supervising and recordkeeping outside investment advisory activities, all of which arise from the legal and regulatory ambiguity surrounding key aspects of members' obligations. To borrow a phrase from a relevant law review article, the Proposal has not done anything to clear up the "regulatory muddy waters"[6] that have only become cloudier with time. The following challenges are significant "pain points" for member firms, all of which the Proposal leaves unaddressed in contradiction to the industry's self-regulatory compact.

- *Challenge #1: Privacy Laws*

Members face a significant challenge with respect to privacy laws, including Regulation S-P and the patchwork of privacy laws enacted by states. For example, Regulatory Notice 18-08 observed that the existing framework has led to significant privacy concerns:

> Under Rule 3280 and related guidance, members must supervise and record on the members' books and records the transactions resulting from most outside IA

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[4] "The Proposal does not alter members' obligations for outside IA activities." FINRA Regulatory Notice 25-05, p. 15 (Mar. 14, 2025).

NASD Notice to Members 91-32 is also relevant. However, it is mentioned less frequently than NASD Notice to Members 94-44 and NASD Notice to Members 96-33 (e.g., it is not mentioned in the Proposal).

[5] FINRA Regulatory Notice 25-05, p. 1.

[6] Susan R. Finneran, *Investment Advisory Regulatory Muddy Waters: Registration and Control Issues Are Confused with Issues of Disclosure and Anti-Fraud*, 19 CAMPBELL L. REV. 349, 356 (Spring 1997) (critiquing Notice to Members 94-44 on the basis that "[t]urning the NASD and its member broker-dealers into an investment advisory SRO to supplement SEC oversight (no matter how well-intended) is legislatively questionable").

> activities of their associated persons. This approach has caused **significant confusion and practical challenges**, including, for example, **privacy challenges with a member obtaining account information for customers of an unaffiliated IA** through which a member's registered person may be acting in an IA capacity.[7]

However, unlike with other prior FINRA rules,[8] the Proposal does nothing to alleviate, clarify, or otherwise address these privacy concerns—it merely repeats them in vague terms.

In terms of members obtaining necessary client data from the outside investment adviser, FINRA's original position was that if the client "refuses to provide the information, the member should deny the associated person's request who would then be precluded from participating in the Section 40 [i.e., outside investment advisory] activity."[9] Such guidance is problematic for at least two reasons.

First, it is outdated in terms of how members supervise outside investment advisory activity, which is typically by means of data feeds and automated surveillance,[10] neither of which practically allow for excluding clients on an individual basis. Moreover, the SEC has suggested in a similar context that automated surveillance tools, rather than manual processes, is the most plausible means of supervising a significant level of trading activity,[11] which will almost certainly be the case for a member supervising the trading activity of a dually-registered representative through an outside investment adviser.

Second, this guidance suggests that client consent is needed (since the consent can be withheld) in order for information-sharing to occur between the outside investment adviser and the supervising member firm. However, it may no longer be the case that client

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[7] FINRA Regulatory Notice 18-08, p. 8 (emphasis added).

[8] *See, e.g.*, Frequently Asked Questions Regarding FINRA Rules Relating to Financial Exploitation of Senior Investors, Q.5.1 ("[A] member's disclosures to a trusted contact consistent with Rules 2165 and 4512 would be permissible under Regulation S-P"), *available at* https://www.finra.org/rules-guidance/guidance/faqs/frequently-asked-questions-regarding-finra-rules-relating-financial-exploitation-seniors.

[9] NASD Notice to Members 96-33, p. 240 (May 1996) (Question #6). Section 40 eventually became FINRA Rule 3280: "While NTMs 91-32, 94-44, and 96-33 refer to NASD art. III, § 40 and NTM 01-79 refers to NASD Rule 3040, both of these rules are predecessors to FINRA Rule 3280. NASD art. III, § 40 was renamed to NASD Rule 3040, and NASD Rule 3040 was wholly adopted, without substantive change, as FINRA Rule 3280." *Milliner v. Mut. Secs., Inc.*, 207 F. Supp. 3d 1060, 1067 n.7 (N.D. Cal. 2016).

[10] *See, e.g.*, *In re Cetera Advisor Networks LLC*, FINRA AWC No. 2015046716901, p. 5 (Dec. 15, 2020) ("[Respondent] responded that it expected to establish an electronic connection to obtain electronic reporting information (i.e., a data feed) by the end of September 2015 to capture, monitor, and supervise ORIA transactions.").

[11] *See Investment Adviser Code of Ethics*, Advisers Act Release No. 2256, 69 Fed. Reg. 41696, 41700 (July 9, 2004) ("[W]e question seriously whether a larger investment advisory firm will be able adequately to review [access persons' personal securities] reports manually or on paper.").

consent is necessary, although this remains unclear. Notice to Members 96-33 was issued prior to the promulgation of Regulation S-P in response to the Gramm-Leach-Bliley Act of 1999. Among other exceptions, Rule 15 of Regulation S-P permits the sharing of nonpublic personal information in order to comply with federal, state, or local laws, rules, and other applicable legal requirements.[12]

Importantly, the federal courts have concluded that the requirements of Notice to Members 94-44 and Notice to Members 96-33 fall squarely under FINRA Rule 3280:

> [Notice to Members 94-44 and Notice to Members 96-33] are clear that, for purposes of applying FINRA Rule 3280, selling compensation includes asset-based fees. Therefore, if a broker-dealer approves the outside advisory investment activities of its registered individuals who receive asset-based fees, the broker-dealer must properly supervise the activities as its own. . . . Because the NTMs are an SRO's interpretation and clarification of its own rules, the Court must grant the NTMs deference in applying SRO rules. Naturally, here, the Court must give substantial weight to the NTMs interpreting FINRA Rule 3280[.][13]

Because FINRA rules have the force of federal law,[14] this could suggest that client consent is unnecessary and that sharing of nonpublic personal information between an outside investment adviser and supervising member firm is automatically permitted under Rule 15(a)(7)(i) of Regulation S-P in order to comply with FINRA Rule 3280. However, it does not appear that FINRA, the SEC, or the courts have made this clear or resolved this open legal question for members.

The current compliance landscape is clear: Data feeds and automation are the norm for members supervising account and trading activity at an outside investment adviser. However, the Proposal's failure to address the acknowledged "privacy challenges" leaves members caught in a potentially no-win situation.

On the one hand, if a member takes the position that client consent is *not* required for information-sharing, it has entered into legally untested waters that are the focus of all regulators in this age of constant cybersecurity threats. On the other hand, if client consent

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[12] 17 C.F.R. § 248.15(a)(7)(i). There is also the question of state privacy laws, which are not preempted by Regulation S-P and may involve a stricter opt-in regime. *See, e.g.*, *In re Raymond James & Associates, Inc.*, FINRA AWC No. 2013035599201, p. 3 (Mar. 8, 2016) ("Certain States require affirmative consent, i.e., the customer must opt-in to sharing the customer's nonpublic personal information with the nonaffiliated third parties before the information may be shared.").

[13] *Milliner*, 207 F. Supp. 3d at 1068, 1070.

[14] FINRA Regulatory Notice 16-25, p. 3 (July 2016) ("FINRA's rules are approved by the Securities and Exchange Commission (SEC), binding on FINRA member firms and associated persons, and have the force of federal law.").

is required, and a client refuses to provide consent or revokes consent,[15] the supervising member is stuck in the awkward and difficult position of trying to exclude that client from an automated data feed while also instructing the associated person of an outside entity (i.e., the investment adviser) that it must turn that client away because it is "precluded from participating" in the advisory services.[16] Such a "my way or the highway" approach is certain to sour any business relationship.

Ultimately, FINRA has yet to make clear—despite two Proposals on the issue—exactly how these and other "privacy challenges" should be resolved or how members can ensure that their business practices are consistent with regulatory expectations. This presents ongoing challenges for members that continue to await clarification or resolution from regulators.

- *Challenge #2: Control Person Status and Liability*

Members face a significant challenge with respect to control person status and liability. Courts analyzing FINRA Rule 3280 (and its predecessors), Notice to Members 94-44, and Notice to Members 96-33 have applied different tests for determining when a member that is supervising investment advisory activities qualifies as a "control person" with respect to those activities and the investment adviser.

In one federal case, *Milliner v. Mutual Securities, Inc.*, the court concluded that a member did not qualify as a control person in the context of the Exchange Act, seemingly as a matter of law, because violations of FINRA rules do not give rise to a private cause of action and therefore "a violation of FINRA rules, by itself, cannot satisfy the first element of control person liability."[17] In *Milliner*, the court also applied a narrow test for control person liability, requiring the plaintiff to prove that the defendant "**exercised actual power or control** over the primary violator."[18]

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[15] It is certainly possible that clients could consent to information-sharing in their agreement with the investment adviser. However, such consent also could be revoked by the client, which would present serious logistical and business challenges when the primary way of supervising outside investment advisory activities is through the utilization of automated surveillance tools.

[16] NASD Notice to Members 96-33, p. 240 (Question #6).

[17] *Milliner*, 207 F. Supp. 3d at 1073 (evaluating control person liability under Exchange Act § 20(a)). Had the court applied the Advisers Act instead, the outcome might have been quite different, as "the U.S. Supreme Court has ruled that there is an *implied private cause of action* for the violation of the federal statute [i.e., the Advisers Act] that regulates SEC-registered investment advisers." DAVID E. ROBBINS, 1 SECURITIES ARBITRATION PROCEDURE MANUAL § 5-31 (2024).

[18] *Milliner*, 207 F. Supp. 3d at 1072 (citing *Howard v. Everex Sys., Inc.*, 228 F.3d 1057 (9th Cir. 2000), and distinguishing *Hollinger v. Titan Capital Corp.*, 914 F.2d 1564 (9th Cir. 1990)) (emphasis added).

However, in a similar state case, *Garrison v. SagePoint Financial, Inc.*, the court reversed summary judgment in favor of the defendant broker-dealer on the question of control person status, thereby suggesting that such status is a question of fact under the Washington State Securities Act.[19] More importantly, in *Garrison* the court applied a broader test for control person liability, requiring the plaintiff to prove that the defendant "**possessed the power to control** the specific transaction or activity upon which the primary violation is predicated, but he **need not prove that this later power was exercised**."[20]

In other words, state securities laws follow a different test for control person liability than the Exchange Act. Whereas the actual *exercise* of power or control is necessary for liability under the Exchange Act, the mere *possession* of power or control, even without its exercise, is sufficient for liability under state securities laws, meaning states utilize a far more expansive test than the federal securities laws. This disparity invites forum shopping and makes it impossible to anticipate the outcome of any litigation, as control person status can be a question of law or fact and is subject to different tests depending on the venue.

The consequences of control person status are also far reaching. Certainly, a member could be held liable for failing to supervise the outside investment advisory activities,[21] which raises special challenges given that the member's required standard of supervision is lower than what would be alleged by a plaintiff's attorney, as discussed below.

In addition, the investment adviser itself could be deemed deficient with respect to its own regulatory disclosure obligations. For example, control persons must be disclosed in Item 10 and Schedule D of Form ADV Part 1A. As a result, an investment adviser which fails to realize that the supervising member is a control person[22] will likewise fail to update its Form ADV accordingly, thereby risking a regulatory deficiency for inadequate disclosure.

- *Challenge #3: Unclear Standard of Supervision*

Members face a significant challenge with respect to the proper standard for supervising outside investment advisory activity. As noted above, Notice to Members 96-33

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[19] *Garrison v. SagePoint Fin., Inc.*, 345 P.3d 792 (Wash. Ct. App. 2015), *review denied*, 352 P.3d 188 (Wash. 2015) (evaluating negligent supervision and control person liability under the Washington State Securities Act).

[20] *Id*. at 810 (citing *Hines v. Data Line Sys., Inc.*, 787 P.2d 8 (Wash. 1990), and further mentioning *Hollinger* in support) (emphasis added).

[21] ROBBINS, 1 SECURITIES ARBITRATION PROCEDURE MANUAL § 5-4 (describing a "failure to supervise" case as one "with a good chance of success" for the plaintiff/claimant). Furthermore, "negligent supervision" was one of the claims brought by the plaintiffs in *Garrison* under the Washington State Securities Act and included an argument based on control person status.

[22] The Form ADV glossary (Appendix C) defines "control" as "[t]he power, directly or indirectly, to direct the management or policies of a *person*, whether through ownership of securities, by contract, or otherwise." The glossary is available at https://www.sec.gov/files/rules/final/2011/ia-3221-appc.pdf.

calls for ensuring transactional "suitability." With the promulgation of Regulation Best Interest ("Reg BI"), which is a "fiduciary-like" standard,[23] we expect that "suitability" has been replaced by the Care Obligation for retail customers.[24] However, the Proposal does not clarify this issue or even reference Reg BI.

Regardless of the appropriate standard (i.e., suitability or Care Obligation), it will necessarily be *below* the higher fiduciary standard to which outside investment advisers are held under the Advisers Act.[25] This is problematic for at least two reasons.

First, this higher fiduciary standard is very likely to bleed over to the supervising member, despite the fact that Reg BI is not a fiduciary standard and does not allow for a private right of action.[26] For example, an outside party (e.g., a plaintiff's attorney) could naturally expect that a member firm which is required to supervise outside investment advisory activities will ordinarily do so based on the regular standard applicable to those activities, which is the Advisers Act's fiduciary standard. This is even more the case if the member firm is a control person of the investment adviser which, as explained above, is not implausible. However, broker-dealers are not held to the same fiduciary standard as investment advisers, and in fact their supervision can be much less extensive under Reg BI.[27] In the case of litigation, this will leave members in the challenging position of extricating themselves from being held to a broad fiduciary standard which many do not understand is inapplicable to broker-dealers.[28]

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[23] "It is a fiduciary-like standard, elements of which were drawn from the Advisers Act and recent ERISA rulemaking, but the proposal is grounded in concepts and limitations in the Exchange Act." ROBERT E. PLAZE, STANDARDS OF CONDUCT FOR INVESTMENT ADVISERS AND BROKER-DEALERS, p. 4 (Nov. 2018), *available at* https://prfirmpwwwcdn0001.azureedge.net/azstgacctpwwwct0001/uploads/96a378347abb262b879f48399034e8f3.pdf.

[24] 17 C.F.R. § 240.15*l*-1(a)(2)(ii).

[25] In 1963, the U.S. Supreme Court concluded that the Advisers Act reflects a congressional recognition "of the delicate fiduciary nature of an investment advisory relationship." *SEC v. Capital Gains Research Bureau*, 375 U.S. 180, 191 (1963) (citation omitted).

[26] "Furthermore, we do not believe Regulation Best Interest creates any new private right of action or right of rescission, nor do we intend such a result." *Regulation Best Interest: The Broker-Dealer Standard of Conduct*, Exchange Act Release No. 86031, 84 Fed. Reg. 33318, 33327 (July 12, 2019).

[27] For example, whereas account monitoring is expected for investment advisers, the SEC clarified that Reg BI "does not impose a duty to monitor a retail customer's account," and it further warned that in "agreeing to provide any account monitoring services, broker-dealers need to consider whether the monitoring services fit within the broker-dealer exclusion from the Advisers Act." *Id*. at 33340 & n.210.

[28] As the Public Investors Arbitration Bar Association (PIABA) has noted, "The simple truth is that more than three out of four investors don't understand that the current laws and rules impose different duties on brokers and investment advisors, according to a 2010 survey conducted for the Consumer Federation of America (CFA), AARP, the Investment Adviser Association, the Financial Planning Association, the CFP Board, the North American Securities Administrators Association (NASAA), and the National Association of Personal

Second, there is no clear benefit to requiring members to supervise outside investment advisory activities according to a fiduciary-like standard when the investment adviser itself is required to supervise these same activities according to a higher fiduciary standard. In other words, supervising activities at a lower standard, when those same activities are already supervised according to a higher standard, is needlessly duplicative and unlikely to yield additional benefits, as further explained below.

- *Challenge #4: Increased Litigation Exposure through FINRA's Arbitration Forum*

Finally, members face a significant challenge with respect to litigation involving the clients of outside investment advisers. Consider a dual-registered representative who is approved by his broker-dealer to own and operate an outside registered investment adviser. Under FINRA Rule 3280, the member firm is required to supervise the representative's trading activities conducted through this outside investment adviser, even with respect to clients who are *solely* clients of the investment adviser ("Outside Clients") and have no direct relationship whatsoever with the member firm (e.g., no accounts, no transactions, no receipt of brokerage services, etc.). Due to the expansive language of FINRA's rules, such Outside Clients have in the past sought to compel both the dual-registered representative and the member firm to FINRA arbitration against their will, even though all Outside Client account activity takes place through an investment adviser that is not a FINRA member.

FINRA Rule 12200 states that parties *must* arbitrate a dispute under the Code of Arbitration Procedure for Customer Disputes (the "Code") if (1) requested by the customer, (2) the "dispute is between a customer and a member or associated person of a member," and (3) the "dispute arises in connection with the business activities of the member or the associated person."[29] Therefore, an Outside Client bringing a "failure to supervise" claim against the member firm under FINRA Rule 3280 on the basis of control person liability, or against the dual-registered representative operating the outside investment adviser, could potentially satisfy the requirements for compelling arbitration under FINRA Rule 12200.

This outcome is due to the possibility that Outside Clients will qualify as customers for purposes of the Code, despite their lack of direct relationship with the member. Specifically, a "customer" is defined expansively in FINRA Rule 12100(k) as follows: "A

Financial Advisors." PIABA, REPORT: DEBUNKING THE TOP 5 BROKERAGE INDUSTRY MYTHS ABOUT FIDUCIARY DUTY (June 25, 2015), *available at* https://piaba.org/report-debunking-top-5-brokerage-industry-myths-about-fiduciary-duty-june-25-2015/.

There are certainly specific and narrow contexts in which broker-dealers are held to a fiduciary standard (e.g., best execution). However, the point is that broker-dealers are not held to a general fiduciary standard in the same way that investment advisers are, a fact which is clearly indicated by Section 913(g) of the Dodd-Frank Act: "Section 913(g) expressly authorizes the Commission to adopt rules that would hold broker-dealers to the same standard of conduct as investment advisers." *Regulation Best Interest*, 84 Fed. Reg. at 33330.

[29] FINRA Rule 12200 contains an exception for "disputes involving the insurance business activities of a member that is also an insurance company." There is no similar exception for investment advisers.

customer shall not include a broker or dealer."[30] As the federal courts have explained, to qualify as a customer under this definition one need not transact directly with the FINRA member itself. Instead, it is sufficient to "merely transact with one of the FINRA member's many non-clerical, non-ministerial employees—finance professionals, investment advisers, and anyone else in the member's substantive employ . . . . Rule 12200 entitle[s] a customer to arbitrate against a FINRA member simply because he purchased [a] good or service from [that member's] associated person acting on behalf of his or her own independent company[.]"[31]

It is not mere speculation that Outside Clients of an outside investment adviser which is owned and operated by a dual-registered representative can be found to qualify as customers for purposes of FINRA Rule 12200. In fact, this was the exact result in a recent case, *Purshe Kaplan Sterling Invs., Inc. v. Thomsen*, decided in 2024 by a federal district court:

> Jeff and Carol Thomsen recently initiated FINRA Dispute Resolution Services . . . alleging claims . . . against [member firm] Purshe Kaplan Sterling Investments ("PKS"). . . . The Thomsens have no direct relationship with PKS. . . . The Thomsens' only relationship with PKS is through their relationship with Adam Nugent ("Mr. Nugent"), a former representative of PKS. . . . Mr. Nugent never opened a PKS account on behalf of any of his clients. Mr. Nugent never sold securities or otherwise transacted any business with or through PKS during his time as PKS's registered representative. It is undisputed that Mr. Nugent's only reason for registering with PKS was to become eligible to collect trail commissions on his past sales.
>
> As a result of Mr. Nugent's registration as PKS's representative, PKS was required to "exercise appropriate supervision" over Mr. Nugent's activities "in order to prevent violations of the securities laws." . . . To comply with this obligation, PKS began recording copies of all of Mr. Nugent's emails, including those regarding his activities as the Thomsens' investment advisor. . . . At all relevant times, Mr. Nugent operated his own registered advisory firm, Foresight Wealth Management, LLC . . . .

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[30] The same definition is used in FINRA Rule 0160(b)(4) and FINRA Rule 13100(k).

[31] *Oppenheimer & Co., Inc. v. Mitchell*, No. 24-2379, 2025 U.S. App. LEXIS 9784, at *15–16 (9th Cir. Apr. 24, 2025) (internal quotation marks omitted). *See also Multi-Financial Secs., Corp. v. King*, 386 F.3d 1364, 1369 (11th Cir. 2004) ("the term 'customer' refers to either a member's or an associated person's customer, affording customers of an associated person a right to compel arbitration against a member"); *John Hancock Life Ins. Co. v. Wilson*, 254 F.3d 48, 59 (2d Cir. 2001) ("No federal appellate court has prohibited the customer of an associated person, asserting a claim arising out of the associated person's business, from compelling a member to arbitrate under Rule [12200]"); *Purshe Kaplan Sterling Invs., Inc. v. Thomsen*, No. 2:24-cv-00002-JNP, 2024 U.S. Dist. LEXIS 55305, at *11 (D. Utah Mar. 26, 2024) ("nothing in the FINRA Rules requires (or even suggests) that a 'customer' must have a direct relationship with a FINRA member"); *WMA Secs., Inc. v. Ruppert*, 80 F. Supp. 2d 786, 789 (S.D. Ohio 1999) ("By conducting business with Plaintiff's registered representatives, Defendants conducted business with Plaintiff and became its customers."); 1 THOMAS H. OEHMKE, COMMERCIAL ARBITRATION § 28:14 (2003) ("A dispute that arises from a securities brokerage firm's lack of supervision over its brokers arises in connection with its business (for purposes of NASD rules compelling arbitration of disputes).").

> [T]he court concludes and finds that 1) the Thomsens are "customers" under FINRA Rule 12200; 2) the dispute is between a customer and a FINRA member or its associated person; and 3) the dispute arises in connection with the business activities of the member or the associated person. . . . PKS asserts that the primary factor that precludes arbitration of the Thomsens' claims is that the Thomsens lacked any direct relationship with PKS. The court finds that PKS is mistaken, its position being contrary to the plain language of FINRA Rule 12200 . . . . Mr. Nugent's alleged misrepresentation does not alter the fact that the Thomsens' allegations of negligent representation and other claims arose in connection with Mr. Nugent's business activities as the Thomsens' investment advisor or PKS's business activities, which include supervising the firm's associated persons.[32]

Such an outcome is problematic for at least two reasons. First, it exposes the member firm to unknown risk from outside litigation. For example, in the case quoted above, PKS was sued by the Thomsens no doubt because of PKS's "deep pockets," as Mr. Nugent and the investment adviser he owned and operated were fined by the SEC for their activities related to the offering of a private fund that primarily invested in two cannabis-related holding companies.[33] Importantly, PKS was not negligent and repeatedly informed Mr. Nugent that he was not permitted to engage in such activity:

> Mr. Nugent emailed PKS's compliance team to request to discuss "a REG D we are looking to do through our RIA." . . . PKS's Compliance Officer responded to Mr. Nugent, informing him that he was "not permitted to do a Reg D private placement . . . unless it is sold through and would be custodied at your normal RIA Custodian[,]" which was TD Ameritrade. "Otherwise[,]" the email continued, "this would constitute selling away from PKS and would not be permitted." Following this email exchange, PKS's compliance team contacted Mr. Nugent on three separate occasions to request additional information about any potential Reg D private placement and other facts relevant to PKS's compliance obligations. Mr. Nugent failed to provide the requested information.[34]

Here, PKS did exactly what it was supposed to do and warned Mr. Nugent that his proposed activities were not permitted. Nevertheless, PKS was still able to be sued by Mr. Nugent's defrauded investors (i.e., the Thomsens), which suggests that a member faces the real possibility of being compelled to FINRA arbitration for virtually *anything* that might occur or go wrong involving the outside investment adviser, no matter how attenuated and regardless of the reasonable steps taken by the member to prevent the harm in question.

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[32] *Purshe Kaplan Sterling Invs.,* 2024 U.S. Dist. LEXIS 55305, at *1–5, 9–11, 29.

[33] *In re Foresight Wealth Management, LLC*, Admin. Proc. File No. 3-21312, Advisers Act Release No. 6250 (Feb. 27, 2023).

[34] *Purshe Kaplan Sterling Invs.,* 2024 U.S. Dist. LEXIS 55305, at *4–5 (internal citations omitted).

Second, such an outcome is problematic because there are times when a member would prefer *not* to be compelled to arbitration under FINRA Rule 12200. For example, plaintiffs' attorneys routinely favor FINRA arbitration for older or stale claims that would otherwise be dismissed by a court on statute of limitations grounds, as the six-year eligibility requirement of FINRA Rule 12206(a) is not regularly enforced and has been subject to inconsistent rulings.[35] In addition, FINRA arbitrators are not required to follow legal precedent[36] or rules of evidence,[37] as FINRA's forum is equitable in nature.[38] In terms of legal strategy, plaintiffs' attorneys happily utilize these features to their clients' advantage.

For a member firm to prefer disputes with Outside Clients—who are essentially strangers to the member firm—to be decided by a court that will follow legal precedent and honor statutes of limitations seems quite reasonable. However, this desirable outcome is entirely frustrated and foreclosed by the broad language of the Code, thereby leaving members in the difficult position of potentially being *compelled*, both against their wishes and at a strategic disadvantage, to litigate stale claims of Outside Clients on equitable grounds and without the benefit of legal precedent, rules of evidence, or robust discovery.[39]

2. Request for Comment: Would the removal of the requirement for FINRA member oversight of outside IA activities by their associated persons impact investor protection considering that IAs are regulated by either the SEC or the states?

No, the removal of this requirement would *not* meaningfully impact investor protection. The Companies respectfully insist that a contrary conclusion is incorrect for at least two reasons.

- *Reason #1: NSMIA*. The Companies believe this prompt should be conjunctive in nature, not disjunctive, meaning "or" should read "and." Specifically, the National Securities Markets Improvement Act of 1996 ("NSMIA") left in place the ability of

[35] DAVID E. ROBBINS, 1 SECURITIES ARBITRATION PROCEDURE MANUAL § 5-10 (2024) (FINRA's "failure to make clear whether its eligibility rule is akin to a statue of repose or a statue of limitation has resulted in many motions and inconsistent rulings").

[36] SEC Office of Investor Education and Advocacy, *Broker-Dealer/Customer Arbitration: Investor Bulletin* (June 14, 2022) ("Arbitrators are not required to follow state or federal rules of evidence and are not bound by legal precedent."), *available at* https://www.investor.gov/introduction-investing/general-resources/news-alerts/alerts-bulletins/investor-bulletins/broker-dealercustomer-arbitration-investor-bulletin.

[37] FINRA Rule 12604(a).

[38] FINRA Dispute Resolution Services Arbitrator's Guide, p. 9 (Mar. 2025) ("Equity is justice in that it goes beyond the written law. And it is equitable to prefer arbitration to the law court, for the arbitrator keeps equity in view, whereas the judge looks only to the law, and the reason why arbitrators were appointed was that equity might prevail.").

[39] *See, e.g.*, FINRA Rule 12510 ("Depositions are strongly discouraged in arbitration.").

states securities regulators to investigate and bring enforcement actions against investment advisers with respect to fraud or deceit.[40] Consequently, investment advisers are already subject to *dual* oversight by both the SEC and state securities regulators. Concluding that this is not sufficient to protect investors, and that for-profit broker-dealers need to remain involved in the oversight process,[41] defies common sense. Not only does it impose a third layer of external oversight[42] on one set of advisory activities, but it also necessarily implies that two groups of independent and full-time government regulators are not up to the task on their own. Moreover, past concerns about the limitations of the SEC and state regulators are not shared by members of the current Commission.[43]

- *Reason #2: Duplicative Effort*. The policy rationale articulated in Notice to Members 96-33 is that of ensuring transactional suitability:

> Where a member has approved an RR/IA's participation in private securities transactions for which he or she will or may receive selling compensation, the member must develop and maintain a recordkeeping system that, among other things, captures the transactions executed by the RR/IA in its books and records and facilitates supervision over that activity. . . . [T]he records created and recordkeeping system used, together with relevant supervisory procedures, must **enable the member to properly supervise the RR/IA by aiding the member's understanding of the nature of the service provided**

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[40] NSMIA § 303, codified at 15 U.S.C. § 80b-3a(b)(2) (Advisers Act § 203A).

[41] One suspects that some member firms may be in favor of the status quo not due to investor protection concerns alone, but also due to the supervisory fees they collect from their financial professionals who operate outside investment advisers. *See, e.g.*, *In re Cetera Advisors Network*, at p. 3 ("The [Respondents] charged and collected fees from their [dually-registered representatives] for such supervision.").

[42] As the law currently stands, there is actually a fourth layer of oversight with respect to qualified accounts under the definition of "investment advice fiduciary" promulgated by the Employee Benefits Security Administration under Section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974. *See Retirement Security Rule: Definition of an Investment Advice Fiduciary*, 89 Fed. Reg. 32122 (Apr. 25, 2024).

[43] For example, the Proposal remarks that "one commenter asserted that 'the SEC has made clear that it is ill-equipped to routinely examine the many investment advisers it regulates. Similarly, due to limitations on many State regulatory resources and budgets, States also substantially lack sufficient resources to examine State-registered investment advisers with any reasonable regularity, if at all.'" FINRA Regulatory Notice 25-05, p. 13.

However, the views expressed by Commissioner Uyeda at a recent NASAA conference, during which he recommended shifting more investment adviser oversight to state securities regulators, suggests that the Commission is *confident* in states' ability to oversee investment advisers: "In my view, it is time to re-examine the mid-size adviser regulatory split and consider whether it should be adjusted. Doing so could help to ensure Congress's intent that the SEC focus on the larger, more complex investment advisers while the states concentrate their resources on the smaller firms." Mark T. Uyeda, Acting Chair, U.S. Securities and Exchange Commission, Remarks to the Annual Conference on Federal and State Securities Cooperation, April 8, 2025, *available at* https://www.sec.gov/newsroom/speeches-statements/uyeda-nasaa-040825.

> **by an RR/IA, the scope of the RR/IA's authority, and the suitability of the transactions**.[44]

Continuing to impose this supervisory requirement on members no longer makes sense after 2003. For more than two decades, SEC-registered investment advisers have been required under Rule 206(4)-7 to designate a chief compliance officer ("CCO") responsible for administering the policies and procedures adopted by the investment adviser, which must be reasonably designed to prevent violation of the Advisers Act and SEC rules.[45]

Supervising the suitability of client transactions and the trading activity in client accounts is a critical component of every investment adviser's compliance program, as it is essential for ensuring that, among other things, the fiduciary duty of care is being satisfied. The investment adviser's CCO will necessarily be responsible for administering the policies and procedures related to this compliance program.

In other words, the concern raised by FINRA—"the suitability of [client] transactions" within the context of the scope of authority granted by the client—is already subject to the investment adviser's own supervision and oversight. Consequently, requiring an unaffiliated broker-dealer to significantly supervise[46] the same transactions, based on lower suitability (or Care Obligation) considerations, is entirely duplicative in nature as well as unnecessary because investment advisers are required to implement robust and comprehensive compliance programs aligned with fiduciary responsibilities.[47]

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[44] NASD Notice to Members 96-33, pp. 237–38 (emphasis added).

[45] 17 C.F.R. § 206(4)-7; *Compliance Programs of Investment Companies and Investment Advisers*, Advisers Act Release No. 2204, 68 Fed. Reg. 74714 (Dec. 24, 2003).

Most state securities regulations impose similar requirements. Form ADV Part 1B, Item 2A requires a state-registered investment adviser to indicate the person responsible for supervision and compliance of the investment adviser. Such a person is effectively acting in a capacity similar or equal to that of the CCO of an SEC-registered investment adviser.

[46] As a former Deputy Securities Commissioner of Texas once explained, the supervision must be "significant" in nature. *See* Ronak V. Patel and Courtney Bowling, *Securities Litigation and Enforcement: Broker-Dealer Supervision: Evolving Business Practices and Regulatory Enforcement*, 59 THE ADVOCATE 50, 54 (Summer 2012) ("In essence, if a broker-dealer's representative is involved in executing transactions for clients of a third-party investment adviser, the brokerage must significantly supervise the representative's investment advisory activities.").

[47] *See, e.g.*, SEC Office of Compliance Inspections and Examinations, *Risk Alert: OCIE Observations: Investment Adviser Compliance Programs* (Nov. 19, 2020); CLIFFORD E. KIRSCH, INVESTMENT ADVISER REGULATION: A STEP-BY-STEP GUIDE TO COMPLIANCE AND THE LAW, chap. 22 (3d ed. 2025).

3. Request for Comment: What are the benefits of BD supervision and recordkeeping of outside IA activities for selling compensation?

The Companies believe that there is little to no benefit derived from such supervision and recordkeeping. As FINRA previously noted, the current approach of member supervision required by Notice to Members 94-44 and Notice to Members 96-33 is deserving of modification, and there remains two levels of regulatory oversight with respect to investment advisory activities:

> Based on FINRA's review of the rules, public comment and other stakeholder feedback, and the evolving environment in which members operate, **modifications to the current approach appear appropriate**. Under the proposed rule . . . [a]ny IA activity conducted for a third-party, non-affiliated IA would constitute an "investment-related" activity under the rule. As such, the rule would require that the registered person provide prior written notice of such activity, and the member would be required to conduct the upfront risk assessment described above and, based on its assessment, to approve the registered person's participation, to approve it subject to conditions or limitations or to disapprove it. However, the proposed rule would not impose a general supervisory obligation over the IA activities and would not require the member to record on its books and records transactions resulting from such IA activities. . . . [T]hese IA activities **would continue to be subject to regulatory oversight by the SEC and states under a different regulatory scheme**.[48]

Simply put, an investment adviser's own CCO and compliance staff, along with SEC staff and the staff of state securities regulators, are better resourced, equipped, and positioned to supervise such investment advisory activity. These three layers of oversight—two external and one internal—are entirely sufficient and appropriate for effective supervision. Adding a fourth layer of oversight from an unaffiliated broker-dealer with no enforcement authority and no genuine insight into the investment adviser's operations yields no meaningful additional benefits and adds little to the mix except duplicative effort.

Conclusion

FINRA may be unable to clear up these "regulatory muddy waters" on its own, while keeping existing Rule 3280 requirements in place as indicated in the Proposal,[49] due to the current state of securities laws and federal regulations. However, FINRA retains the power to clear these waters on its own simply by following its prior approach articulated in Regulatory Notice 18-08. Given the stated intent of the Proposal, and for the reasons explained herein, we invite FINRA to do so and eliminate the unnecessary obligation on members to supervise the activities of outside investment advisers.

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[48] FINRA Regulatory Notice 18-08, p. 8 (emphasis added).

[49] "The Proposal does not alter members' obligations for outside IA activities." FINRA Regulatory Notice 25-05, p. 15.

Ultimately, however, we respectfully remind FINRA of the importance of the self-regulatory compact and the responsibility that FINRA has to provide members with clear guidance. To that end, we implore FINRA not to leave the regulatory waters muddy by refusing to weigh in once more on these regulatory challenges.

Sincerely,

Randolph F. Pistor

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STONEBRIDGE
WEALTH MANAGEMENT

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Christopher Plahm

Stonebridge Wealth Management, LLC

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May 12, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an employee of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



KerberRose

Date 05/07/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

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KerberRose Wealth Management, LLC is a Registered Investment Advisor. Certain representatives of KerberRose Wealth Management, LLC are also Registered Representatives offering securities through APW Capital, Inc., Member FINRA/SIPC. 100 Enterprise Drive, Suite 504, Rockaway, NJ 07866 (800)637-3211. KerberRose Wealth Management, LLC is not owned or operated APW Capital, Inc. Financial Planning and Investment Advisory Services are offered through KerberRose Wealth Management, LLC. Check the background of this firm on FINRA's BrokerCheck.

KerberRose

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Tony Power, Shareholder

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KerberRose Wealth Management, LLC is a Registered Investment Advisor. Certain representatives of KerberRose Wealth Management, LLC are also Registered Representatives offering securities through APW Capital, Inc., Member FINRA/SIPC. 100 Enterprise Drive, Suite 504, Rockaway, NJ 07866 (800)637-3211. KerberRose Wealth Management, LLC is not owned or operated APW Capital, Inc. Financial Planning and Investment Advisory Services are offered through KerberRose Wealth Management, LLC. Check the background of this firm on FINRA's BrokerCheck.

From: Joshua Preston
To: pubcom@finra.org
Subject: Joshua Matthew Preston - Registered Representative - Public Comment
Date: Tuesday, May 13, 2025 9:39:02 PM

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

Public Comment on Proposed FINRA Rule 3290
Joshua Matthew Preston
[REDACTED]

Dear FINRA,

I would like to express both appreciation and **serious** continued concern regarding the proposed FINRA Rule 3290.

FINRA Rule 3270 was a Rule with drastic consequences, creating an environment that resulted in the shut down of my publication, Geopolitical Affairs. I followed all the rules, received two pre-approvals for the activity, and just three weeks before the election, had my publication forcibly shut down by my broker-dealer following a change in role.

Specifically, the ambiguous phrase "where circumstances warrant" provided virtually unlimited discretion to the scope of "prohibiting the activity" in .01 Supplementary Material of Rule 3270, and was particularly damaging. Ultimately, the origination of this language was passed under "Accelerated Approval" in 2010, and thus was not subject to an appropriate review.

In addition, the provision of federal powers regarding the prohibiting of outside activities to private entities in the financial industry, is jarring. While prior written notice is important, specifically to prevent fraudulent activity or inappropriate engagements (SEA 1934 Section 15A(b)(6) provides for this), there is no effective mechanism that FINRA or the SEC has retained to ensure that employees in the financial industry have a right to engage in legitimate activities in the application of this policy. Neither is there any meaningful due process or appeal mechanism, before the consequences of this policy are carried out, such as threat of termination of employment or otherwise.

I am appreciative of the reform in narrowing Rule 3290 to investment-related activities, it's possible that change could have made a difference in my situation, as my publication was part of my legitimate expression and passion for international affairs. Section 15A(b)(6) of the Securities and Exchange Act of 1934 specifically states that it is **"not designed to...regulate by virtue of any authority conferring by this chapter matters not related to the purposes of this chapter or the administration of the association."**

In Rule 3290, there are several problematic passages that remain in light of this language in the Securities and Exchange Act, providing for a continued application of the rule nearly without bounds against employees across the industry:

- **For a registered person's outside activity, the member must consider imposing specific conditions or limitations on the outside activity, including where**

circumstances warrant, prohibiting the activity, but there is no acknowledgement or approval requirement.

When my publication was shut down, I was told in writing by the broker-dealer that any publishing of books **"geopolitical in nature"** would not be approved. My personal expression through my publication was deemed a **"Reputational or legal risk"** and that I might **"post something that blatantly disagrees with the firm's position"**.

After 3.5 years of building my own publication on international affairs, writing over 100 articles, putting together a classical book library, learning to build a complete web platform, working hard to provide unique ideas through a Center perspective, receiving pre-approval before building the publication, receiving pre-approval before launching the publication (both at the same broker-dealer) - **My publication was taken away under threat of termination.**

This behavior is completely avoidable, with key changes that keep in place prior written **notice** to ensure the responsibilities in Section 15A are carried out, but **maintain the rights of employees** to engage in legitimate activities that have no substantive relationship to the business of securities and of regulating securities markets and transactions.

I would strongly suggest the following:

1) Rule 3290 must be amended to address this expansion of authorities beyond what is provided for in Section 15A of the Securities and Exchange Act. Particularly, in the overt latitude provided in the above referenced policy language.

2) Rule 3290 must be amended to include an effective appeal mechanism to ensure meaningful protection from broker-dealers shutting down outside activities unrelated to securities prior to the broker-dealer carrying out an effective enforcement action against legitimate (and at times protected) engagements.

I believe, changes in the mold of these can make a meaningful difference in protecting the financial industry from bad actors while also upholding the spirit of the Securities and Exchange Act that regulates it. Let us not forget, Section 15A states **"The rules of the association are designed to...remove impediments to and perfect the mechanism of a free and open market and a national market system..."** I would urge FINRA to regulate in this spirit and with this bold challenge in mind.

That it is possible to do the right thing, protect the rights of ordinary people, to uphold the values of free expression and the right to build something for yourself, while also ensuring orderly conduct as it relates to securities and investments business.

Thank you,

Joshua M. Preston
Registered Representative
[REDACTED]

PRICE
FINANCIAL MANAGEMENT

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

4/28/25

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance

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Advisory Services offered through Concurrent Investment Advisors, LLC an SEC Registered Investment Advisor.
Brokerage services offered through Purshe Kaplan Sterling Investments (PKS), Member FINRA/SIPC Headquartered at 80 State Street, Albany, NY 12207.
PKS and Concurrent Investment Advisors, LLC d/b/a Price Financial Management are not affiliated companies.

PRICE

FINANCIAL MANAGEMENT

and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Thank you,

Alec Price

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April 10, 2025

Ms. Jennifer Piorko Mitchell
Office of Corporate Secretary
FINRA1700 K Street, NW
Washington, DC 20006

Re: Comment on Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

PKS appreciates the opportunity to comment on the recently published Regulatory Notice 25-05. Staff categorizes this Regulatory Notice as a "Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons Outside Activities." However, contrary to its title, the proposed Rule and guidance proffered in the Regulatory Notice will not serve to achieve either of the stated goals, but rather will add additional ambiguity and burdens on both member firms and unaffiliated Registered Investment Advisory firms ("RIAs").

Regulatory Notice 25-05 states[1] that "the proposal does not alter members' obligations for outside IA activities." The Rule and its guidance and Appendix, in fact, completely alters a member's obligations and ignores existing Rules and guidance to effect the new standard of oversight that Regulatory Notice 25-05 would impose. Further, Regulatory Notice 25-05 represents a virtual about-face from its predecessor, Regulatory Notice 18-08, which actually did seek to "reduce unnecessary burdens while strengthening investor protections." [2]

Further, in an unprecedented expansion of FINRA jurisdiction, Regulatory Notice 25-05 would enhance FINRA's regulatory purview into business lines wholly unrelated to the activities of broker-dealers, such as real estate, banking and insurance. Given that each of these business lines, particularly banking, are complex, and banking in particular is already heavily regulated, we respectfully but forcefully disagree with that stance.

In Regulatory Notice 25-05, FINRA maintains that the guidance in the Notices to Members issued in the 1990s [3] would remain in effect as interpretive guidance with reference to the new rule. PKS maintains that if FINRA is going to rely on these Notices to Members, FINRA is bound by them. In this regard, (1) FINRA cannot mandate that broker-dealers supervise the advisory activities at an unaffiliated RIA; (2) existing Rules and Regulations, as well as legal precedent, prohibit a broker-dealer from executing such supervisory mandate; (3) execution of

[1] See Regulatory Notice 25-05, footnote 8 thereof.
[2] Regulatory Notice 18-08.
[3] Notices to Members 91-32, 94-44 and 96-33. Also referred to as "1990's notices."

such a mandate is impracticable if not impossible; (4) FINRA cannot mandate supervision of business lines not itself provided by a broker-dealer or its affiliate;[4] and, (5) FINRA cannot require broker-dealer supervision of non-securities activities such as real estate, banking and insurance.

We have organized our position in nine sections, as follows:

I. **Cryptocurrencies, Real Estate, Fixed Insurance and Banking are not securities and this contemplated Rule constitutes an unprecedented extension of the prior Rules and Notices regarding Private Securities Transactions and Outside Business Activities.**

II. **With respect to broker-dealer supervision of unaffiliated RIA activities, the proposed Rule is in conflict with interpretive guidance that will remain in effect.**

III. **Regulatory Notice 25-05 requiring supervision of advisory activities is improper, because IAs, in their capacity as such, do not receive selling compensation.**

IV. **The revocation of NASD Rule 3050 removes the authority of an employer broker-dealer to demand transactional data from an unaffiliated executing broker-dealer.**

V. **The proposed Rule and its guidance conflicts with clearly stated guidance provided in Regulatory Notice 18-08 as well as other guidance and legal opinions.**

VI. **Regulatory Notice 25-05 is in conflict with Regulatory Notice 20-38 and FINRA Rule 3241.**

VII. **Regulation Best Interest monitoring restrictions are incompatible with broker-dealer supervision of unaffiliated RIA recommendations.**

VIII. **SEC Regulation S-P makes it illegal for a broker-dealer to access RIA Client Information necessary to supervise recommendations by an unaffiliated RIA.**

IX. **The Rule 3110 definition of mandated oversight of accounts conflicts with Regulatory Notice 25-05 and proposed Rule 3290.**

X. **Regulatory Notice 25-05, its guidance and proposed Rule 3290 violates Section 208(d) of the Advisors Act of 1940.**

[4] Broker-dealers can only offer advice in connection with the products they offer.

I. Cryptocurrencies, Real Estate and Fixed Insurance are not securities and this contemplated Rule constitutes an unprecedented extension of the prior Rules and Notices regarding Private Securities Transactions and Outside Business Activities.

Commodities, like gold, oil, or agricultural products, are generally not considered securities because they represent tangible assets or raw materials, not ownership or debt in a company or financial instrument.

The Commodity Futures Trading Commission (CFTC) considers Bitcoin a commodity, not a security, and asserts that it holds regulatory authority over BTC under the Commodity Exchange Act. FINRA cannot claim jurisdiction over these assets, nor mandate supervision of these assets for broker-dealers not-themselves licensed with the CTFC.

When real estate interests are packaged with leases, operating or service agreements, especially if coupled with promises of cash flow, they may be securities. Issuers and investors should not assume that the offering of real estate is not a security when the sale is coupled with other agreements. Regulatory Notice 25-05's assertion that broker-dealers "need to dedicate resources"[5] to real estate activities[6] implies a mandate that is overly broad, and could apply (at the very least) to managing the business of a real estate agency.

Fixed annuities are not securities, and should not be subject to broker-dealer oversight unless written through the broker-dealer itself. The Harkin Amendment, part of the Dodd-Frank Act, exempts certain index products (like indexed annuities) from federal securities regulation, provided they meet specific conditions, effectively giving states more control over their regulation.

Life Insurance is not a security, and should not be subject to oversight by an unaffiliated broker-dealer unless the product is sold through the broker-dealer.

Regulatory Notice 25-05 further extends its definition of "investment-related activity" to include "banking." Any suggestion that a broker/dealer's purview into banking activities extends beyond third-party networking arrangements[7] cannot be supported under Federal Reserve Policy under any circumstances.[8]

II. With respect to broker-dealer supervision of unaffiliated RIA activities, the proposed Rule is in conflict with interpretive guidance that will remain in effect.

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[5] Regulatory Notice 25-05 p.4.

[6] As well as insurance and other non-securities.

[7] See SEC Regulation R. Also see SEC No-Action Letter to Chubb Securities 1994.

[8] See [8] Federal Reserve publication: Understanding Federal Reserve Supervision: About Bank Supervision. See also FDIC Privacy Rule Handbook, updated August 23, 2023.

Regulatory Notice 25-05 states, in relevant part, that the 1990s guidance [9] with respect to an associated person's investment advisory activities "would remain in effect under the Proposal." [10] Attachment C to 25-05 further provides that a "dually registered person who, away from a member, provides more than mere securities advice as an IA (i.e., effects or places a securities order)" must be supervised by the employing broker-dealer under the Proposed Rule 3290 in accordance with the 1990s notices.[11]

PKS submits that Regulatory Notice 25-05, with respect to its statements regarding the supervision of dually registered persons' unaffiliated advisory activities, is in conflict with the 1990s guidance it purports to rely on.

Notice to Members 94-44, clarifies the analysis that members must follow to determine whether the activity of an RR/IA falls within the parameters of Section 40.[12] "Fundamental to this analysis is whether the RR/IA **participates in the execution (emphasis added)** of a securities transaction such that his or her actions go beyond a mere recommendation, thereby triggering the recordkeeping and supervision requirements of Section 40."[13]

In its analysis within Attachment C,[14] Regulatory Notice 25-05 ignores the operative term "execution" and replaces it with the term "effects or places a securities order." The two terms, as demonstrated *infra,* have dramatically different meanings.

Regulatory Notice 25-05 also applies the same incorrect terminology[15] to include all advisory business, as opposed to the limited scope of business discussed in the 1990s Notices to Members [16] which are specific to Private Securities Transactions (henceforth "PSTs"). As discussed *infra,* the 1990s Notices were not intended to include RIA/IAR activities not related to actual Private Securities.[17]

PKS maintains that no person not licensed with PKS could possibly be involved in the execution of a trade at our firm, and that this logic would extend to other broker-dealers. We have conducted some research to determine if our opinion is correct, which we submit for your review below. We first went to several investor websites for their definition, then to the SEC website, and finally to FINRA's published guidance on "Executing Party."

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[9] NASD Notices to Members 91-32, 94-44 and 96-33. Collectively the "1990s Guidance" or "1990's Notices."
[10] Regulatory Notice 25-05, page 7.
[11] Regulatory Notice 25-05, Attachment C, page 2.
[12] Section 40 has been recodified as Rule 3040 and subsequently (and currently) Rule 3280.
[13] See also FINRA NTM 96-33.Please note that 96-33 was drafted for the express purpose of further-clarifying potential ambiguities contained within NTM 94-44.
[14] Scenario's 5 and 6.
[15] The term "effects or places a securities order."
[16] NTMs 94-44 and 96-33.
[17] See Section IV, Revocation of NASD Rule 3050, *infra.*

"Execution is the completion of a buy or sell order for a security. The execution of an order occurs when it gets filled, not when the investor places it. When the investor[18] submits the trade, it is sent to a broker, who then determines the best way for it to be executed."[19]

"Many investors who trade through online brokerage accounts assume they have a direct connection to the securities markets. But they do not. When you push that enter key, your order is sent over the Internet to your broker, who in turn decides which market to send it to for execution."[20]

That some confusion might exist surrounding execution, given that the IAR is dually licensed as a Registered Representative, we consulted Section 205: Determining "Executing Party."[21]

Our read of each question-and-answer specific to Regulatory Notice 25-05, even arguendo that the IAR could be placing an order as a broker and not in his/her advisory capacity,[22] the IAR/RR is not the executing party through a non-employer broker-dealer. FINRA's guidance is specific on that point, and the Section 205 guidance covers almost every conceivable trade scenario. We could find no instance where the IAR/RR or even a broker-dealer itself, when placing an order at another broker-dealer, is defined as the "executing party."

"Where the RR/IA does not participate in the **execution** (emphasis added) of securities transactions, Notice to Members 94-44, reminds members and their RR/IAs that while Section 40[23] may not apply, the activity, nonetheless, may be subject to the notification provisions of Article III, Section 43.[24] That section required an RR to provide written notice to the NASD member with which he or she is associated of any proposed employment or outside business activity pursuant to which he or she will receive compensation from others."[25]

This guidance was reiterated in an NASD Interpretative Letter written to Walter Janssen on July 30, 1997, which states in part, "the RR/IA is not involved with the execution of the portfolio transactions, which are handled through another broker-dealer firm. Notice to Members 94-44 stated that, under this scenario,[26] the wrap fee program activity would be subject to Rule 3030 rather than Rule 3040."[27]

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[18] The IAR acts as POA for the customer in this case.
[19] Investopedia.
[20] U.S. Securities and Exchange Commission, "Trade Execution," published Jan 16, 2013.
[21] FINRA publication: "Section 205: Trade Reporting: Frequently Asked Questions."
[22] Specifically outlined in FINRA NTM 00-46, discussed *infra*.
[23] Recodified as Rule 3040 and further recodified as Rule 3280.
[24] Recodified as Rule 3030 and further recodified as Rule 3270.
[25] FINRA NTM 96-33.
[26] From NTM 94-44, Analysis Point 3. "Some asset management firms offer "wrap fee" programs to registered investment advisers. The "wrap fee" includes a fee for management, accounting, and reporting. This fee is shared with the investment adviser who is also a registered representative. Portfolio transactions are handled through a broker-dealer firm at substantial discounts and are not known to or handled by the RR/RIA. Investment advisers receive a part of the asset management fee only and **receive no part of any transaction fee**. The adviser is registered with the SEC and any states as necessary. This activity would be subject to Section 43 rather than Section 40 of the Rules of Fair Practice".
[27] Janssen Letter.

Simply stated, Janssen clarified and emphasized that the RR/IAR simply needed to inform his/her employer broker-dealer of their intention to run an advisory practice, and that those activities were not subject to Rule 3040,[28] and therefore did not require member broker-dealer supervision. The facts and circumstances in Ms. Revell's analysis are an exact match for the issue at-hand.

Janssen, of course, simply recognized the fact that any RIA trades placed (by an IAR/RR) at another broker-dealer[29] (not the employer) did not require supervision by the employing broker-dealer.

Any suggestion that Janssen isn't applicable because the accounts at-issue are not "wrap accounts" is without merit. In the Janssen Letter, Ms. Revell herself defines the term "wrap accounts," as the term has no official definition.[30] For purposes of her analysis, she defines "wrap accounts" as those where "the RR/IA receives a portion of the 'wrap fee' for asset management, accounting, and reporting, ***but does not receive any transaction fee*** **(emphasis added).** Under the program, the RR/IA is not involved with the execution, which are handled by another broker-dealer firm."[31] The Janssen Letter directly contradicts Scenarios 5 and 6 within Attachment C to the Regulatory Notice 25-05.

Additionally, any suggestion that anything beyond providing a mere recommendation will constitute participating in the execution of a securities transaction conflicts with FINRA's own interpretation of the Series 55 registration category.[32]

In NTM 00-46 the NASDR Staff indicated that persons that merely make trading decisions (i.e., decide what securities to buy or sell, when to buy or sell such securities, and how much to buy or sell ((and limits, if applicable))) and communicates this information to a trader at the broker-dealer would not be subject to the Series 55 registration[33] requirements because "**such persons are not involved in the execution or processing of securities transactions"[34] (emphasis added).**

"Participating in the execution of securities transactions requires one to, at a minimum, locate the counterparty to a securities transaction and/or negotiate the terms of that transaction."[35]

Providing investment advisory services-such as what securities to buy and sell and when to buy or sell them-generally is not considered to be "executing a securities transaction"-where the advisor places the client's trades through broker-dealer firms. "Many investment advisers have

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[28] It is reasonable to assume that Janssen intended to not reference PSTs as it is silent on PSTs in its "no-Action."
[29] That broker-dealer being "subject to the notification requirements of NASD Rule 3050," per Rule 3040/3280.
[30] That we can find.
[31] Janssen Letter.
[32] White Paper written by Arnold Porter Law. See
https://www.arnoldportor.com/en/perspectives/publication/2001/09/obligations-of-a-broker-dealer-to-supervise-the-

[33] Currently designated as Series 57.
[34] See NTM 00-46.
[35] Arnold Porter White Paper.

trading desks to place orders for client accounts with broker-dealers, and yet these advisory firms have never been considered to be-engaged in the business of effecting transactions in securities."[36]

If indeed it was true that these advisors were effecting transactions in securities, then over 25,000 Registered Investment Advisory firms[37] **would currently be acting in a capacity as unregistered broker-dealers.**[38] [39] [40] Based on the foregoing, and under the 1990s guidance, [41] merely placing an order on behalf of an advisory client, whether by calling the order in to the executing Broker-dealer or by electronically placing the same order for the advisory client through an electronic portal provided by the Custodial Broker-dealer (essentially the same thing), is not participating in the execution of a securities transaction. Therefore, Regulatory Notice 25-05 is inconsistent in this regard with the 1990s guidance it incorporates and relies upon.

III. Regulatory Notice 25-05 requiring supervision of advisory activities is improper, because IAs, in their capacity as such, do not receive selling compensation.

The receipt of "selling compensation" triggers the oversight supervisory requirements of the proposed Rule 3290. Selling compensation is defined as follows:

> Selling compensation' is defined as any compensation paid directly or indirectly from whatever source in connection with or as a result of the purchase or sale of a security, including, though not limited to, commissions; finder's fees; securities or rights to acquire securities; rights of participation in profits, tax benefits, or dissolution proceeds, as a general partner or otherwise; or expense reimbursements.[42]

The proposed Rule 3290 incorporates the identical definition of "selling compensation" as its predecessor rules, FINRA Rules 3280, 3040 and Article III, Section 40 of the Rules of Fair Practice. [43] The expansive definition of selling compensation set forth in the respective rules does not mention advisory fees.

Notwithstanding that numerous recodifications of Article III Section 40 have presented the opportunity to harmonize the Rule with the 1990s Notices, it is noteworthy that the newly

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[36] Arnold Porter White Paper.
[37] By our conservative estimate. Includes both SEC and States-registered firms.
[38] See Phillip A. Loomis, Jr. The Securities and Exchange Act of 1934 and The Investment Advisers Act of 1940, 28 Geo. Wash. L. Rev. 214, 246 (1959).
[39] Section 15(a)(1) of the 1934 Act requires registration of all persons effecting securities transactions unless exempt.
[40] See U.S.C.A.$ 78(a)(1)(1994): "It shall be unlawful for any broker or dealer which is either a person other than a natural person or a natural person not associated with a broker or dealer which is a person (other than a natural person..) to make use of the mails or any means of instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security...unless such broker or dealer is registered..[with the SEC}."
[41] Notices to Members 94-44 and 96.33.
[42] Rule 3280. The definition remained unchanged through all subsequent revisions of the Rule to the present.
[43] See Section 40 of the Rules of Fair Practice for original Private Securities Transaction rule. https://www.finra.org/rules-guidance/notices/85-84.

proposed Rule 3290 still does not include advisory fees in its definition of selling compensation. We submit that advisory fees are not listed within the proposed Rule's definition because such inclusion is inconsistent with established rules and law.

"Notice to Members 85-84, which announced the approval of Article III, Section 40, grouped the transactions sought to be captured by the new rule into two general areas:

1. Transactions in which an associated person sells securities to public investors on behalf of another party (e.g., as part of a private offering of limited partnership interests, without the participation of the individual's employer firm); or

2. Transactions in securities owned by the associated person.

There was no indication, at the time of the issuance of the notice, that advisory activities were intended to fall within the scope of the proposed rule.

"Selling Compensation was addressed in NTM 85-84, which stated that the term was intended to be broad in scope, and to capture "any compensation paid directly or indirectly in connection with or as the result of the purchase or sale of a security." In other words, transaction-based compensation.

Transaction-based or selling compensation has always been understood to mean commissions or other fees that are based on the execution of securities transactions. Transaction-based compensation generally is not understood to include advisory fees based on a percentage of assets under management.[44] "This distinction in fee structure has historically differentiated broker-dealers from investment advisors."[45] Any interpretation of selling compensation that would include advisory fees departs from the generally accepted principle that a fee, which is paid by the client directly to the advisor for investment advice pursuant to an advisory contract, is not based on the execution of a securities transaction (e.g., an asset-based fee), is not transaction-based compensation."[46]

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[44] See generally Letter In Re: Portico funds, Inc. (April 11, 1996). See also Securities Exchange Act Release No. 42099, "Certain Broker-Dealer deemed Not to Be Investment Advisers" (Nov. 4, 1999) and "Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks under Section 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934," Exchange Act Release No. 44291 (May 11, 2001). Indeed, the "fiduciary" exemption for banks from broker-dealer regulation incorporates the concept that asset-based advisory fees are not transaction-related compensation. See § 3(a)(4)(B)(ii) of the Exchange Act.

[45] Speech by SEC Staff: "Remarks before the ABA Trust, Asset Management, and Marketing Conference" by Robert L.D. Colby Deputy Director, Division of Market Regulation US Securities & Exchange Commission January 31, 2001. Available on the SEC's Web site at www.sec.gov/news/speech/spch461.htm.

[46] Arnold Porter White Paper. This is evident from the fact that the advisory fees are fixed and do not vary based upon the number of recommended transactions, if any. Fees that are in any way dependent or related to the execution of securities require broker-dealer registration. See SEC No-Action Letter to BD Advantage, October 11, 2000.

"Indeed, the 'fiduciary exemption' for banks from broker-dealer regulation incorporates the concept that asset-based advisory fees are not transaction-related compensation. See § 3(a)(4)(B)(ii) of the Exchange Act."[47]

That "selling compensation" cannot be interpreted to include investment advisory fees is further supported by the SEC No-Action Letter of May 7, 2001 [1st Global]. In that letter, the SEC stated:

> ...the Division "has taken the position that the receipt of securities commissions or other transaction related compensation is a key factor in determining whether a person or an entity is acting as a broker-dealer. Absent an exemption, an entity that receives commissions or other transaction-related compensation in connection with securities-based activities that fall within the definition of `broker' or `dealer' ... generally is required to register as a broker-dealer" *[footnotes omitted]*. Persons who receive transaction-based compensation generally have to register as broker-dealers under the Exchange Act because, among other reasons, registration helps to ensure that persons with a "salesman's stake"[48] in a securities transaction operate in a manner consistent with customer protection standards governing broker-dealers and their associated persons, such as sales practice rules. That not only mandates registration of the individual who directly takes a customer's order for a securities transaction, but also requires registration of any other person who acts as a broker with respect to that order, such as the employer of the registered representative or any other person in a position to direct or influence the registered representative's securities activities. *[Footnotes omitted]*

It is clear that "transaction related compensation" under 1st Global is the equivalent of "selling compensation under Rule 3280 and its predecessors, defined as "any compensation paid...as the result of the purchase or sale of a security." Given that it is well known to the SEC that investment advisors receive asset based advisory fees and are exempt from broker-dealer registration, it is clear that the SEC does not consider advisory fees as transaction related compensation. It is submitted that 1st Global is in direct contravention of any interpretation of selling compensation under FINRA Rule 3280 that would include investment advisory fees. [49]

IV. The revocation of NASD Rule 3050 removes the authority of a broker-dealer to demand transactional data from an executing broker-dealer.

As originally promulgated, Rule 3040/3280 provided a specific exclusion for any transactions, "subject to the notification requirements of NASD Rule 3050."[50] Simply stated, any transaction

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[47] Arnold Porter White Paper.

[48] Meaning a monetary incentive to make the trade, i.e., earn a commission for making the recommendation and trade.

[49] The SEC has reiterated in numerous other No-Action letters that receipt of transaction-based compensation is a primary hallmark of broker-dealer activity that requires registration. See SEC No-Action Letter to Birchtree Financial Services, August 19, 1998; SEC No-Action Letter to Robert & Ferguson and Assocs., August 19, 1998; SEC No-Action Letter to John R. Wirthin, January 19, 1999.

[50] Rule 3040 and Rule 3280 until April 2017.

placed at another SEC/FINRA Registered broker-dealer was exempt from the Rule, **as all FINRA member broker-dealers were subject to the notification requirements of NASD Rule 3050.** This Rule was in-place when NTMs 94-44 and 96-33 were issued; it is inconceivable that these NTMs' guidance was intended to deliberately contradict an existing and clearly defined black-letter Rule.[51] The Rule recognized that transactions placed at another broker-dealer clearly indicated that the advisor was not participating in trade execution,[52] and was therefore exempted from the Rule. **Rule 3040, and its interpretive guidance, was intended to place supervisory oversight into transactions that were not otherwise regulated, such as Private Placements, Promissory Notes or Unregistered Limited Partnerships.[53]**

Simply stated, Rule 3040/3280 was intended to mandate supervision of **TRUE** Private Securities Transactions written away from the employing broker-dealer, and the interpretive guidance solely served to highlight the fact that dually licensed advisors could not work through their unaffiliated RIAs to escape PST[54] oversight by their employing broker-dealer. For PSTs, and for PSTs only, FINRA's guidance cited[55] advisory fee-based compensation as "selling compensation."

There can be no doubt as to this, as the guidance in NTMs 94-44 and 96-33 is **specific** to Private Securities Transactions, and not to broader advisory activities.[56] If the guidance was intended to include the provision of advice, including passing orders along for execution by other broker-dealers, certainly the guidance would have addressed those issues.

NTM 25-05 inappropriately expands the guidance offered in NTMs 94-44 and 96-33 to include supervisory responsibilities never intended, nor addressed within the guidance itself and which 25-05 and proposed Rule 3290 purport to rely upon. This position has occasionally been adopted by some broker-dealers as it empowers them to mandate Registered Representatives to write fee-based advisory services through their dually licensed employer broker-dealer, citing an overly broad interpretation of a non-existing regulatory rule.[57]

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[51] It is similarly inconceivable that, in promulgating Rule 3210, it was FINRA's intent to retrospectively subject all orders previously covered by NASD Rule 3050 to supervision under Rule 3280, particularly in view of the views of FINRA's precedent as expressed shortly thereafter in Regulatory Notice 18-08.

[52] As clearly stated in Janssen Letter, NTM 00-46, and Regulatory Notice 18-08.

[53] See Campbell Law Review. Volume 19 Issue 2 Spring 1997. See also NASD Notice to Members 85-84.

[54] Guidance in 94-44 directed at "any person associated with a member who participates in a private securities transaction"

[55] Within NTM 94-44.

[56] Article III, Section 40 provides that any person associated with a member who participates in a private securities transaction must, prior to participating in the transaction, provide written notice to the member with which he or she is associated. The required notice must describe the transaction, the associated person's role, and state whether the associated person has received or may receive selling compensation. The member must respond to the notice in writing indicating whether it approves or disapproves the proposed transaction. Where the registered person has received or may receive selling compensation, the member approving the transaction must record the transaction in its books and records and must supervise the registered person's participation in the transaction as if it was the member's own under Article III, Section 27 of the Rules of Fair Practice.

[57] The DC District Court disallowed "fee-based" brokerage in 2008, the so-called "Merrill Rule." After that time, all fee-based brokerage had to be conducted through an advisory firm. Some broker-dealers are also RIAs. A financial

It is noteworthy that many law firms commented on Regulatory Notice 18-08, universally supporting the need for a broker-dealer to supervise activities at an unaffiliated RIA. These law firms' motives are patently self-serving, and only intended to provide an opportunity for them to arbitrate against parties that are often wholly unconnected with the issue at-hand. Their comments should be viewed in that light. The public is not better protected because a law firm can sue an uninvolved and unaffiliated party.

In 2017 FINRA rescinded NASD Rule 3050 and replaced the verbiage within 3280 that referenced the 3050 exemption with verbiage that " 'Private Securities Transaction' shall mean any securities transaction outside the member's regular scope of business..., provided however that transactions subject to the notification requirements of Rule 3210,...shall be excluded."[58]

The replacement of 3050 with 3210 temporarily injected some additional and likely-unintended ambiguity into the Rule, specifically with the elimination of discretionary accounts while maintaining a specific exclusion for accounts "in which the associated person has a beneficial interest."

When reviewing this change, we considered if there were any possibility that FINRA would remove the requirement (under NASD Rule 3050) for an executing member firm[59] to supply transactional data to a requesting employer member firm, such data being needed to fulfill a supervisory obligation, if there existed a rule in-force that mandated such supervision. There can be no question that the answer is an emphatic "NO."

The removal of the NASD Rule 3050 requirement to supply transactional data for discretionary transactions, when reviewed in the context of the proposed Rule 3290, as described in detail in Regulatory Notice 18-08, obviously supports our position. Further, the removal of NASD Rule 3050 makes it impossible for a broker-dealer to demand-and-receive transactional data from another broker-dealer except to comply with Rule 3210, which does not cover clients at an unaffiliated RIA.

V. The proposed Rule and its guidance conflicts with clearly stated guidance provided in Regulatory Notices 18-08 as well as other guidance and legal opinions.

When first proposed in 2018, Rule 3290's stated purpose was "streamlining the rules into a single combined rule that would benefit both members and registered persons by reducing the likelihood of regulatory confusion."[60] There is no discussion of changing any current[61] rule, but rather eliminating "potential overlap between the two rules[62] in the hopes that "this simplified

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services firm that integrates all of the brokerage and advisory business of their associated persons might be in favor of the Proposal as it is beneficial to its business model.

[58] Rule 3280, as amended in 2017.

[59] NASD Rule 3050 states, in part, "a member who knowingly executes a transaction...for any account over which an associated person <of another broker-dealer> has discretionary authority...upon written request by the employer member, transmit duplicate copies of confirmations <and> statements..."

[60] FINRA Regulatory Notice 18-08.

[61] At that time.

[62] Read: 3270 and 3280.

approach may encourage registered persons who have previously avoided these activities because of the perceived regulatory uncertainty to pursue outside activities."[63]

As originally proposed, the Rule clearly stated that FINRA "would not impose supervisory and recordkeeping obligations for most other outside activities, including IA activities at an unaffiliated third-party IA."[64] [65] FINRA has clearly changed course 180 degrees. This begs the question, "what has occurred to cause Staff to completely contradict its previously, and clearly stated, logic and guidance?"

Regulatory Notice 18-08 states that, in making its assessment of a member's requirement to supervise, "the member would be required to consider whether the person is relying on a member's registration as a broker or dealer to conduct the activity, in which case the activity would be deemed to be that of the member, if approved."[66] Clearly, an IAR and/or RIA do not require broker-dealer licensure to conduct an advisory business. Again, Regulatory Notice 25-05 ignores this consideration.

In Regulatory Notice 18-08, FINRA clearly provides its assessment of the need to supervise OBAs. "For example, after conducting the required risk assessment of an investment-related activity, a member may approve a registered person to act as a registered investment advisor through an unaffiliated third-party IA, however, the member also may condition the approval on the IA's custody of its clients' advisory assets with the member. In this example, the proposed rule would require the member to reasonably supervise the registered person's adherence <to> that condition, but **the member would not be required by the rule to otherwise supervise the IA activity."**[67]

The second example provided states, "if the person can only legally engage in the outside business activity because the person is associated with a member, the member approving that activity must treat it as its own....this provision serves a critical investor protection interest and requires the member's supervision over the types of activities **that the private securities transactions rule was originally adopted to address."**[68] "See, e.g. Notice to Members 85-21 (March 1985) requesting comment on private securities transactions rule, which was aimed at addressing transactions that had long been a regulatory concern, namely "transactions in which an associated person is selling securities **to public investors on behalf of another party, e.g. as part of a private offering of limited partnership interests, without the participation of the person's employer firm."**[69]

Regulatory Notice 25-05 now proposes to expand the rules and related guidance beyond what "the transactions rule was originally adopted to address."

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[63] FINRA Regulatory Notice 18-08.
[64] FINRA Regulatory Notice 18-08.
[65] Absent the employer member's self-imposed policies, as discussed *Infra.*
[66] FINRA NTM 18-08.
[67] FINRA Regulatory Notice 18-08.
[68] FINRA Regulatory Notice 18-08.
[69] FINRA Regulatory Notice 18-08.

In FINRA Regulatory Notice 18-08 Staff notes, on several occasions, the potentially problematic overlap between the existing rules surrounding supervision of outside business activities. Staff recognizes "significant confusion and practical challenges, for example, privacy challenges with a member obtaining account information for customers[70] [71] of an unaffiliated IA through which a member's registered person may be acting in an IA capacity."[72] Regulatory Notice 25-05 cites these concerns also, footnoting my own comments from a previous Request for Comment.

Simply stated, FINRA NTM 18-08, and the then proposed language in Rule 3290, did not attempt to change FINRA's interpretation of supervisory requirements, but rather to streamline and clarify the original intent and to correct inaccuracies that may have existed in the industry subconscious. "The proposed rule would not impose supervisory and recordkeeping obligations for most other outside activities, including IA activities at an unaffiliated third-party IA."[73]

To the extent that any ambiguity could possibly exist, however, FINRA published in plain English and clear terms, its existing stance as they wished it to be codified as a combined rule for

[70] See SEC Regulation S-P.
[71] See Section III, *supra.*
[72] FINRA Regulatory Notice 18-08.
[73] FINRA Regulatory Notice 18-08, Background and Discussion.

the stated purpose of eliminating confusion, as outlined in Regulatory Notice 18-08 *infra*.



The graph above[74] summarizes FINRA's then-current view of the supervisory mandate addressed by Rules 3270 and 3280, and its proposal to combine them into one Rule.[75] This Regulatory Notice was also written with a firm understanding that the contemplated Rule would be subject to Reg BI, itself already in the "Comment" stage at that time, and itself not requiring monitoring of accounts.

Further, it is reasonable to infer from 18-08 that FINRA categorizes, and has always intended to categorize, Private Securities Transactions as those activities that are not themselves subject to

[74] Copied directly from Regulatory Notice 18-08.
[75] Specifically to replace both Rules 3270 and 3280.

direct regulatory oversight.[76] [77] It was never the intention of FINRA at any time to overextend its jurisdiction into companies regulated by the Investment Advisors Act, and not the Exchange Act.

PKS has been a FINRA-Member Broker-dealer for thirty-one years. We are entitled to rely upon FINRA's published material when determining whether the current facts-and-circumstances are applicable. We feel that FINRA itself, and various state regulators, must do the same.

As further evidence that FINRA stood behind this guidance, FINRA has cited at least three times, Regulatory Notice 18-08 as an "Additional Resource" to be consulted when a member firm assesses its responsibilities regarding OBAs and PSTs. Specifically, in both its 2021 Report on FINRA's Examination and Risk Monitoring Program and its 2022 Report on FINRA's Examination and Risk Monitoring Program[78] and most recently its 2023 Report on FINRA's Examination and Risk Monitoring Program, FINRA specifically points to Regulatory Notice 18-08 as a resource "that may be helpful to member firms in reviewing their supervisory procedures and controls and fulfilling their compliance obligations,[79] specifically regarding OBAs and PSTs. FINRA's consistent citation, over the course of at least three years of Regulatory Notice 18-08 as a resource that broker-dealers may rely upon when assessing the difference between Rule 3270 and Rule 3280 (Read: OBAs and PSTs) clearly ratified the content within as applicable to the assessment as to what constitutes an OBA and a PST.

VI. Regulatory Notice 25-05 is in conflict with Regulatory Notice 20-38 and FINRA Rule 3241.

Regulatory Notice 20-38[80] describes the potential conflicts surrounding registered persons holding, among other positions, "positions of trust" for customers. Among the positions of trust cited is to "hold a power of attorney or similar position for or on behalf of their customer."[81] We submit that the Agreements[82] that RIA's sign with their clients confers, at a minimum, a limited power of attorney, which is itself an essential element to discretionary asset management.

Regulatory Notice 20-38 states, "where a registered person…holds a power of attorney or a similar position for or on behalf of a customer account **'at a member firm with which the registered person is associated'[83] (emphasis added)** …the member firm must supervise the account in accordance with Rule 3110."[84] In other words, there is no supervisory oversight requirement under circumstances where the broker-dealer does not hold the account.

Regulatory Notice 20-38 further states, "if a registered person is approved to hold (and receive compensation for) a position of trust for a customer **'away from the member firm' (emphasis**

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[76] The example in Regulatory Notice 18-08 is "Private Placements."
[77] Arnold Porter White Paper.
[78] Published February 9, 2022, pp. 13-15.
[79] 2022 Report on FINRA's Examination and Risk Monitoring Program, p.1.
[80] Regulatory Notice 20-38 summarizes Rule 3241[80] and is titled FINRA Adopts Rule to Limit a Registered Person From Being Named a Customer's Beneficiary or Holding a Position of Trust for or on Behalf of a Customer.
[81] Regulatory Notice 20-38.
[82] Specifically Discretionary Management Agreements.
[83] Regulatory Notice 20-38.
[84] Regulatory Notice 20-38.

added), the requirements of both Rule 3241 and Rule 3270 regarding outside business activities would apply to the activities away from the firm."[85]

Regulatory Notice 20-38, published two years after Regulatory Notice 18-08, is currently in effect and is in direct conflict with Regulatory Notice 25-05, as it clearly supports the position that advisory (read: POA) accounts held-away are subject to Rule 3270 and not subject to supervisory oversight by the member firm.

Further, in its Regulatory Notice titled FINRA Rule 2111 (Suitability) FAQ, FINRA addresses what "constitutes a "customer for purposes of the Suitability Rule."[86] Specifically, FINRA defines "the term customer includes a person who is not a broker or dealer who opens a brokerage account at a broker-dealer or purchases a security **for which the broker-dealer receives or will receive, directly or indirectly, compensation" (emphasis added)** "even though the security is held at an issuer, the issuer's affiliate or a custodial agent (*e.g.*, "direct application" business," "investment program" securities, or private placements), or using another similar arrangement." This clearly states that a broker-dealer has no mandate to determine suitability for any trade for non-clients of the broker-dealer, provided the broker does not receive compensation.[87] The guidance within Regulatory Notice 25-05 ignores Rule 2111. Regulatory Notice 25-05's mandate to supervise an unaffiliated RIA's business would impose the responsibility to assess suitability, which is in direct contradiction to the Rule 2111 requirements. In the same notice, FINRA provides further clarification[88] in the form of a hypothetical situation, "Where, for example, a registered representative makes a recommendation to purchase a security to a *potential investor*, the suitability rule would apply to the recommendation if that individual **executes the transaction through the broker-dealer** with which the registered representative is associated or the broker-dealer receives **or will receive, directly or indirectly, compensation as a result of the recommended transaction. In contrast, the suitability rule would not apply to the recommendation in the example above if the *potential investor* does not act on the recommendation or executes the recommended transaction away from the broker-dealer" (emphasis added)** "with which the registered representative is associated without the broker-dealer receiving compensation for the transaction."

VII. Regulation Best Interest monitoring restrictions are incompatible with broker-dealer supervision of unaffiliated RIA recommendations.

The SEC implicitly recognized the incompatibility of broker-dealer transactions with advisory transactions in its adopting release of Regulation Best Interest, cited (in part) below:

> Although key elements are substantially similar, the Commission notes that the obligations of a broker-dealer under Regulation Best Interest and the obligations of an investment adviser pursuant to its fiduciary duty under the Advisers Act differ in certain respects, taking into account the scope of the services and relationships

[85] Regulatory Notice 20-38.
[86] See Question 2.1, FINRA Rule 2111 (Suitability) FAQ.
[87] There may be some broker-dealers that are compensated for oversight, as defined in their WSPs. Those matters are not addressed within this Comment, other than to say most broker-dealers do not receive that compensation.
[88] See Question and Answer, Q. 2.2 FINRA Rule 2111 (Suitability) FAQ.

> typically offered by broker-dealers and investment advisers. For example, an investment adviser's duty of care encompasses the duty to provide advice and monitoring at a frequency that is in the best interest of the client, taking into account the scope of the agreed relationship. This difference reflects the generally ongoing nature of the advisory relationship, and the Commission's view that, within the scope of the agreed adviser-client relationship, investment advisers' fiduciary duty generally applies to the entire relationship. In contrast, the provision of recommendations in a broker dealer relationship is generally transactional and episodic, and therefore the final rule requires that broker-dealers act in the best interest of their retail customers at the time a recommendation is made and imposes no duty to monitor a customer's account following a recommendation. [89]

FINRA has amended many of its rules to avoid inconsistencies with Reg BI.[90] However, in reviewing Regulatory Notice 25-05, we noticed the citation of a commentator opposed to FINRA's position in Regulatory Notice 18-08.

> Another commenter claimed that "eliminating FINRA firms' responsibilities in this area would place investors at risk by eliminating day-to-day oversight in favor of . . . intermittent state and federal securities regulators oversight to identify or prevent misconduct.

The footnote to this comment was in part: [91]

> See letter from Joseph P. Borg, president of North American Securities Administrators Association (NASAA), dated April 27, 2018. See also letters from Seth Miller, general counsel, senior vice president and chief risk officer, Cambridge Investment Research, dated April 27, 2018 ("Presently, regulatory oversight of investment advisory activity does not appear to be as robust and recurrent as in the broker-dealer space, which could create the potential for investor harm if activities and transactions member firms have been supervising are no longer being **monitored and supervised." (Emphasis added).**

As the SEC clearly states that a broker-dealer **has no duty required to monitor its customer accounts,**[92] the citation of a comment suggesting a duty to monitor accounts at an unaffiliated RIA raises concerns regarding the impact of the proposed new rule and its associated regulatory guidance, both from regulatory and litigation exposure perspectives.

VIII. SEC Regulation S-P makes it illegal for a broker-dealer to access RIA Client Information necessary to supervise recommendations by an unaffiliated RIA.

In continuing to make our assessment of the regulatory issues concerning a broker-dealer's review of unaffiliated RIA's accounts, we further cite findings from the SEC in the Examination

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[89] https://www.sec.gov/files/rules/final/2019/34-86031.pdf, at pages 59-60.
[90] Regulatory Notice 20-18.
[91] Regulatory Notice 2025-05, footnote 23.

of <name redacted>[93] Financial Group LLC (File No. 801-number redacted),[94] specifically regarding Reg S-P.

Within the Letter is Exhibit A(B)(1), Privacy Policy Procedures.[95] The SEC states clearly that sharing RIA clients' information (specifically e-mails) with PKS[96] where those clients did not have an account with PKS was not allowed (under the privacy policy). The SEC defines PKS as an "unaffiliated third party," and implies here that PKS' purview only applies to products and services supplied by PKS.

The SEC elaborates on the above finding by further finding that providing PKS access to RIA clients' PII [97] is not just a violation of the RIA's WSPs but **is an SEC rule violation**. Exhibit A(IV) Regulation S-P [98] states "that Registrant failed to comply with the requirements of Regulation S-P by allowing a third-party broker-dealer to review Registrant's emails and, therefore, allowing it access to client account communications that were not related to any advisory service or product provided by such broker-dealer."[99] In other words, echoing a long-standing argument against having RIA Clients' PI in order to "supervise" unaffiliated advisory business violated Reg BI; in the first paragraph of this section the SEC is specific enough to define PII as basically every item of information needed to assess suitability.[100] This section further states, "Registrant's failure to safeguard NPPI by allowing PKS access to the email correspondence of clients who had not purchased a product from, or had an account with, PKS **is a violation of Regulation S-P."** Footnote 14[101] to this quoted statement further elaborates, "financial products and services offered by PKS are not financial products and services that Registrant provides as part of its investment advisory services but are purchased for clients by registered representatives of PKS. Therefore, a client who has not purchased a product from or maintained an account with PKS **would not** expect their email correspondence **(and any PII contained therein) to be shared with PKS"[102] (emphasis added).**

While the above-stated audit findings against the RIA are limited to the SEC's review of e-mail procedures, the SEC makes it abundantly clear in the above statements that an unaffiliated broker-dealer **is not entitled to any** PII of clients that are not themselves clients of the broker-dealer, and that an RIA is prohibited **by Rule** from providing such information to an unaffiliated

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[93] Name redacted to protect the privacy of the individual and organization that received the exam letter. PKS will provide the complete unredacted letter to FINRA upon request.
[94] "the Letter."
[95] Page five of SEC findings letter.
[96] In this case, the unaffiliated broker-dealer.
[97] Personally Identifiable Information.
[98] Page eight.
[99] "the Letter."
[100] Including but not necessarily limited to: "including any information (1) a consumer provides to an adviser to obtain a financial product or service; (2) about a consumer resulting from any transaction involving a financial product or service between an adviser and a consumer; (3) or an adviser otherwise obtains about a consumer in connection with providing a financial product or service to that consumer."
[101] Page nine.

[102] "the Letter."

broker-dealer (which the SEC states is the case that PKS is unaffiliated). This would make it impossible to provide oversight or assess suitability under any circumstances.

Clearly, given the SEC's stance on what constitutes a broker-dealer's right to possess PII of an unaffiliated firm, a broker-dealer cannot supervise transactions recommended at that unaffiliated firm without violation of a black-letter regulation.

IX. The Rule 3110 definition of mandated oversight of accounts conflicts with Regulatory Notice 25-05 and proposed Rule 3290.

FINRA makes quite clear in Rule 3110 [103] what accounts held-away [104] need to be reviewed and supervised, as cited below:

> **(d) Transaction Review and Investigation**
>
> (1) Each member shall include in its supervisory procedures a process for the review of securities transactions that are reasonably designed to identify trades that may violate the provisions of the Exchange Act, the rules thereunder, or FINRA rules prohibiting insider trading and manipulative and deceptive device that are effected for the:
> (A) accounts of the member;
> (B) accounts introduced or carried by the member in which a person associated with the member has a beneficial interest or the authority to make investment decisions;
> (C) accounts of a person associated with the member that are disclosed to the member pursuant to Rule 3210; and
> (D) covered accounts.

In the same Rule,[105] "covered accounts are defined as:

> For purposes of this Rule:
> (A) The term "covered account" shall include any account introduced or carried by the member that is held by:
> (i) the spouse of a person associated with the member;
> (ii) a child of the person associated with the member or such person's spouse, provided that the child resides in the same household as or is financially dependent upon the person associated with the member;
> (iii) any other related individual over whose account the person associated with the member has control; or
> (iv) any other individual over whose account the associated person of the member has control and to whose financial support such person materially contributes.

In Rule 3110, which is specific to broker-dealer **Supervision,** FINRA painstakingly outlined the held-away accounts that would need to be supervised, as outlined above. It is clear that they took

[103] FINRA Rule 3110(d)
[104] Read: Executed at another broker-dealer.
[105] Rule 3110(d)(4)(a).

great care to outline the accounts that would need to be reviewed by the employing broker-dealer. It is noteworthy that they fail to mention any accounts held or having custody at an unaffiliated broker-dealer unless that account is held by the associated person or related person, presumably by blood or marriage. Further, there can be no interpretation of the nature of these listed accounts that could be construed to apply to accounts advised by unaffiliated RIAs, unless those accounts were owned directly-by the registered person or his/her family members.

As stated *supra*, FINRA Regulatory Notice 18-08 [106] sought to clarify FINRA's position; "the proposed rule [107] would not impose supervisory and recordkeeping obligations for most other outside activities, including IA activities at an unaffiliated third-party RIA."

NASD NTM 94-44 is unclear as to the extent it is applicable to any supervisory mandate of unaffiliated RIAs; it only suggests [108] that "certain activities" may be subject to the Rule. [109] We find it noteworthy that **"ALL"** advisory activities are not subject to the Rule, and our review of contemporaneous and subsequent guidance affirms our stance that supervision is not required absent a participation in the **execution** of trades and receipt of compensation specific to the execution of those trades. Ms. Revell, in drafting the Janssen Letter, was specific in clarifying that absent receiving a "transaction fee" for another broker-dealer's execution, the advisory activities are not subject to Rule 3040. [110] She further clarified that NTM 96-33 did not contradict the analysis. To be clear, the Janssen Letter was drafted three years subsequent to NTM 94-44 and the year after NTM 96-33, for the specific purpose of clarifying any perceived ambiguity surrounding advisory activities. The Janssen Letter is further consistent with the SEC 1st Global No-Action Letter cited above, and is affirmed by FINRA's clearly stated interpretation of the Rule as outlined in Regulatory Notice 18-08.

X. Regulatory Notice 25-05, its guidance and proposed Rule 3290 violates Section 208(d) of the Advisors Act of 1940.

Section 208(d) of the Investment Advisors Act of 1940 provides as follows:

> It shall be unlawful for any person indirectly, or through or by any other person, to do any act or thing which it would be unlawful for such person to do directly under the provisions of this subchapter or any rule or regulation thereunder. [111]

The unfairness of the imposition of additional regulatory burdens on an RIA whose associated persons are FINRA licensed, that does not exist for the vast majority of RIAs, is axiomatic. Such

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[106] FINRA Regulatory Notice 18-08 is a request for comment to formalize FINRA's stance on supervision of OBAs, and not yet a rule. Within the Notice FINRA offered its interpretation of the applicable rules as currently (at the time) in existence.
[107] Drafted for the purpose of combining and clarifying the intent of Rules 3270 and 3280.
[108] By quoting findings from the NBCC meeting in May 1991.
[109] NTM 94-44.
[110] And by extension Rule 3280, but rather the notification requirements of Rule 3270.
[111] 15 USC § 80b-8.

an uneven supervisory structure was not intended by Congress in its enactment of the Investment Advisers Act.[112]

In RIA/financial networking arrangements, the SEC staff has insisted on **RIA sole control over all activities** of its associated persons."[113] Mandating an unaffiliated broker-dealer's oversight would remove the requirement-for and ability-of the RIA's "sole control" over those activities.

The suggestion that any IA activities are subject to broker-dealer supervision subjects the RIA to supervision not contemplated under Investment Advisors Act, and further imposes a fiduciary and control liability upon a broker-dealer with respect to RIA clients having no relationship-with and who are unknown to the broker-dealer.[114]

This argument begs the question: "what if a state regulator overseeing an RIA with dually-licensed IA/RRs mandated that the RIA/IA/RRs supervise the activities at the unaffiliated broker-dealer?" As a securities principal with thirty-seven years as such, I would argue that the state has no such authority, and that position must be applied to the FINRA rules as well, and that FINRA would agree with my position.

It is more than arguable that a broker-dealer not registered under the Advisers Act, who engages in supervision of RIA activities, is engaged in unlicensed advisory activities.[115]

> Any broker-dealer asserting supervision and control over a registered investment adviser or its agents and associated persons:1 7 is inconsistent with the shibboleth of register or be subject to RIA control; arguably, could jeopardize that broker-dealer's exclusion from the definition of investment adviser under the Advisers Act; and, is inconsistent with Advisers Act Section 208(d)'s prohibition against doing indirectly what one cannot do directly; namely, engage in the advisory business without registration. [116]

Further, the broker-dealer would be offering services not related to the products offered by the firm, a violation of the rules.[117]

It is noteworthy that Rule 3280 requires a broker-dealer approving Private Securities Transactions to supervise the business as if it were its own. Pursuant to FINRA rules, broker-dealers perform a point-of-sale suitability analysis, and there are no requirements to perform ongoing services or recommendations on the security. Again, broker-dealers have no requirement to monitor accounts.

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[112] Campbell Law Review, Volume 19, Article 5, Issue 2 Spring 1997, Investment Advisory Regulatory Muddy Waters: Registration and Control Issues are Confused with Issues of Disclosure and Anti-Fraud .
https://scholarship.law.campbell.edu/cgi/viewcontent.cgi?article=1321&context=clr
[113] Campbell Law Review, Id..
[114] Campbell Law Review, Id.
[115] Campbell Law Review, Vol. 19:349 p. 358.
https://scholarship.law.campbell.edu/cgi/viewcontent.cgi?article=1321&context=clr
[116] Campbell Law Review, Id. at page 357.
[117] See P. 22, pp4 and footnote 117, *infra*.

The guidance within Regulatory Notice 25-05, however, has eliminated the verbiage "as if" <the business> were its own; this seemingly places no limit on the responsibilities that would be potentially and arbitrarily assigned to the broker-dealer. As stated *infra and supra,* such a mandate is inconsistent with numerous Rules and longstanding guidance.

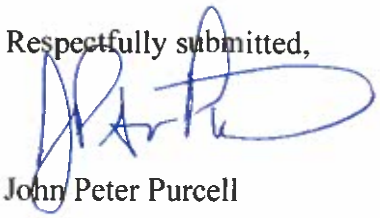
The Investment Advisors Act of 1940 specifically excludes from the definition of investment advisor, and thus from the application of the Advisors Act, a broker or dealer "whose performance of such advisory services is solely incidental to the conduct of its business as a broker or dealer and who receives no special compensation."[118] "Special compensation means compensation received specifically for investment advice in a form other than traditional commissions or analogous transaction-based compensation."[119] Under the Advisors Act, a broker-dealer that offers advice in connection with the purchase or sale of securities for a commission is excluded from the need to register as an advisor.

In 2007 the DC District Court of Appeals essentially "outlawed" fee-based brokerage accounts.[120]

Because a broker-dealer, absent dual-licensure as an RIA, does not have the authority to advise on the suitability of transacting in securities not offered by that broker-dealer, a broker-dealer may not legally opine upon the transactions of an unaffiliated RIA for suitability.

In closing, PKS submits that, by definition, anything that is **not a security** could never fall within the definition of a "Private Securities Transaction," where the operative word is actually "Security." Regulatory Notice 25-05, its guidance and exhibit, as well as proposed Rule 3290 must acknowledge that fact and remove any language and guidance, if indeed Staff proceeds to promulgate the Rule, that suggests a mandated oversight of both non-securities and unaffiliated RIAs.

Respectfully submitted,



John Peter Purcell

[118] Thomas v. Metropolitan Life Insurance Company, 631 F3d 1153, citing 15 USC § 80b-2(A)(11)(c).
[119] Thomas v. Metropolitan Life Insurance Company
[120] Financial Planning v. SEC. 482 F.3d 481

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May 13, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, N.W.
Washington, D.C. 20006

Re: FINRA Regulatory Notice 25-05
Outside Activities of Associated Persons

Dear Ms. Piorko Mitchell:

I take this opportunity to provide comments on FINRA's proposed new rule regarding the need to reduce unnecessary burdens and simplify requirements regarding Associated Persons' Outside Activities as described in FINRA Regulatory Notice 25-05 dated March 14, 2025.

Commentor's Background

I am an attorney practicing in the securities industry for over 35 years. For over 20 of those years, I served as general counsel and intermittently as the chief compliance officer for a dually registered broker/dealer and investment adviser. Since 2009, I have been in private practice representing multiple broker/dealers, registered investment advisers (both federal and state) and their associated persons and adviser representatives, with emphasis on providing legal and regulatory advice and guidance to my clients. I have had numerous occasions to assist my clients' in determining the applicability of Rules 3270 and 3280 to their associated persons' activities, as well as handling FINRA inquiries and investigations into potential violations of those rules. I am therefore conversant in the topics addressed in RN 25-05 and, I believe uniquely qualified to comment on FINRA's latest proposal.

Comments

At the outset, FINRA's position in identifying "outside activities" is based upon the premise that any activities in which an associated person participates, is tangential or ancillary to the associated persons' activities for their member firm, which is presumed to be their primary focus. While understanding that FINRA's primary mission and goal is to regulate the securities industry and its member firms and associated persons, (both registered and unregistered), the greater world of securities and investment activities takes place in areas outside of FINRA's jurisdiction and stated mission, including registered investment advisers.

Since the introduction of on-line and discount broker/dealers, the compensation of registered representatives has been altered and shifted in ways not previously seen. In order to remain competitive, BD registered representatives have been required to significantly reduce transaction commissions, and/or expand their suite of offerings to provide additional products and services such as investment advice, insurance, (fixed) annuities and non-traditional investments (i.e., real estate). As such, many associated persons' primary sources of income may not be derived from their work as associated persons of their member firms. I wholly agree that a member firms' supervisory program must include a comprehensive and ongoing review and understanding of the representatives' business activities away from the broker/dealer. However, my disagreement is with FINRA's new proposal, and its current interpretation of a member firm's supervisory responsibility for registered representatives' outside activities through an unaffiliated investment adviser firm.

Affiliated Investment Adviser Activities

FINRA correctly excludes from the proposal associated persons' non-BD activity on behalf of an IA which is "affiliated" with the BD, recognizing "members' ability to implement meaningful controls across business line." However, this is only a viable solution if the BD fully owns or controls the affiliated IA; as either a dually registered firm (i.e., the same legal entity registered as both a BD and IA), or in the case where the BD ownership and management is the same though operating as two separate, independent legal entities under common ownership and control.

However, the SEC recognizes as an "affiliate" an IA entity that is owned or controlled by an individual who also owns, controls or is registered as a principal at both entities. In such cases, the BD may not be in a position to exercise control or influence over the management and practices of the "affiliated" IA. In such cases, a potential solution is for the BD to conduct due diligence with respect to the compliance and supervision of the affiliated IA to ensure that it has in place reasonable systems, processes and procedures to achieve compliance with the IA laws, rules and regulations under which it operates. That should satisfy the BD's oversight obligations and eliminate the requirement for the BD to directly supervise the activity or record the IA's business transactions on its books and records.

Unaffiliated Investment Adviser Activities

As FINRA well knows, its regulatory mandate is derived from the Securities and Exchange Commission as promulgated under the Securities Exchange Act of 1934, as amended and the rules and regulations promulgated thereunder. FINRA's authority is therefore limited to its oversight and enforcement of those entities and individuals under its jurisdiction to test compliance with, and sanction violations of, the Securities Act of 1933, as amended, the Securities and Exchange

Act of 1934, as amended, as well as FINRA, NASD and MSRB rules, and interpretations. There is no ability to regulate, inspect or enforce compliance with the Investment Advisers Act of 1940, as amended, (the "Advisers Act") nor the adoptive rules and regulations promulgated thereunder. Nor is there any authority or jurisdiction for FINRA to sanction a firm or individual for any alleged violations of the Advisers Act.

The industry is well aware of FINRA's attempts to lobby the SEC (and Congress) to expand its mandate to become the primary regulatory authority for RIAs, in addition to broker/dealers. It is true that no such independent regulator serves in that role, leaving it to the Commission and the various state securities regulators. Should FINRA succeed in its attempt to gain such authority, this analysis and my views on this matter would necessarily change. However, in the absence of such authority, I believe it is a mistake for FINRA to require its member firms to be responsible for the oversight and supervision of its affiliated persons conducting investment advisory business through unaffiliated, registered IAs. The reasons are as follows:

- As stated by other commentators and as referenced in the Notice itself, BDs and IAs are governed under separate and distinct statutory regimes. What may be permissible activity by an associated person acting in the capacity as an IA representative, may be prohibited under SEC laws or FINRA rules.
- BD compliance personnel may not be trained or knowledgeable in the rules of the road for registered IAs and requiring them to supervise and monitor those activities, may be unduly burdensome and fraught, causing potential risk to the BD firm and/or its supervisory and compliance personnel. That isn't the job they signed up for, and many may be unable or unwilling to fulfill those responsibilities.

- Small or mid-sized BDs may not have adequate systems and surveillance programs, procedures or policies to properly oversee those activities, leaving them either inadequately supervised or totally ignored. Requiring those firms to implement additional processes, procedures and add personnel to fulfill those responsibilities, may be too burdensome and/or expensive.
- A BD required to conduct this additional oversight may skew the financial and compensation arrangements between the firms and their affiliated representatives. This is particularly true for many smaller and mid-sized BDs who may treat their representatives as independent contractors who receive a larger share of earned commissions and fees than more traditional BD arrangements. That may require the representative to compensate the BD for the additional resources needed to properly supervise and track this outside activity.
- Many registered IA's serve as advisers to private funds, family offices, REITS or other types of financial institutions with complex investment strategies which may be outside the purview of even the most seasoned BD compliance personnel. Relying on them to properly oversee this outside business, may result in a false sense of security that this work is being done adequately regardless of those individuals' best intentions and efforts.
- Both the SEC and each states' securities commissions routinely examine and bring enforcement actions against IA firms to ensure compliance with applicable laws, rules and regulations, and punish violators. While some commentators decry the inadequacies of those enforcement efforts, there is nothing to ensure that a BD's

compliance efforts related to outside IA activities and FINRA enforcement of any potential failures, would fare any better in an industry that has its differences and distinctions from those of a broker/dealer.

- Finally, and speaking from specific experience, FINRA examiners and enforcement personnel may not be adequately trained or experienced to properly examine a BD's compliance and surveillance efforts of investment advisory activities, and potential sanction it for any perceived failures for the same reasons as stated above.

Conclusion

Understanding the need for and importance of proper and ongoing supervision and oversight of associated persons' outside activities that involve securities transactions, FINRA should exempt from the proposed revised rule any requirement for outside activities conducted through an investment adviser, which is registered either with the SEC or any particular state (or states) from supervision by the associated persons' member firm. An associated person clearly must be required to provide written advance notice of this proposed activity and receive permission from the member firm to engage in before it begins. A suggested additional requirement should be for the associated person to obtain a written attestation from the IA firm confirming that they have in place an adequate and reliable compliance and supervisory system over the IA activities of the associated person through their firm and permit the FINRA member to maintain and rely upon this attestation. Should the member firm (or FINRA) have reason to question the adequacy of the IA firm's supervisory protocol, they should be encouraged to contact the IA's primary regulator to review and take action against any supervisory lapses. This simple step should

ensure that clients and the investing public's interests are adequately protected without the needs for duplicative supervisory and sometimes conflicting regulatory requirements.

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Respectfully submitted,



Robert I. Rabinowitz, Esq.
Becker New York, P.C.
331 Newman Springs Road, St. 106
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rrabinowitz@beckerlawyers.com

From: Erik Randall
To: pubcom@finra.org
Subject: RE: Request for Comment on Regulatory Notice 25-05
Date: Tuesday, May 13, 2025 9:57:00 AM
Attachments: Outlook-xp0esjlf.dat

WARNING: External Sender! Exercise caution with links, attachments and requests for login information.

To Whom It May Concern,

I am Chief Compliance Officer of a Registered Investment Advisory firm and have a principal of the RIA who is a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these
transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets,

thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.
Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Erik Randall, CFP® (he/him)
Chief Compliance Officer

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For a copy of an up-to-date Client Relationship Summary (Form CRS), please visit our web-site, https://www.summitwg.com/contact-us [summitwg.com]

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GRATUS
WEALTH ADVISORS

April 28, 2025

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

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am the owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to provide comments on the newly proposed Rule 3290 outlined in FINRA Regulatory Notice 25-05.

The trust our clients place in us — particularly their confidence that their personal information and financial goals will remain confidential — is fundamental to the fiduciary relationship we uphold. Protecting that confidentiality is critical to our role as fiduciaries and advisors.

Advisor-client confidentiality, specifically the protection of clients' non-public personal information, is safeguarded under federal law, including Regulation SP. In addition, many state privacy laws offer stronger protections for advisory client information.

The proposed Section 3290, subsection (d)(4), states:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients — requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." In practice, this would compel advisors to share extensive client information with an unaffiliated broker-dealer.

This approach directly conflicts with federal and state privacy laws and violates the trust advisory clients have in their advisors. It would expose sensitive financial information to third parties who have no direct role in managing the client's assets, undermining both legal protections and the ethical obligations advisors have to safeguard client confidentiality.

Gratus Wealth Advisors, LLC ("Gratus") makes no warranties with regard to the information or results obtained by third parties and its use and disclaim any liability arising out of or reliance on the information.

Moreover, the proposed Rule would impose additional regulatory oversight on advisors associated with FINRA-member firms — oversight that does not apply to advisors without FINRA licenses. There is no evidence that this additional layer of broker-dealer supervision provides any meaningful benefit or enhanced protection to advisory clients but rather adds an unjustified regulatory burden without corresponding value.

For these reasons, I respectfully urge FINRA not to adopt proposed Rule 3290 as set forth in Regulatory Notice 25-05.

Thank you.

Sincerely,



Cline Reasor
Managing Partner
cline@gratusadvisors.com
757-909-5505

Gratus Wealth Advisors, LLC ("Gratus") makes no warranties with regard to the information or results obtained by third parties and its use and disclaim any liability arising out of or reliance on the information.

Paul Reese Comment On Regulatory Notice 25-05

Paul Reese
technology
This rule should be opposed. The only way to KNOW crypto is to hold crypto. This is stupid. No boomer from JPM is going to understand utility coins.

William Rice Comment On Regulatory Notice 25-05

William Rice
Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and

serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Rightwealth ADVISORS

April 28, 2025

Ms. Jennifer Piorko
Mitchell Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

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I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Rightwealth Advisors

Advisory services offered through Rightwealth Advisors, LLC. Securities offered through Purshe Kaplan Sterling Investments Member FINRA/SIPC. Headquartered at 80 State Street Albany, NY 12207. Rightwealth Advisors and Purshe Kaplan Sterling Investments are not affiliated companies.

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Dayton, OH 45342

T 937.859.9800
F 937.859.9801
E info@rightwa.com

Ted Ripperger Comment On Regulatory Notice 25-05

Ted Ripperger
none

I do not support FINRA Regulatory Notice 25-05 and Proposed Rule 3290. Prohibiting a financial advisor who holds a FINRA license from personally investing in any crypto asset without first getting written approval from their broker/dealer as well as applying this rule to the advisor's spouse, partner, children and anyone else living in the household is ridiculous and backwards thinking.

I'm not sure how this proposed rule came to be, but please stop this before implementation.

If you do implement this overreaching rule, it will be undone by other branches of government and you will have permanently harmed FINRA's reputation and standing.

Thank you.

Ted Ripperger

Gregory Romanczuk Comment On Regulatory Notice 25-05

Gregory Romanczuk

To Whom It May Concern,

Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, 1700 K Street, NW, Washington, DC 20006

I would like to voice my strong opposition to FINRA Regulatory Notice 25-05 and Proposed Rule 3290.

It will bring US regulatory body back to the dark ages in terms of cryptocurrency markets. Please do not implement it.

Gregory Romanczuk

Chicago, IL

Craig Ruffolo Comment On Regulatory Notice 25-05

Craig Ruffolo

I write in **opposition** to the proposal.

If I understand correctly that “Investment-related activity” means pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency,

banking, real estate or insurance, **this seems too broad.**

If I understand that the proposal would also require B/D's to approve each transaction in writing for each representative, that **seems to amplify the regulatory burden**. It introduces vagueness,

increases compliance costs, threatens personal liberty, and undermines professional autonomy,

particularly for small firms and independent advisors.

FINRA should not move forward with this proposal in its current form. Instead, I urge FINRA to retain the current bifurcated structure under Rules 3270 and 3280, and, if warranted, issue updated guidance to clarify expectations without resorting to a new rule.

RM
FINANCIAL SERVICES, LLC

362 US Route One, Falmouth, Maine 04105

207.781.7637 207.781.7639 www.rmfsllc.com

April 30th, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As owners of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, we strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

We have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

We strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. We respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Aaron P. Rugh, CEO

Mark L. Macleod, President

Investment advisory services offered through RM Financial Services, LLC a Registered Investment Advisor registered with SEC. Registration with the SEC, or any state securities authority does not imply a certain level of skill or training.

Jamie Rutledge
Kades-Margolis
233 Tioga St
Johnstown, PA 15905
andyjamie1998@gmail.com
814.248.9719

May 2, 2025

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

RE: Comments on FINRA Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

I am writing to express my strong opposition to FINRA's proposed Rule 3290, as outlined in Regulatory Notice 25-05. While I fully support FINRA's mission to protect investors, this proposal overreaches its scope and places an excessive burden on licensed professionals.

Under the proposed rule, representatives holding a FINRA license would be required to obtain prior written approval from their broker-dealer before engaging in a broad range of personal financial activities — including the purchase of cryptocurrency, securities, commodities, real estate, insurance, and banking products. Extending this requirement to spouses, partners, and household members is not only intrusive, but it also sets a concerning precedent.

Expecting written approval for routine personal decisions — such as purchasing a home, opening a savings account, or buying life insurance — does nothing to enhance investor protection. Instead, it compromises personal autonomy and burdens both advisors and broker-dealers with unnecessary administrative friction.

The rule's broad definition of "investment-related activity" risks stifling innovation and diversity in financial strategies. It could push many financial professionals to abandon their FINRA licenses in favor of operating under SEC jurisdiction — ultimately weakening the value and relevance of FINRA oversight.

I urge FINRA to withdraw or significantly revise this proposal. A more focused approach that targets genuine conflicts of interest, rather than ordinary financial behavior, would better serve both the investing public and the professionals who advise them.

Thank you for considering this feedback.

Sincerely,

Jamie Rutledge

SUMMIT FINANCIAL

May 13th, 2025
Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006
Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,
Salvadore Salvo

Docusign Envelope ID: 8610DE1E-9CFB-4266-A5BF-CFCA35C7B645

SATOVSKY
ASSET MANAGEMENT

May 12, 2025

Ms. Jennifer Piorko Mitchell Office
of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

DocuSigned by:
jonathan satovsky
52529A1AD1DD453...
Jonathan Satovsky

[LETTERHEAD]

Date

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Solebury Asset Management, LLC Comment On Regulatory Notice 25-05

Michael Scavullo
Solebury Asset Management, LLC

As the owner of a Registered Investment Advisory (RIA) firm and a registered representative of an affiliated FINRA member firm, I respectfully oppose proposed Rule 3290 in Regulatory Notice 25-05.

The rule would inappropriately extend FINRA's oversight to RIAs who are already regulated by the SEC and state authorities. It would also create a two-tier system—imposing additional compliance burdens on RIAs with FINRA-licensed individuals, while exempting others from the same rules.

Most concerning, the proposed requirement that broker-dealers supervise advisory transactions "as if executed on behalf of the member" could compel RIAs to share non-public client data with unaffiliated firms. This violates both federal (Regulation SP) and State privacy laws, and undermines the confidentiality expected in the advisor-client relationship.

There is no clear benefit to clients from this added oversight, and no statutory basis for such an expansion of FINRA's authority. It risks creating regulatory confusion, raises serious privacy concerns, and adds unnecessary complexity to fiduciary relationships.

I urge FINRA to reconsider and not adopt Rule 3290 as proposed.

Thank you for your time and consideration.

Michael Scavullo

Managing Member

Solebury Asset Management, LLC



Assured Concepts Group, Ltd.

Process Driven... Results Focus... Measurably Different...

April 29, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Securities & Investment Advisory services offered
through *Assured Advisory Group, LLC*. Member FINRA/SIPC.
1141 E. Main St, Suite 215, East Dundee, IL 60118

www.assuredgroup.com
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Fax | 888.966.0177
1141 E. Main Street, Suite 215
East Dundee, IL 60118

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

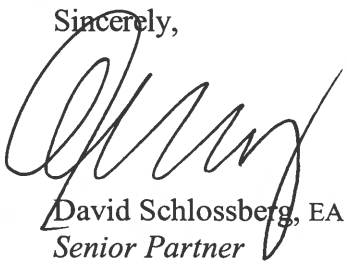
Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



David Schlossberg, EA ®, RFC®, CFF ®, AIF ®, NSSA
Senior Partner

Scott Comment On Regulatory Notice 25-05

Scott

the US needs to take the leed as far as crypto innovation. This is not it.

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1800 West Park Drive, Suite 330
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May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance

and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration.

Sincerely,



Thomas G Shiffer
Managing Partner
Cadence Wealth Management, LLC

D Smith Comment On Regulatory Notice 25-05

D Smith

I see no reason why a financial advisor should need permission from a broker/dealer before owning crypto assets. This has nothing to do with their duties as advisors.

Separately, allow me to say wow. How much time and energy did staffers at FINRA spend on the excessive verbiage that went into this notice and all the deliberations over proposing such a silly and unnecessary rule? You guys need to be DOGE'd.

DAS
WEALTH MANAGEMENT GROUP
Powered by CONCURRENT

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

May 13, 2025

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these
transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.
Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you,

Douglas A. Solorzano
DAS Wealth Management Group

Alberto Sosa Comment On Regulatory Notice 25-05

Alberto Sosa

I am writing to express my strong opposition to FINRA's Proposed Rule 3290 as outlined in Regulatory Notice 25-05. As a responsible investor who personally owns digital assets and utilizes a registered advisor through Digital Wealth Partners, I am deeply concerned about the proposed restrictions requiring financial advisors to seek written approval from their broker/dealer before engaging in personal crypto asset investments.

This overreach could have a chilling effect on innovation, advisor autonomy, and financial literacy regarding emerging technologies. Rather than reducing burdens, this rule would likely cause a mass exodus of financial advisors from the FINRA system to SEC-registered RIA firms where they can operate with more flexibility and continue to act in their clients' best interests.

I urge FINRA to reconsider this rule and adopt a more modern and reasonable approach that respects personal investment freedom while maintaining appropriate safeguards. Thank you for your attention to this matter.

Sincerely,

Alberto Sosa

ACCESS
CAPITAL

May 13, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA 1735 K Street Washington, DC 20006

Re: Comments on Regulatory Notice 25-05 (Proposed Rule 3290)

Dear Ms. Mitchell,

As the owner of a Registered Investment Advisory firm and a registered representative with an unaffiliated FINRA member firm, I'm writing to share my concerns about proposed Rule 3290, as outlined in Regulatory Notice 25-05. Thank you for the opportunity to provide feedback on this important matter.

For years, I've built my practice on the trust my clients place in me to safeguard their personal information and financial goals. This trust is the cornerstone of the fiduciary relationship, and protecting client confidentiality is not just an ethical duty—it's a legal one, enshrined in federal laws like Regulation S-P and reinforced by state privacy regulations. My clients expect, and deserve, that their sensitive information remains private, shared only with those directly managing their assets.

Proposed Rule 3290, particularly subsection (d)(4), would require me to share non-public client information with an unaffiliated broker-dealer for "outside securities transactions"—a term FINRA interprets to include routine advisory orders. This mandate would force me to disclose client details to parties with no direct role in their financial plans, violating their privacy rights and undermining the confidence they have in my firm. As an advisor, I find this requirement not only impractical but also contrary to the principles that guide my work.

Moreover, the rule imposes an uneven layer of oversight on advisors like me who hold FINRA licensure, compared to those who operate solely as RIAs. There's no evidence that broker-dealer supervision of advisory transactions enhances client protection, and this additional scrutiny lacks any basis in federal or state law. In my experience, such oversight would create unnecessary complexity without meaningful benefits, potentially discouraging advisors from maintaining FINRA affiliations.

I strongly urge FINRA to reconsider proposed Rule 3290. Its adoption would compromise the advisor-client relationship and impose unwarranted regulatory burdens. Thank you for considering my perspective, shaped by my commitment to serving my clients with integrity and care.

Sincerely,

Sean R. Spencer

Securities offered through Purshe Kaplan Securities Investments, Member FINRA/SIPC
Headquartered at 80 State Street, Albany, NY 12207.
Purshe Kaplan Sterling Investments and Access Capital are not affiliated companies.
Access Capital is located at 7506 E Norfolk Cir, Wichita KS 67206

May 13, 2025

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA

Via email: pubcom@finra.org

We appreciate the opportunity to comment regarding a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities as discussed in Regulatory Notice 25-05.

Our firm, Integrated Solutions, is a leading service provider within the financial industry, with a client base of approximately one hundred small to medium sized broker-dealers that are involved in a myriad of business lines. We are privileged to be able to offer guidance to our clients in a practical manner, which helps them navigate the multitude of rules to which they are subjected. For those of us who have survived decades upon decades of supposed improvement to the securities industry and supposed increased investor protection, it appears for the most part that the regulators have complicated matters, increasing frustration among industry professionals and in doing so, having set forth rules and regulations that even the brightest of professionals and investors cannot grasp, nor wish to.

This letter represents our own personal views and does not necessarily represent the views of any of our clients. The authors of this letter have spent many decades affiliating with the broker-dealers that constitute the membership of various exchanges or the only registered national securities association that currently is FINRA.

One of the most frequently asked questions when we conduct Annual Compliance Meetings is about the nuances of what constitutes outside business and what constitutes a private securities transaction and the relationship, if any, between the two rules.

We appreciate that FINRA has recognized the ridiculousness of requiring Registered Persons to disclose their outside business activities when they are not at all related to the securities industry. What difference did it make if someone owned a catering business on the side or worked as a florist or as a limousine driver? What impact would it have on investor protection? The fact that this was ever an issue for a securities regulator was far-fetched. The time and effort spent in requesting disclosure from registered persons, updating U4 forms to reflect these activities and in approving and filing the forms was a distraction for each member's personnel from more relevant supervisory obligations. Not everything that a registered person does or engages in should necessarily have the details of those activities subject to oversight by regulators or the member with which he or she is associated. Narrowing the scope of regulation or supervision of registered persons will not only allow already overtaxed compliance personnel to focus on more important and real issues that may affect an investor or FINRA member but also prove that we live in an independent world where "Big Brother" is not overstepping his watchfulness.

Each FINRA member is unique

In its attempt to homogenize the basic concept of eliminating conflicts of interest that can arise in the broker-dealer community, the current rules and the proposed rules ignore the fact that the membership does not need standardized rule that specifically indicate exactly what each member should comply with.

Rather, it behooves each member to recognize the ethical considerations that should apply to each of their associated person's individual behavior. Proscribing what each member should do is not a wise idea since each member is unique and has different needs and considerations than all of the other members. For example, an Associated Person of a member who effectuates transactions in registered securities on behalf of the member or its retail customers is so different than a member that might effectuate only private placement transactions with typical institutional customers. Instead of ramming irrelevant one-size-fits-all rules or restrictions unto all of its members, FINRA should propose principle-based rules that require its members to consider possible conflicts of interest in their dealings.

The Securities and Exchange Commission was wise enough to do exactly that when it adopted Regulation BI, which dictates that each registered broker-dealer must bear a retail customer's best interest in mind. FINRA should adopt rule changes to follow the SEC's cues in that regard. Each member should be able to adopt procedures that are suitable for it based upon its business, its customer base, its counterparts, etc.

Defining exact inclusions and exclusions is not necessarily useful and may be counterproductive

For example, some Associated Persons engage in securities transactions on behalf of an investment company or fund and have a fiduciary obligation to execute transactions that are in the best interest of the fund. They may also be obligated to maintain confidentiality regarding the transactions or the investment positions or strategies of an investment company or fund. Indeed, transactions might not be executed through FINRA members with which a person is associated especially if more favorable prices are available elsewhere.

Having a rule that treats such situations differently where an investment advisor person's employer is affiliated with that person's FINRA member strains credulity. It penalizes or restricts activities on behalf of a company or fund that wishes to invest as best it can. Mandating supervision of specific transactions that are executed away from a particular member is often impossible and it is most likely not necessary either.

Distinguishing securities transactions and suggesting that they need to be supervised yet commodities transactions need not be supervised is a great example of why definitional precision makes little sense. Specifying that certain real estate related transactions are excluded while other real estate transactions are not excluded are troublesome at best.

Similarly, as proposed, the purchase of the stock of a cooperative corporation in which a dwelling unit is then leased to the stockholder might not be excluded from the definition of personal investments since it involves owning a security. Similarly, the ownership of a condominium in a commercial building where

an Associated Person has his or her office might also be restricted somehow since it is not necessarily specified as being excluded.

Of course, the proposed rule does not define a child as elegantly as it can since it did not consider a child of an Associated Person and his or her domestic partner, which is not an acceptably defined status in every jurisdiction. It does not define residency in terms of whether it is permanent or temporary. We can go on and on but we don't wish to bore anyone reading this letter.

The language of the rules by being too specific creates havoc. Instead, requiring that Associated Persons abide by ethical principles as decided by each member is more effective and less complex.

We admit that the much-curtailed scope of the rule with the additional definition of the more relevant investment-related activity is more realistic and understandable. The inclusion of personal securities transactions in this definition is well received, as it was always a source of confusion to registered persons, their supervisors and to regulators as well. As indicated in your Regulatory Notice, a difficulty existed in the categorization of certain activities, i.e., outside business activity vs. outside securities transactions. Perhaps the proposed rule should also simplify in layman's terms (similar to that which was required when creating Form CRS) what is a private securities transaction, such as, if it's this, it would be that. This would eliminate the difficulty in making the assessment for both the Associated Person and the FINRA member. Another recommendation that we would make is for there to be a *de minimis* exception for the reporting of a private securities transaction, similar to the *de minimis* exemption for IPOs. Perhaps, if the amount of the transaction is less than (x) % of the total securities transaction (which oftentimes it is), then it need not be disclosed or evaluated. Another recommendation that we would make extends to when a Broker-Dealer receives options or warrants on a security as part of the fee structure in a Private Placement of Securities. Obviously, it is a form of compensation for the Broker-Dealer and need not be disclosed when it is received and later distributed to Associated Persons but then needs to be disclosed upon the securities are sold.

We recognize the conflict in whether FINRA member firms might be responsible for supervising and recordkeeping outside Investment Advisor activity, including activity performed at an unaffiliated investment Advisor. We do believe that the FINRA Broker-Dealer is at a disadvantage to supervise the activity from afar and the Investment Advisor is in a far superior position to know the details of their activity in real time and therefore are better suited to supervise the activity. The responsibility to supervise an Investment Adviser-related activity is just another obligation that would be placed on the Broker-Dealer, which is cumbersome and leaves much room for error. Is an Investment Advisor required to supervise the investment activity of the Broker-Dealer? Why not just require the disclosure of the activity in the form of agreement between the Investment Advisor and the Broker-Dealer, which stipulates that the Investment Advisor will supervise the activity of the Registered Person and notify the Broker-Dealer of any activity that may be cause for concern? Investment Advisers being recognized as a "financial institution" for Anti-Money Laundering purposes beginning in January 2026 and subject to most of the regulatory requirements is indicative of the fact that they can and should be called upon to "Know Your Registered Person" as well as "Know Your Customer." We also concur with other Broker-Dealers and Investment Advisors who contend that the dichotomy of the relationships is more confusing to the investor, i.e., "who does what for me, and who is responsible for my accounts and what is the relationship between the two and who really bears the responsibility for my investments."

We applaud the exclusion of certain activity for outside securities transactions including those activities on behalf of a Broker/Dealer and its affiliates, including Investment Advisor activity, insurance and banking. These institutions have their own supervisory structures in place. We found that it was always very confusing for FINRA firms who have affiliates that are under common control to understand their obligations under the current rule. We do not believe that there is any more investor risk in excluding these activities from the purview of the Broker-Dealer than from the institutions from which the activity arises. We also agree that codifying the delineation of responsibilities between members who employ a dually (or more) Registered Person for oversight of the transactions will also simplify the matter and provide a more tangible manner in which transactions can be supervised.

The concept of a "principles-based approach" to both outside business activities and outside securities transactions is one which we truly support. Who would be in a better position to judge the merits of the proposed activity or transaction than each member's supervisors who can readily make such determination? It is so ironic that broker-dealers are required to make risk-determinations regarding their clients or investors relating to possible money-laundering, but yet cannot use those same skill sets to make a risk-determination regarding their Associated Persons?

We laud simplicity and the tearing down of unnecessary and burdensome regulations which only tend to burden the already overburdened and are not productive or fruitful in the protection of investors or the marketplace. Let there be self-assessment in the process as well as the enactment of a simplified and more comprehensible version of the rule and you will see that members and Associated Persons will evidence a greater ease in understanding, resulting in better compliance with the rule.

Please feel free to contact us at hspindel@integrated.solutions or 561-420-0842 or pchait@integrated.solutions or 212-897-1698.

Very truly yours,





Howard Spindel

Peggy E. Chait

Stavis Wealth Transfer Solutions Comment On Regulatory Notice 25-05

Deborah Stavis
Stavis Wealth Transfer Solutions

Dear Ms. Mitchell,

I am the owner of a Registered Investment Advisory firm in Houston, Texas, with five employees and a registered representative of an unaffiliated FINRA member firm.

My position is that rule 3290 in regulatory notice 25–05 would duplicate oversight, and the inefficiency is likely to create unnecessary complexity for RAA's, unaffiliated Broker Dealers, and most importantly, valued clients.

Client confidentiality is the cornerstone of our business, and their information is protected under federal law, specifically Regulation Capital S P. State privacy laws also protect the confidential information of investment advisory clients.

I have read the proposed rule 3290, and it would appear that there are myriad of conflicting rules and confusion. This is likely to confuse clients and advisors alike, making it difficult for our business to operate and for clients to have clarity and confidence.

As Fiduciaries, we are already subject to the highest standard of conduct. The imposition of overlapping yet unclear FINRA rules creates a burdensome, duplicative regulatory environment and serves no purpose other than expanding FINRA's jurisdiction.

Also, the proposed rule claims jurisdiction over real estate, which is not clearly defined as private or public, personal or investment property, along with banking and insurance regulation by other federal and or state agencies. This seems dramatically overreaching. Moreover, there is very little clarity about what assets within these asset classes would be included/excluded.

As small business owners, we try to keep our fees low and service high in adhering to the fiduciary standard. Another layer of regulations and is likely to escalate expenses and force us to hire and train more talent.

This is an undue hardship for small businesses that try to keep consumer fees low and service at the Fiduciary Standard.

Having considered the major facets of Rule 3290, I strongly believe that it should not be adopted.

Kind Regards,

Deborah Stavis

Founder & CEO

Stavis Wealth Transfer Solutions

SilverLake Wealth Management Comment On Regulatory Notice 25-05

Gregory Steele
SilverLake Wealth Management
SilverLake Wealth Management, LLC

33 Blair Park Rd STE 100 | Williston, VT 05495

(802) 857-50 May 13, 2025

May 13, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA

1700 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section3290 provides, at subsection (d)(4)thereof, as follows:

For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these

transactions "as if executed on behalf of the member. "Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neitherentitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients.

Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Gregory Steele

Managing Partner

SilverLake Wealth Management

Jeffrey Steele Comment On Regulatory Notice 25-05

Jeffrey Steele

Re: Request for Comment on Regulatory Notice25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

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Finally, this additional oversight is unsupported anywhere in federal or statelaw.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Jeffrey Steele

Strategic Investment Solutions, Inc.

9501 West 144th Place
Suite 101
Orland Park, IL 60462
(708) 645-8820

April 29, 2025

Ms. Jennifer Piorko Mitchell Office of the
Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at: 80 State Street, Albany, NY 12207
Investment Advice offered through Strategic Investment Solutions, an SEC Registered Investment Company
Purshe Kaplan Sterling Investments and Strategic Investment Solutions, Inc. are not affiliated companies.

Strategic Investment Solutions, Inc.™
Wealth Management

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

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Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Doug Stepansky

COO, Strategic Investment Solutions, Inc.

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at: 80 State Street, Albany, NY 12207
Investment Advice offered through Strategic Investment Solutions, an SEC Registered Investment Company
Purshe Kaplan Sterling Investments and Strategic Investment Solutions, Inc. are not affiliated companies.

Calvert Wealth Management, Inc.

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

calvertwealthmanagement.com
3175 West Ward Road, Suite 120 • Dunkirk, MD 20754 • 410-286-3130 • 301-812-1550

Calvert Wealth Management, Inc. is a Registered Investment Advisor.
Certain representatives of Calvert Wealth Management, Inc. are also Registered Representatives offering securities through APW Capital, Inc., Member FINRA/SIPC.
100 Enterprise Drive, Suite 504, Rockaway, NJ 07866 (800)637-3211.
Clearing, Custody, or other brokerage services may be provided by Fidelity Brokerage Services, LLC, Members NYSE, SIPC.
Calvert Wealth Management, Inc. is independent of APW Capital, Inc.



May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

Dear Ms. Mitchell, I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal

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Calvert Wealth Management, Inc.

and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



calvertwealthmanagement.com
3175 West Ward Road, Suite 120 • Dunkirk, MD 20754 • 410-286-3130 • 301-812-1550

Calvert Wealth Management, Inc. is a Registered Investment Advisor
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Concentus
Wealth Advisors

3803 West Chester Pike
Suite 225
Newtown Square, PA 19073
610-994-9190
www.concentus.com

April 21, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

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Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and

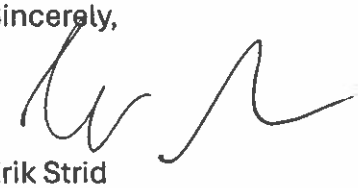
deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Erik Strid
Principal, Concentus Wealth Advisors

Peter Sweeney Comment On Regulatory Notice 25-05

Peter Sweeney

none

About half of the nation’s financial advisors personally own crypto. If this rule is enacted, upwards of a hundred thousand FAs will have to inform their B/Ds of their crypto holdings and seek written permission to keep them. If permission is not obtained, the FAs will be required to sell their crypto assets, transfer to another firm that permits their investments, or be terminated. If this rule is enacted as-is, tens of thousands of Registered Reps will drop their FINRA licenses and switch to SEC jurisdiction as Registered Investment Advisors. By operating as an Investment Advisor Representative of an RIA, these reps will avoid FINRA’s antiquated posture, establish themselves as fiduciaries serving their clients’ best interests (which will enhance their stature in the eyes of their clients) and enable them to continue to personally own crypto. The FAs will be better off, their clients will be better off, the RIAs they join will be better off, and the losers will be FINRA and the B/Ds it oversees.

Please do not impose these changes as they are not in the best intrest of any US Asset holders.

G Swienton Comment On Regulatory Notice 25-05

G Swienton
RIA owner / dual registered

This is the first time commenting on a proposed regulatory notice. Having read the various pros and cons of Regulatory Notice 25-05, I am respectfully asking that this not be adopted in the current form.

Thank you.

Matt Tackett Comment On Regulatory Notice 25-05

Matt Tackett

N/a

Please oppose this archaic proposal. The old system is in need of modernization. Crypto is a reality, will not be stopped.

Douglas W. Teubert Comment On Regulatory Notice 25-05

Douglas W. Teubert
P.K.S. Investments

The redundancy and bureaucracy and extra paperwork it requires to write an application has got to stop!! I have been in this vocation for over 40 years and the extra work to get an application approved is overwhelming. We already have "Best Interest", "Attestations" and "Suitability for BOTH Broker Dealer AND Insurance Company. This just slows down commerce unnecessarily. We already have 80 pages in just one companies annuity application which is way too much!! There are ALREADY enough checks and balances.

Mark Thatcher Comment On Regulatory Notice 25-05

Mark Thatcher

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that does not exist for other RIA/IAs without FINRA licensure, creating an uneven regulatory environment. Furthermore, it improperly claims jurisdiction over real estate, banking, and insurance businesses, which fall outside FINRA's charter and are already regulated by other federal and state agencies. This expansion of FINRA's authority appears to favor large institutions like Merrill Lynch, Morgan Stanley, and UBS, which may seek to disadvantage independent broker-dealers, potentially harming competition and client choice. I urge FINRA to prioritize what is right for clients over the interests of these large firms.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments and fully agree with his arguments against promulgating Rule 3290. Compliance with client privacy mandates would be nearly impossible, and the conflicting rules and guidance cited by Mr. Purcell foreshadow significant regulatory confusion and turmoil if the Rule is adopted.

Registered Investment Advisory firms are already regulated by the SEC and the states as fiduciaries and are not subject to FINRA jurisdiction. Imposing FINRA rules, which are unrelated to our business, solely on RIA firms with persons registered with a FINRA member serves no justifiable purpose and represents an unwarranted expansion of FINRA's authority.

I strongly believe that the proposed Rule 3290, as currently written, together with the guidance and analysis provided in Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely, Mark Thatcher

TINKER CAPITAL
POWERED BY ORG PARTNERS

Brian R. Tinker, CFP®, AIF®
Principal/Capital Manager
CA Insurance License #0D78276
3625 Del Amo Blvd., Suite 375
Torrance, CA 90503

Office: 310/371-5899
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Fax: 310/371-7009
Brian@TinkerCapital.com

April 29, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As a senior producer for a Registered Investment Advisory (RIA) firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05. I believe in having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration.

Sincerely,

Brian R. Tinker

Tinker Capital is a DBA of ORG Partners, LLC, a federally registered investment adviser under the Investment Advisers Act of 1940. Registration as an investment adviser does not imply a certain level of skill or training. Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State St., Albany, NY 12207. Purshe Kaplan Sterling Investments and ORG Partners, LLC are not affiliated companies.

LONGVIEW
Financial Solutions, LLC
7401 S BITTERROOT PLACE SUITE 100 · SIOUX FALLS SD 57108
OFFICE: 605-271-1386 · FAX: 605-271-2561

April 29th, 2025

Ms. Jennifer Piorko Mitchell Office of the Corporate Secretary FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

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I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Jason Tinklenberg

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Headquartered at 80 State Street, Albany, NY 12207
Sutterfield Financial Group and LongView Financial Solutions are not affiliated companies with Purshe Kaplan Sterling Investments.

101 SOUTH TRYON STREET
SUITE 2700
CHARLOTTE, NC 28230

p. 704-334-2772 tobinandcompany.com

May13, 2025
Financial Industry Regulatory Authority (FINRA)
Office of the Corporate Secretary
Attention: Jennifer Piorko Mitchell
1735 K Street, NW
Washington, DC 20006-1506

Comment on FINRA Regulatory Notice 25-05: Outside Business Activities and Private Securities Transactions

Dear Ms. Mitchell,

Thank you for the opportunity to comment on FINRA Regulatory Notice 25-05, which proposes a revised framework for Outside Business Activities (OBAs) and Private Securities Transactions (PSTs). I write on behalf of TOBIN, a boutique, woman-owned broker-dealer, to offer our direct perspective. While we appreciate the stated objective of modernizing and reducing unnecessary burdens, we are concerned that the proposal fails to meaningfully address investor risks and does not alleviate the challenges boutique firms face, particularly concerning the supervision of outside investment adviser (IA) activities.

TOBIN has deliberately chosen not to supervise registered representatives who conduct investment advisory activities through unaffiliated Registered Investment Advisers. We have demurred on this activity because of the regulatory uncertainty and onerous obligations imposed by FINRA's rules, which require us to supervise business that is entirely outside our core services and infrastructure. These IA activities are already regulated by the SEC or state securities authorities and often involve products or strategies unrelated to the broker-dealer. In today's broader regulatory environment - where federal agencies are retreating from active oversight and other bodies such as states, professional associations, and compliance vendors are stepping in to fill the vacuum - it is appropriate to question why FINRA and its member firms must assume exclusive and redundant oversight roles. Requiring firms like ours to assume oversight for such activities creates a chilling effect on firm growth and participation, and runs counter to the trend toward dispersed, purpose-aligned regulatory frameworks. In light of emerging regulatory constructs such as Project 2025 that question FINRA's very future, this proposal appears particularly tone-deaf in doubling down on centralized enforcement on the backs of member firms.

In FINRA’s retrospective review of these rules in 2018, a majority of commenters opposed the requirement for broker-dealers to supervise unaffiliated IA activities. This proposal completely disregards that consensus by retaining the status quo. The updated proposal should explicitly exclude unaffiliated IA activities from OBA supervision requirements or, at a minimum, provide a safe harbor for those with no nexus to the firm’s investors or compensation structures.

Additionally, we urge FINRA to ensure that private securities transactions subject to recording and supervision requirements are limited to those that present real investor protection risks. The proposal's limited carveout for a representative's "main home or dwelling unit" raises concern that other personal real estate investments—such as second homes or vacation properties—may unintentionally fall within the scope of reportable activity. This ambiguity is problematic, particularly for small firms, as it could lead to over-disclosure and the misapplication of compliance resources. We respectfully request that FINRA clarify that personal investments in second homes, savings accounts, or other non-securities-related financial holdings for personal use are explicitly excluded from disclosure requirements under the final rule.

In summary, we urge FINRA to:

- Exclude outside, unaffiliated investment adviser activities from the scope of OBAs subject to firm supervision.

- Provide safe harbors for unaffiliated IA activities and limited PSTs that have no connection to the firm's clients or infrastructure.

- Ensure that the new rule focuses supervisory obligations on activities that truly pose investor protection concerns.

TOBIN is deeply committed to compliance and investor protection. As a boutique firm that has experienced biased, disproportionate and prolonged scrutiny from FINRA Enforcement, we are particularly attuned to how overly broad rule proposals can be weaponized against firms that operate with integrity but outside the dominant industry mold. We ask that FINRA recognize the disproportionate burdens that small and boutique broker dealers bear under current rules. The proposed rule, as written, once again adopts a one-size-fits-all approach that fails to consider the variety of firm models that exist across the industry. FINRA's final rule must provide clarity and focus on substantive risk, not create a regulatory minefield for firms that are already operating in good faith within tightly controlled business models. A revised framework that reflects real-world risk and modern business models will better serve the industry and investors alike.

Respectfully submitted,



Justine Tobin
Executive Representative, Owner and Head Honcho
Tobin & Company Securities LLC
CRD #137918

cc: FINRA Small Firm Advisory Committee

May 13, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently than Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

> For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,





A Registered Investment Advisor

April, 30th 2025

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA

1735 K Street

Washington, DC 20006

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SECTOR ANALYSTS

A Registered Investment Advisor

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Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

John Tumolo

6126 Hamilton Boulevard, Suite 103, Allentown, PA 18106 • 610.945.8014 • Fax: 610.290.6876

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC
Headquartered at 80 State Street, Albany, NY 12207
Purshe Kaplan Sterling Investments and Sector Analysts LLC are not affiliated companies.



701 Palomar Airport Rd.
Suite 300
Carlsbad, CA 92011
(760)454-7279

May 13, 2025

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

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701 Palomar Airport Rd.
Suite 300
Carlsbad, CA 92011
(760)454-7279

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Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,

Jeran Van Alfen, CFP®

May 13, 2025

By email to pubcom@finra.org

Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority, Inc.
1700 K Street, NW
Washington, DC 20006

RE: Regulatory Notice 25-05: *Outside Activities*

Dear Ms. Mitchell:

On behalf of the North American Securities Administrators Association, Inc. ("NASAA"),[1] I am writing in response to Financial Industry Regulatory Authority, Inc. ("FINRA") Regulatory Notice 25-05: *Outside Activities* (the "Proposal").[2] The Proposal seeks to streamline existing requirements for FINRA member firms to oversee their associated persons' outside activities. Oversight of outside business activities and private securities transactions is important not only to protect investors, but also to maintain investor trust in the markets and market intermediaries, and to provide information for regulators, including state securities regulators, to carry out their duties.

The proposed rule change would combine current FINRA Rules 3270 and 3280 into a new Rule 3290 and would narrow the kinds of activities that are subject to the requirements. FINRA proposed similar rule changes in 2018 (the "2018 Proposal"),[3] and while the current Proposal is an improvement in certain respects, it still suffers from defects that will undermine investor protection unless they are addressed. FINRA member firms' oversight of their own personnel is a necessary complement to, not a replacement for, state and federal regulation of registered firms and individuals. In order to more effectively balance these responsibilities, the definition of "investment-related activity" should be broader, as described below. Additionally, FINRA

[1] Organized in 1919, NASAA is the oldest international organization devoted to investor protection. NASAA's membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, México, Puerto Rico, the U.S. Virgin Islands, and Guam. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

[2] The Proposal is available at https://www.finra.org/sites/default/files/2025-03/Regulatory-Notice-25-05_1.pdf.

[3] *See* Regulatory Notice 18-08; Letter from Joseph P. Borg, NASAA President and Alabama Securities Commissioner, to FINRA re: Regulatory Notice 18-08 (Apr. 27, 2018) ("2018 NASAA Letter"), https://www.nasaa.org/wp-content/uploads/2018/04/NASAA-18-08-Comment-Letter-4-27-18.pdf.

member firms should continue to be required to supervise and maintain records related to their associated persons' activities at unaffiliated investment advisers.

I. Firms' oversight of their associated persons is a necessary complement to state and federal regulation.

Effective regulation and supervision are the cornerstones of our capital markets regulatory structure. State and federal law, and a body of rules and regulations, have been built on this foundation with the common goal of combating and preventing harmful conduct in the securities industry. Regulation and supervision are related concepts, but they are distinct. FINRA rules rightly require member firms to maintain written supervisory procedures and implement supervisory control systems to help ensure that they and their associated persons remain compliant with applicable laws and rules. No regulator has the same insight as FINRA member firms do into their associated persons' day-to-day activities. Thus, FINRA member firms have important direct supervisory responsibilities, with FINRA, the Securities and Exchange Commission ("SEC"), and NASAA members providing additional periodic examinations and reviews.

The oversight framework for outside business activities and private securities transactions is a prime example of this shared responsibility. Fraud and other kinds of misconduct arising from outside activities and securities transactions by broker-dealer associated persons are perennial problems for regulators, investors, and the securities industry. Problems in this area can frequently be traced to undisclosed, and therefore unknown, outside business or sales activities. Broker-dealers themselves are the first line of defense for investors and have the best access to the day-to-day activities of their associated persons. Therefore, it is appropriate for FINRA member firms to have strong oversight responsibilities over these activities. Supervision and recordkeeping, in turn, help facilitate effective regulatory oversight, examination, and enforcement by ensuring that regulators have the information necessary to fulfill their regulatory obligations.

The Proposal is a significant improvement from the 2018 Proposal, but further changes should be made to ensure that firms' obligations are appropriately tailored to maximize investor protection.

II. The definition of "investment-related activity" should be broader.

The Proposal would retain much of current Rules 3270 and 3280, but, as explained, "narrows the focus to *investment-related activities* to reduce unnecessary burdens while maintaining the core investor protections of the existing rules."[4] In order to truly "maintain[] the core investor protections," the definition of "investment-related activity" should be calibrated to reach a broad range of activities. A broader definition would help to ensure that proposed Rule 3290 remains applicable as technology, products, and the markets continue to evolve. It would also help to ensure that both regulators and FINRA member firms have access to the information they need to effectively supervise and oversee the securities industry, including the assessment of

[4] Proposal at 4.

how regulatory standards, such as Regulation Best Interest and applicable state rules,[5] apply to new technologies, products, or services.

The text of the definition in the Proposal is an improvement from the overly narrow definition in the 2018 Proposal. Among other positive changes, we appreciate that the Proposal clarifies that the definition broadly "pertain[s] to financial assets" and includes a wide range of illustrative examples to underscore its broader scope. However, the definition neglects to specify certain kinds of activities that should expressly be included, as suggested below. Leaving those activities off an otherwise broad list would likely inhibit effective day-to-day firm oversight by implying that those activities are not within the scope of the rule. Ignoring these other activities would undermine investor protection because it would increase the likelihood that firms would fail to identify risks posed by unmitigated conflicts of interest, questionable compensation arrangements, and potential fraud and unregistered activity. Therefore, we recommend that the definition of "investment-related activity" be revised as follows:

(2) "Investment-related activity" means pertaining to financial assets, including**, but not limited to,** securities, crypto assets,[6] **collectibles,** commodities, derivatives (such as futures and swaps), currency, banking, **lending,** real estate or insurance.

(A) The term includes, but is not limited to, acting as or being associated with a FINRA member firm; issuer; insurance agent or company; investment company; **private fund; investment partnership or cooperative; crypto asset developer, promoter, or market intermediary;** investment adviser; futures commission merchant; commodity trading advisor; commodity pool operator; municipal advisor; futures sponsor; bank; savings association; ~~or~~ credit union**; or money transmitter, regardless of whether any of the foregoing is properly registered or licensed with appropriate regulatory authorities**.

(B) [*No changes recommended*.]

Collectible assets, such as art, whiskey, and wine, are now commonly marketed and sold as investments, and such offerings have been the subject of multiple state enforcement actions in

[5] *See*, *e.g.*, 950 Mass. Code Regs. § 12.207 (Fiduciary Duties of Broker-Dealers and Agents); Nev. Rev. Stat. § 90.575 (Fiduciary duty of broker-dealers, sales representatives, investment advisers and representatives of investment advisers; regulations); NASAA Model Rule, *Dishonest or Unethical Business Practices of Broker-Dealers and Agents*, § 1.d. (amended Apr. 7, 2025), https://www.nasaa.org/wp-content/uploads/2025/04/BD-Dishonest-Unethical-BusPrac_FINAL_4-7-25.pdf.

[6] We would also recommend that FINRA define and apply "crypto assets" broadly to include any financial asset issued or transferred using blockchain or other distributed ledger technology, in order to maintain the longevity of the definition of "investment-related activity."

recent years.[7] While these investments may be good for some investors, they frequently require long holding periods, offer limited liquidity, and include hidden costs that could undermine expected returns.[8] In many cases, these investments are sold on the premise that someone other than the investor will hold or store them in specialized facilities, which often results in a lack of transparency that can enable fraud.[9] Investments marketed as loans or lending have also caused massive harm to investors in the not-so-distant past. In one prominent example, the promoters of the $1.2 billion Woodbridge Ponzi scheme aggressively marketed the interests as commercial loans, rather than securities.[10]

Advancements in technology, such as tokenization, could make it easier to offer risky alternative investments like those described above to everyday investors.[11] However, it would also expose those investors to new risks not only from the applicable token ecosystem but also from assets with which they, and perhaps even the person selling the investment to them, may be unfamiliar. The risk of fraud tends to increase in periods of economic uncertainty and market volatility, similar to the circumstances in our capital markets today. In these conditions, state and federal regulators frequently see cases in which promoters seek to use investors' fear or sense of

[7] *See*, *e.g.*, Consent Order, *Masterworks Administrative Services, LLC*, Order No. REG-24-CAF-04 (Tex. State Sec. Bd., June 17, 2024), https://ssb.texas.gov/sites/default/files/2024-06/REG_24_CAF_04.pdf (failure to register as a dealer and failure to file notice of exempt offering in connection with offer and sale of fractional interests in artwork through shares of a limited liability company); Emergency Cease and Desist Order, *Whiskey & Wealth Club Ltd. et al.*, Order No. ENF-21-CDO-1853 (Tex. State Sec. Bd., Nov. 2, 2021), https://www.ssb.texas.gov/sites/default/files/2021-11/ENF_21_CDO_1853.pdf (fraudulent investments in pallets of whiskey, to be sold after designated holding period at claimed estimated 10-20% profit per year held); Summary Cease and Desist Order, *Charles Winn, LLC et al.*, Div. Case No. 117252 (Iowa Ins. Div., Aug. 1, 2023), https://iid.iowa.gov/media/4556/download?inline (unlawful and fraudulent investments in French wine); Summary Cease and Desist Order, *Windsor Jones, LLC et al.*, Div. Case No. 114218 (Iowa Ins. Div., Oct. 31, 2022), https://iid.iowa.gov/media/4535/download?inline (same).

[8] *See*, *e.g.*, Bryan McKenzie, *Stocks, Bonds and Wine: For Some Investors, Collectibles Provide Diversity*, The Darden Report (July 27, 2023), https://news.darden.virginia.edu/2023/07/27/investing-in-collectibles/; Shane Hickey, *Liquid gold? Here's the sobering truth about investing in whisky*, The Guardian (Apr. 10, 2023), https://www.theguardian.com/money/2023/apr/10/liquid-gold-heres-the-sobering-truth-about-investing-in-whisky.

[9] *See*, *e.g.*, *Liquid gold?*, *supra* note 8.

[10] *See*, *e.g.*, Consent Order, *Woodbridge Mortgage Investment Fund 1, LLC et al.*, Docket No. E-2015-0039 (Mass. Sec. Div., May 4, 2015), https://www.sec.state.ma.us/divisions/securities/download/Woodbridge_Consent_Order.pdf; Press Release, SEC, *SEC Charges Operators of $1.2 Billion Ponzi Scheme Targeting Main Street Investors* (Dec. 21, 2017), https://www.sec.gov/newsroom/press-releases/2017-235.

[11] *See*, *e.g.*, BlackRock, Larry Fink's 2025 Annual Chairman's Letter to Investors, https://www.blackrock.com/corporate/investor-relations/larry-fink-annual-chairmans-letter#from-retirement-to-tokenization (viewed Apr. 16, 2025) (explaining that "every asset . . . can be tokenized" and contending that this "will revolutionize investing" by, *e.g.*, facilitating fractional ownership of assets like real estate and private equity); Yuval Rooz, *How tokenization is transforming global finance and investment*, World Economic Forum (Dec. 10, 2024), https://www.weforum.org/stories/2024/12/tokenization-blockchain-assets-finance/.

insecurity to convince them to buy alternative investments, often using funds from their 401(k) or other retirement accounts.[12]

The proposed rule should also specify that "investment-related activity" includes acting as or being associated not only with investment companies, but also private funds and other structures like investment partnerships or cooperatives. Reporting, scrutiny, and supervision of outside activities with these kinds of private investment vehicles is particularly important because these investments tend to be opaque and are increasingly being offered to retail investors.[13] Since they also tend to be lightly regulated, if at all, these investments also present opportunities for fraud, including Ponzi schemes.[14] The rule text should also include "crypto asset developer, promoter, or market intermediary" in the definition. As tokenization and crypto assets move further into the mainstream and crypto assets are integrated into new and existing regulatory regimes, it will be increasingly important for FINRA member firms to understand that association with a variety of actors in this space is subject to proposed Rule 3290, regardless of whether the activity involves the offer of or transactions in any particular crypto asset.

Finally, the Proposal rightly makes clear that it "does not impact reporting on Form U4."[15] In other words, the Proposal will not change the existing obligations to provide information on Form U4 about additional registrations with other firms (whether affiliated or not),[16] employment history,[17] or other business activities.[18] It also will not limit the information that must be disclosed

[12] *See cf.* Complaint, *CFTC et al. v. TMTE, Inc. a/k/a Metals.com et al.*, Case No. 3-20CV2910-L, ¶¶ 31-41, 118 (N.D. Tex., Sept. 22, 2020), https://www.ssb.texas.gov/sites/default/files/Metals.com-Barrick%20Complaint_File%20Stamped_0.pdf.

[13] *See* Yieldstreet, *How Retain Investors Can Now Tap Into Private Equity* (Jan. 31, 2024), https://www.yieldstreet.com/blog/article/retail-investors-private-equity/; Adam Lewis, *Opaque private equity is marketing to retail investors despite pushback*, PitchBook (June 2, 2021), https://pitchbook.com/news/articles/private-equity-marketing-to-retail-investors-despite-pushback; Adam Lewis, *Investors are wary about private equity's new access to 401(k)s*, PitchBook (June 18, 2020), https://pitchbook.com/news/articles/investors-wary-about-private-equitys-401ks.

[14] *See*, *e.g.*, Complaint, *People v. Nova Tech Ltd. et al.* (N.Y. Sup. Ct., June 6, 2024), https://ag.ny.gov/sites/default/files/court-filings/not_assigned_people_of_the_state_of_v_people_of_the_state_of_complaint_2.pdf; Final Order, *Gold Street Capital Fund, LP and Lovet Ako*, No. 2017-0912 (Md. Sec. Div., Feb. 27, 2020), https://www.marylandattorneygeneral.gov/Securities%20Actions/2020/GoldStreetFinalOrder_022720.pdf; Stipulation and Consent Order, *Roger Edward Taylor, CRD #4634268 and FFCF Investors, LLC*, Docket No. SD-18-0001 and Docket No. SD-18-0002 (Utah Div. of Sec., Aug. 2, 2018), https://db.securities.utah.gov/dockets/18000205.pdf; Administrative Complaint, *Raymond K. Montoya et al.*, Docket No. E-2017-0040 (Mass. Sec. Div., June 8, 2017), https://www.sec.state.ma.us/divisions/securities/download/RMA-Administrative-Complaint-E-2017-0040.pdf.

[15] Proposal at 18 n.11.

[16] *See* Form U4, Items 3, 6.

[17] *See id.*, Item 12.

[18] *See id.*, Item 13.

on Form U4 regarding certain "investment-related" conduct, disputes, and disciplinary actions.[19] This is appropriate because Form U4 is a shared form maintained by both NASAA members and FINRA. If FINRA believes that amendments to Form U4 would be appropriate in the future, it will need to coordinate with NASAA's CRD/IARD Forms & Process and CRD/IARD Steering Committees before proposing any changes. NASAA is open to discussing expanding the definition of "investment-related" on Form U4, consistent with the broader definition of "investment-related activity" included in the Proposal and amended in the manner discussed above.

In order for the proposed rule to adequately protect investors, the definition of "investment-related activity" needs to be broad enough to cover the full range of products, services, and activities that might put investors at risk of conflicts, fraud, or other abusive practices. NASAA's proposed revisions would make explicit that FINRA member firms must scrutinize participation in these other kinds of activities, that the list is not exclusive, and that it is immaterial whether the person or entity engaging in the outside activity is meeting all of its primary regulatory obligations.

III. FINRA member firms should continue to be required to supervise and maintain records related to their associated persons' activities at unaffiliated investment advisers.

The Proposal appropriately walks back one of the most concerning aspects of the 2018 Proposal – namely, eliminating FINRA member firms' supervisory and recordkeeping obligations for unaffiliated outside investment advisory activity – and retains FINRA member firms' obligations in this area.[20] However, the Proposal also seeks commentary about whether to exclude unaffiliated outside investment advisory activity from the rule altogether.[21] FINRA member firms can and should continue to be held to these responsibilities because they have unique insights into the day-to-day activities of their associated persons, and the availability of records from FINRA member firms helps to enable effective and efficient regulation of the industry. If anything, FINRA should modernize its rules to require that FINRA member firms supervise and maintain records of these activities regardless of the manner in which an advisory client chooses to implement the associated person's investment advice.

NASAA members are the primary regulators of more than 16,000 investment advisers who are collectively responsible for more than $360 billion of investor assets, as well as the investment adviser representatives associated with those firms.[22] The vast majority of state-registered

[19] *See id.*, Item 14.

[20] *See* 2018 NASAA Letter at 3-4 (opposing the proposed removal of FINRA member firms' supervisory and recordkeeping responsibilities for outside activities at third-party investment advisers).

[21] *See* Proposal at 12, 15.

[22] *See* NASAA Investment Adviser Section 2024 Annual Report, 3 (Sept. 2024), https://www.nasaa.org/wp-content/uploads/2024/09/IA-Section-2024-Report_Final.pdf. NASAA members are also the only licensing authorities for investment adviser representatives of SEC-registered investment advisers that notice-file with the states.

investment advisers are small one- or two-person businesses.[23] State securities regulators conduct routine oversight of these firms and individuals through robust programs involving licensing, examinations, and enforcement where appropriate.[24] But even the strongest regulatory oversight is no substitute for day-to-day *supervision* by FINRA member firms of their own associated persons. As explained above, both regulation and supervision are necessary to protect investors. Regulators provide oversight, but it is firms, not regulators, that have the best access to the day-to-day activities of their associated persons. This is why NASAA previously stated, and we reiterate here, that "[e]liminating FINRA firms' responsibilities in this area would place investors at risk by eliminating day-to-day oversight in favor of *routine, but intermittent* state and federal securities regulatory oversight to identify or prevent misconduct."[25]

Indeed, securities regulators continue to uncover egregious frauds and other misconduct that could have been prevented by firm-level oversight. In one example, the Ohio Division of Securities issued orders notifying two individuals of its intent to suspend or revoke their investment adviser representative licenses, following disclosure that each was "permitted to resign" from their broker-dealer "while under internal review for violation of firm policy with respect to private securities transactions."[26] The two individuals were later indicted, along with several others, for their role in a fraudulent scheme that bilked at least 200 investors out of $72 million.[27] While this fraud could likely have been prevented by appropriate reporting and supervision, the existing requirements and the broker-dealer's efforts to comply with them undoubtedly helped to uncover this fraud before more investors were harmed.

More recently, regulators in Michigan took action to suspend and revoke the agent registration of an individual for engaging in dishonest or unethical business practices in the securities business, acting as an unregistered investment adviser representative, and making false

[23] *Id*. at 5.

[24] *See*, *e.g.*, NASAA, 2023 Investment Adviser Coordinated Exams (Sept. 11, 2023), https://www.nasaa.org/wp-content/uploads/2023/09/2023-Investment-Adviser-Coordinated-Exams.pdf (stating that between January 1 and July 31, 2023, NASAA members examined 683 state-registered investment advisers, including 232 investment advisers examined for the first time by the relevant jurisdiction).

[25] 2018 NASAA Letter at 4 (emphasis added); Proposal at 13 (quoting 2018 NASAA letter, but disingenuously omitting the words, "routine, but").

[26] *See* Notice of Intent to Suspend or Revoke Ohio Investment Adviser Representative License No. 1946240 and Notice of Opportunity for Hearing, *Douglas S. Miller, CRD No. 1946240*, Order No. 17-013 (Ohio Dept. of Commerce, Div. of Sec., May 26, 2017); Notice of Intent to Suspend or Revoke Ohio Investment Adviser Representative License No. 1946240 and Notice of Opportunity for Hearing, *Gary L. Rathbun, CRD No. 1084721*, Order No. 17-012 (Ohio Dept. of Commerce, Div. of Sec., May 26, 2017). The State of Michigan also took action to revoke the investment adviser representative registration of one of these individuals. *See* Final Order, *Douglas S. Miller, CRD No. 1946240*, Docket No. 17-003806 (Mich. Dept. of Lic. and Reg. Affairs, Corp., Sec. & Comm. Lic. Bur., Mar. 7, 2018), https://www.michigan.gov/-/media/Project/Websites/lara/cscl/Folder1/Miller_Douglas_NOI.pdf?rev=0f4d2e3244f649fe86be3e141be280a8.

[27] *See* Ohio Atty. Gen., Press Release, *Reindictment Filed in Investment Case* (July 17, 2024), https://www.ohioattorneygeneral.gov/Media/News-Releases/July-2024/Reindictment-Filed-in-Investment-Case.

or misleading statements in a proceeding under the Michigan Uniform Securities Act.[28] The state regulator alleges that this individual, through an unregistered entity that was not affiliated with his broker-dealer, sent at least six of his brokerage customers invoices that purported to charge investment advisory fees on securities and insurance products that he had sold to them. The individual allegedly lied about the invoices when questioned by the broker-dealer's Chief Compliance Officer, and was terminated because "[t]he firm ha[d] reason to believe that the RR violated firm policies by engaging in an undisclosed outside business activity as an unlicensed investment adviser representative."[29] Appropriate reporting and firm-level supervision could have prevented this misconduct, and this matter further demonstrates the importance of FINRA member firms being responsible for supervision and recordkeeping in this area. When the individual sought registration with a new FINRA member firm, he allegedly misrepresented the reasons for his prior termination to the regulator's registration staff. He was later terminated by his new firm for "not provid[ing] full disclosure of the circumstances that led to his termination from his prior broker dealer when applying for affiliation with [the firm]."[30] Once again, the existing requirements and the broker-dealer's efforts to comply with them were critical to ensure that regulators had the information necessary to identify potential issues and take regulatory action to protect investors.

In addition to supervision, FINRA member firms should be required to maintain books and records related to unaffiliated investment advisory relationships. This serves a useful investor protection purpose. When state securities regulators, the SEC, and FINRA conduct examinations, they routinely request trade data and other types of information feeds. The availability of such records related to third-party relationships through FINRA member firms is extremely useful, even if it may be duplicative of information the adviser or other entity is required to maintain. Without this recordkeeping requirement, it would be more difficult for regulators to obtain or validate such data in broker-dealer or investment adviser examinations, investigations, and enforcement actions.

If anything, these requirements should be strengthened, not loosened, by ensuring that FINRA member firms supervise and keep records related to their associated persons' unaffiliated advisory activity regardless of the manner in which an advisory client implements the associated person's investment advice. Under the Proposal, a FINRA member firm's supervisory and recordkeeping obligations depend on whether the associated person "participate[s] in the execution of the transaction" by placing the order or otherwise effecting the transaction.[31] This is because FINRA (then NASD) determined that taking these steps constitutes "participation in" a private

[28] *See* Notice of Intent to Revoke Securities Agent Registration and Order of Summary Suspension, *Jody Vander Weide, CRD No. 2571083*, Docket No. ENF-25-020027 (Mich. Dept. of Lic. and Reg. Affairs, Corp., Sec. & Comm. Lic. Bur., Mar. 25, 2025), https://www.michigan.gov/lara/-/media/Project/Websites/lara/cscl/NonImages_new/SecuritiesOrders/2025/ENF-25-020027-Jody-Vander-Weide-NOI-to-Rev-Agent-and-Summ-Susp-Order-03-25-25.pdf?rev=8fa269155c0e45ad8c8b8bb910f435f2.

[29] BrokerCheck, Jody Ryan Vander Weide, Disclosures, "3/15/2024 Employment Separation After Allegations" (last viewed May 6, 2025), https://brokercheck.finra.org/individual/summary/2571083.

[30] *Id*. at "4/10/2025 Employment Separation After Allegations."

[31] *See* Proposal at 7; NASD Notice to Members 94-44 (May 1994); NASD Notice to Members 96-33 (May 1996).

securities transaction. Therefore, the activity is subject to the approval, supervision, and recordkeeping requirements of FINRA Rule 3280 rather than the simple notice requirements for outside business activities under Rule 3270.

This requirement was originally intended to filter out transactions that were "executed by customers *independently*."[32] The distinction made sense in the early days of electronic trading, when most investors still had to rely on financial professionals to effect transactions. However, the markets have evolved since NASD Notices 94-44 and 96-33 were issued, and investors now have unprecedented access to the markets through various web-based platforms and applications. Thus, an investor entering their own trades is no longer a convincing indicator of independence between the advice and its implementation. When an associated person provides and is paid for investment advice, they have undoubtedly influenced the client's decisions, regardless of who ultimately clicks the buy or sell button. The distinction also creates an opportunity for associated persons to minimize scrutiny of potentially risky and conflicted advice by directing the clients relying on their advice to execute trades themselves using one of these platforms. FINRA should close this loophole and require its member firms to supervise and keep records related to unaffiliated investment advisory activity, regardless of the manner in which a client chooses to implement the associated person's advice.

A reasonable alternative would be to require supervision and recordkeeping when the associated person does not "participate in" the transaction, as long as (i) the activity involves a customer of the FINRA member firm, (ii) the activity is reasonably likely to interfere with or otherwise compromise the associated person's responsibilities to the firm or the firm's customers, or (iii) the activity is reasonably likely to be viewed by the firm's customers or the public as part of the firm's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered. Proposed Rule 3290 already requires firms to consider these and other factors, "at a minimum," upon receiving notice of the proposed outside activity, so the assessment would not meaningfully increase the burden of compliance with the rule. This approach would better align the oversight framework for outside investment advisory activities with the realities of the modern securities industry and the needs of investors, while mitigating the compliance burden on FINRA member firms.

[32] NASD Notice to Members 94-44 (emphasis added).

IV. Conclusion

NASAA appreciates the opportunity to comment on the Proposal. Thank you for considering these views. Should you have any questions about this letter, please contact either the undersigned or NASAA's General Counsel, Vince Martinez, at (202) 737-0900.

Sincerely,

Leslie M. Van Buskirk

Leslie M. Van Buskirk
NASAA President and
Administrator, Division of Securities
Wisconsin Department of Financial
Institutions



May 29, 2025

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

Re: Regulatory Notice 25-05 – FINRA Requests Comment on a Proposal to Reduce Unnecessary Burdens and Simplify Requirements Regarding Associated Persons' Outside Activities

Dear Ms. Mitchell,

The Association of Registration Management, Inc. ("ARM") appreciates the opportunity to comment on Financial Industry Regulatory Authority ("FINRA") Regulatory Notice 25-05 ("Notice 25-05"), which proposes consolidating Rules 3270 and 3280 (the "Current Rules") into a single rule (proposed Rule 3290, the "Proposed Rule"), with a view towards streamlining the requirements regarding associated persons' outside business activities ("OBA" or "OBAs").

I. SUPPORT FOR STREAMLINING OUTSIDE BUSINESS ACTIVITY RULES

We commend FINRA's initiative to make the Current Rules more efficient. Once implemented, FINRA's targeted approach will allow firms to allocate compliance resources more effectively, concentrating on activities that present higher risks to investors and market integrity without adding risk or undisclosed conflicts of interest.

Since the Current Rules were last amended, there have been significant developments in the industry, and we believe that the rules should be amended to better reflect this new environment. Three trends that have affected compliance with the rules are:

1. The significant broadening and deepening of other financial regulatory architecture – in particular, that for individuals licensed or registered as investment advisers with the SEC and/or the states;
2. The ubiquitousness of automation and computerization, which allows for extensive

monitoring of all trading activity, recommendations, and electronic communications. Automation and computerization through the financial industry has made it so that virtually all professional activities are monitored in or near real time, with a comprehensive audit trail; and

3. The increasing complexity and interconnectedness of the financial system, creating an ecosystem where individuals work for and interact with many firms.

We believe that the purpose of the Current Rules is to give firms, and in some cases the public, transparency regarding activities of registered persons that would reasonably be expected to create conflicts of interest that may affect the registered activities of the individual, investor choice and the integrity of the securities markets. Our recommendations are made with the intent of preserving these goals.

We believe that this is an opportunity for FINRA to very significantly streamline the rules related to OBAs to better recognize and adjust to these noted developments while maintaining investor protection and a focus on conflicts of interest.

1.1 General Comments

First, ARM suggests that the Proposed Rule should only apply to registered representatives and registered principals who are client-facing. We believe that the goals of the rules are not furthered by requiring unregistered associated persons or those who are not client-facing to report their outside business activities, because the OBAs of those individuals do not create conflicts of interest with the investing public, and because conflicts of interest that arise in connection with non-client facing personnel are efficiently and effectively monitored by member firms in accordance with existing supervisory control rules.

The Proposed Rule also includes a complex decision tree for determining reporting obligations. We believe that simplifying this framework by focusing on the OBAs of registered representatives who deal directly with the public would enhance clarity and reduce administrative burdens. Our suggestions would streamline the decision-making process for determining reporting obligations.

II. STREAMLINING THE MANAGEMENT OF INVESTMENT ADVISORY ACTIVITIES, REGULATED ACTIVITIES AND ACTIVITIES ON BEHALF OF AN AFFILIATE

Investment Advisers have become subject to many new regulations since the Current Rules were last amended. These regulations include the requirement that all investment advisers maintain a comprehensive Code of Conduct; written supervisory procedures that are reasonably designed to achieve compliance with Investment Advisers Act provisions (and associated regulations), including provisions relating to sales practices, advisers' fiduciary, duties, and supervision of conflicts of interest of investment adviser associated persons, and significant disclosure obligations found throughout the Investment Advisers Act. Conflicts of interest that may arise for an investment adviser are also mitigated by the increased regulation of broker-dealer personnel and investment advisor associated persons. The same can be said for insurance brokers, real estate brokers and associated persons registered with CFTC-regulated entities. All of these individuals are subject to extensive conflict of interest and disclosure regulation with respect to these activities, and we believe that any conflicts of interest that may arise are sufficiently mitigated by current FINRA and other regulations. Similarly, we believe that the Current Rules exclude OBAs undertaken in the context of an individual's employment (e.g., for an affiliated entity), and we concur with the Proposed Rule's provisions to continue this treatment. We believe that the Proposed Rule would be unwieldy if it treated such activities as OBAs.

Furthermore, we believe that associated persons engaged in investment advisory activities through unaffiliated firms should be exempt from broker-dealer OBA requirements with respect to such regulated activities. If an individual is an Investment Adviser Associated Person of an Investment Adviser registered with the SEC or any state, and that same individual is separately registered with a member firm, the individual's investment advisory activities should be excluded from the definition of "outside business activity", because the individual's role as an

investment advisor is separately, and, as noted, sufficiently and specifically regulated. In many cases, these activities are also highly synergistic. In the spirit of efficiency, without compromising effectiveness, we believe that the above-described scenario should be removed from the definition of "outside business activity".

2.1 Private Securities Transactions

The Proposed Rule recognizes that outside securities transactions among immediate family members, for which there is no selling compensation, are excluded. We believe that this exclusion should cover members of the same family, as that term is defined for purposes of the family office exclusion in the Investment Advisers Act, and members whose investment activities are housed within the same family office (is that term is defined for purposes of the Investment Advisers Act). Further, we believe that non-dependent children, in any case, should be excluded.

2.2 Special Concerns around Privacy

We have specific privacy-related concerns about the proposed requirement for broker-dealer supervision of certain investment advisory activities, especially when the associated person is affiliated with an unaffiliated investment advisory firm. Such supervision may necessitate the sharing of non-public personal information of advisory clients with the broker-dealer, potentially violating client confidentiality and privacy rights under federal and state laws. While such sharing could be made legal, for example, through consent, we believe such disclosure raises risk and is unnecessary, given the various regulatory schema involved. While this risk is particularly prominent with respect to investment advisory activities, it is not limited to these and can arise in various other contexts as well.

2.3 Disclosure of OBAs for Registered Representants who are not client-facing

ARM suggests that not all OBAs should be publicly disclosed. Instead, Form U4 should only disclose OBAs for registered representatives and registered persons who are client-facing. Just as we recommend above that the proposed rule should not apply to associated persons of member firms who are not themselves customer facing, we believe that it is not relevant to disclose OBAs for people who are not customer-facing, as their professional activities are already sufficiently monitored and regulated, and the public disclosure of OBAs for persons who do not directly interact with customers serves no investor protection or conflict mitigation purpose. Additionally, we believe that certain OBAs are irrelevant for disclosure purposes even for those that are client-facing, including but not limited to non-investment related second jobs (i.e. Uber, retail and seasonal work), OBAs that are directorships or charitable or religious organizations. Directorships for these organizations are personal in nature and should not have to be disclosed, unless the organization, or the specific director's role, is investment-related or financial in nature.

2.4 *Narrow the Scope to a Customer of the Associated or Registered person*

In the proposed rule, FINRA proposes a 'minor addition' that the member must consider whether the activity or transaction involves the member's customer(s), on the basis that firms engage in a similar analysis today. This proposed obligation would be difficult to fulfill, in part because there may not be a simple way of identifying whether a customer of the firm is involved, unless an activity or transaction involves a registered person's or an associated person's own customer. Likewise, a firm's compliance or supervision teams evaluating said outside activity or transaction will have no way of independently verifying whether any of the parties include a customer of the

firm.

2.5 Clarify which real estate activities are within scope

The definition of "investment-related activity" in the proposed rule includes "real estate;"
however, it is not defined. As a practical matter, not all real estate businesses require a significant commitment of time from the owner, and many do not generate conflicts of interest with the business of the associated person or the member firm. For example, while a person who rents out their vacation home for one week during the summer may operate a real estate business, there is no reasonable risk of a conflict of interest arising from this activity. We respectfully request that FINRA to clarify through additional examples of which real estate activities FINRA considers to be investment-related

2.6 *Clarify that certain board-related activities are out of scope*

We suggest that FINRA clarify, perhaps by FAQ, that a registered person serving on the board of a nonprofit, not receiving compensation, and advising on investment strategies in a personal capacity should not be considered an outside activity subject to Rule 3290's requirements. We believe that a registered person serving on the board of a nonprofit and not receiving compensation has no conflicts of interest with his or her firm duties and that such activity should not be considered an outside business activity.

3 HARMNOIZATION OF RELEVANT REGULATION, FORM U4 AND APPLICABLE SYSTEMS

We strongly recommend that FINRA consider amending the reporting requirement under Item 13 of Form U4 and the investment-related definition of Form U4 so they are consistent with the Proposed Rule in order to increase efficiency and decrease compliance burdens.
Member firms face significant issues filling the various forms completely and truthfully due to a lack of harmonization between the online forms, the FINRA Gateway, and the various state systems. Navigating these systems concurrently provides another significant issue for member firms, and we believe that harmonizing these systems will increase accuracy and efficiency in submitting the forms.
To address these concerns, we recommend aligning Form U4 and FINRA Gateway, as well as modernizing the FINRA Gateway. We strongly believe that technological advances, the implementation of new technology, and harmonization of existing systems should be a central focus of rule changes.

Another key aspect of harmonization that needs to be addressed is to carefully determine which parts of the online forms are mandatory, which are not mandatory, and which are "free text". In many cases, one of the most difficult challenges faced by the firms is determining how to respond to the form when a required field is inapplicable to the business in question, or where this is no opportunity to explain the firm's answer to a required field.

We also believe that FINRA should work with NASAA to ensure greater harmonization between the various state systems and FINRA systems [, such that a filing with one is a filing with all. This change alone would significantly increase the efficiency of the submission process. Members of ARM would be glad to make themselves available to FINRA staff to demonstrate the issues that firms face due to this lack of harmonization. We would be glad walk through these issues virtually or in-person to show specific examples of this.

3.1 Effect of Rule Proposals on Online Systems

Just as every rule proposal should properly identify the direct and indirect costs of the proposal to affected firms, so too should every proposal be accompanied by a statement by FINRA of how online forms and systems are impacted by such rule proposal, and we believe that the Proposed Rule is an opportunity for FINRA to do so.

* * *

ARM appreciates the opportunity to offer this feedback and FINRA's consideration of our views. Please contact me if you wish to discuss our comments in more detail, if you have any questions, or if I can assist with this initiative any further.

* * *

Sincerely,

Roseann Viscardi

Roseann Viscardi
President
Association of Registration Management, Inc.
armgmnt@armgmnt.org

On behalf of the Executive Board and members of the Association of Registration Management, Inc.

cc: Russell Sacks, King & Spalding LLP

MPPL FINANCIAL
Independent Advice for a Complex World

May 7, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:
For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law and undermines the confidentiality that advisory clients expect and deserve in their advisory

Investment Advisory Services offered through Midwest Professional Planners, Ltd. ("MPPL"), headquartered at 2610 Stewart Ave., Ste. 100, Wausau, WI 54401, 1-800-236-6775, an SEC-registered investment advisor. Certain representatives of MPPL are also registered representatives of, and offer securities products involving commission or transaction-based fees through APW Capital, Inc., 100 Enterprise Drive, Suite 504, Rockaway, NJ 07866, 1-800-637-3211. Member FINRA/SIPC/MSRB. MPPL is independent of APW Capital, Inc. Registration with the SEC or State Regulatory Authority does not imply a certain level of skill or expertise.

relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

Thank you.

Sincerely,



Scott Wallschlaeger, CFP® CRPS®
CEO
MPPL Financial

JOY J. WATKINS, CFP®
PRINCIPAL
DIRECTOR OF FINANCIAL PLANNING

ANCHOR
Investment Management, LLC

04/30/2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,

Joy J. Watkins, CFP®

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC Headquartered at 80 State Street, Albany, NY 12207. Purshe Kaplan Sterling Investments and Anchor Investment Management, LLC are not affiliated companies.Joy J. Watkins, CFP 3205 Devine St. Columbia, SC 29205 (803)766-2100 jwatkins@anchorinvestmentmanagement.com



World Equity Group, Inc.

Where Relationships Are the Difference

April 9, 2025
Ms. Jennifer Piorko Mitchell
Office of Corporate Secretary
FINRA 1700 K Street, NW
Washington, DC 20006

Re: Comment on Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

World Equity Group appreciates the opportunity to comment on the recently published Regulatory Notice 25-05 (the Notice). It is our opinion that the proposed rules will not have the effect that the Staff is seeking. The proposed Rule and guidance noted in the Notice will add increased burdens on both member firms and unaffiliated Investment Advisers (RIA).

Firstly, the Notice, contrary to the rhetoric contained therein, creates a new standard of oversight for members firms and is literally a contradiction to previous regulatory notices such as Regulatory Notice 18-08, which sought to "reduce unnecessary burden. The Notice has the effect of a 180 degree turn from Notice 18-08 and does NOT, by any definition, reduce the regulatory burden.

Further, it appears as if FINRA has unilaterally decided to expand its jurisdiction, as if FINRA can suddenly make such decisions, without the Input of other regulators. The Notice clearly increases FINRA's regulatory purview into business lines wholly unrelated to the activities of a member firm. These include real estate, banking and insurance, lines of business that are complex, and already heavily regulated.

WEG respectfully, forcefully disagrees with FINRA’s position.

On another note, the Notice claims the guidance issued in prior NTMs would remain in effect. We fail to understand this proposed Notice can coexist with previous NTMs and still be bound by them.

425 N Martingale Road, Suit 1220, Schaumburg, IL 60173
Phone: 847-342-1700 Fax: 847-342-1717 Toll Free: 800-765-5004
MEMBER FINRA/SIPC



In summary our position states:

1. FINRA cannot mandate that broker-dealers supervise the advisory activities at an unaffiliated RIA.
2. Existing rules and regulations, as well as current legal precedent, prohibit a broker-dealer from executing such a supervisory mandate.
3. Execution of such a mandate is impracticable if not impossible.
4. FINRA cannot mandate supervision of business lines not provided by a broker-dealer or its affiliate.
5. FINRA cannot require broker-dealer supervision of non-securities activities such as real estate, banking and insurance.

To further explain our position, we took the liberty of responding to FINRA's questions at the end of the Notice:

Guidance FINRA has Requested

What are the alternative approaches, other than the Proposal, that FINRA should consider?

The response to this question is simple: FINRA's proposal should eliminate the oversight of outside RIA activity by FINRA members. The reasons for this are multi-faceted.

- There does not appear to be a "smoking gun" driving the need for additional regulatory oversight of RIA activity. Neither the industry nor a regulator has provided definitive empirical proof that such a "smoking gun" exits. If an industry-wide problem exists, and there is a systemic failure of RIAs to act as a fiduciary that would be solved by an unaffiliated BD approving trades; and investors are at risk; then the burden of proof lies with regulators. To date, no regulator has provided such evidentiary substance, or at minimum, a detailed analysis. Thus, it is difficult to imagine a new rule requirement that



would satisfy additional investor protection when from an industry standpoint, investors appear to already be protected by the current framework.

- No additional benefit would arise. As a fiduciary, an RIA has a higher standard of conduct than even Regulation Best Interest. Adding additional regulatory restrictions on top of the Advisers Act would be regulatory over-kill.
- The standards of fraud are incompatible. Fraud under Federal RIA securities laws does not require scienter, or intent, but under the 34 Act scienter is required. The Federal Register is rife with 206 fraud cases under the Adviser's Act whereby the activity of an RIA simply occurred, either by intent or mistake. This creates a gap in supervision and surveillance activities.
- The commentators who cite a lack of resources by the SEC and the various state regulators may or may not have a point, but it is not the role of FINRA to close the gap without, again, providing some documentation that investors are, in fact, at risk.

In addition, the inclusion of banking, insurance, crypto currencies, real estate, etc. in FINRA jurisdiction/purview can only be described as a regulatory land-grab. Such business lines are regulated by the Comptroller of the Currency and/or State Regulators. There is no role for FINRA.

How would consolidation of the rules governing OBAs and PSTs in the Proposal simplify compliance? What impact would it have on the cost of compliance?

The truth of the matter is there does not appear to be anything wrong or broken with the current framework of the OBA and PST rules. Combining these into one rule is, in essence, just window dressing. The cost of complying with two rules or a combined rule would be similar. That is, if FINRA does not impose the additional supervision requirements on outside RIA activity.

As is true today under existing rules, the Proposal would apply to registered persons for outside activities and to associated persons for outside securities



transactions. Should the Proposal be expanded to apply to all associated persons? If so, why?

This is a hard no and would increase cost for virtually no additional benefit. Non-Registered Fingerprint personnel pose little harm to the investing public and there are already rules limiting their activities.

Is the proposed scope of the notice requirement appropriately tailored to balance the interest of members to receive information regarding their registered persons outside activities and any investor protection concerns?

The prosed scope is NOT tailored to balance but rather to tip the scales, as noted above. As mentioned above there does not appear to be a specific gap in industry activity that warrants additional regulatory oversight of unaffiliated RIA activity by a BD. It appears FINRA is altering definitions at will. For example, redefining selling compensation as a catch-all whereby virtually all sales by an RR fall into the category is in direct contradiction to Federal Securities Laws. The distinction, by statute, between RIA activities and BD activities has always been transaction-based compensation for a BD versus asset-based fees for a RIA.

The other issue(s) with FINRA's scope is the inclusion or proposed inclusion of real estate, crypto currency, banking, and insurance into the supervisory OBA purview. There is no possible enhancement to be reasonably expected by adding FINRA into the mix.

As is true today under existing rules, the Proposal would require prior written approval for outside securities transactions for selling compensation and an acknowledgement for outside securities transactions not for selling compensation. Should the Proposal be expanded to require approval for all outside investment-related activity? If not, should the Proposal's acknowledgment for outside securities transactions not for selling compensation be modified? If so, how and why?

Expanding the regulatory framework for outside business activities is unnecessary and onerous. From a reasonable man standard one must consider this question:



does passing a securities exam mandate that the individual has waived his/her right to have an outside life, or his/her right to privacy under the US Constitution? The regulation should strive for reasonable enforcement, not invasive enforcement.

In addition, the proposal should carve out RIA activity as an exemption. There is no workable solution for a BD to approve trading activity of an outside RIA especially if that outside RIA is large with many customers.

Is the definition of "investment-related activity" appropriate given the regulatory objectives of the Proposal, or should other activities be included in or excluded from the definition? If so, why?

As noted in the theme of this letter, a carve out for RIA activity is imperative. The redefining of investment-related activity to include such broad categories puts an unreasonable burden on a BD. FINRA must understand that many firms, ours included, in addition to their broker-dealer activities, also act as a General Agent for their insurance business and are already subject to state insurance regulations for 50 different states. FINRA supervision will offer no benefit.

The Proposal has several exclusions, including for registered persons' personal investments in non-securities and activities conducted on behalf of an affiliate of a member. Are the proposed exclusions appropriate?

This proposal is one of the few items noted In the FINAR notice that makes a modicum of sense.

The Proposal does not alter members' obligations for outside RIA activities. What are the challenges members face regarding supervising and recordkeeping outside RIA activities for selling compensation? Would the removal of the requirement for FINRA member oversight of outside RIA activities by their associated persons impact investor protection considering that RIAs are regulated by either the SEC or the states? What are the benefits of BD supervision and record keeping of outside RIA activities for selling compensation?



World Equity Group, Inc.

Where Relationships Are the Difference

The challenges are many;

- Privacy. Protecting customer privacy and PII
- Obtaining customer activity of Outside RIA's
- Surveillance. A member firm has no visibility into money and security movements. or rebalancing conducted by TPAM and other third-party money managers.
- Enforcement of issues. While FINRA may make the claim members have supervisory responsibility, the outside RIA will be bound to the Adviser's Act and not the 34 Act.
- No visibility into the TPAM or custodian

In conclusion, it's obvious to all concerned that the Notice and proposed rule 3290 makes ill-fated attempts to solve one issue while creating a myriad of others. It is our hope that FINRA will consider tabling the entire concept.

Sincerely,

William D Webb Jr

William D Webb Jr
Chief Compliance Officer
World Equity Group, Inc



Summit Financial
4 Campus Drive
Parsippany, NJ 07054
Telephone: (973) 285-3600
Website: summitfinancial.com

May 1, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

RE: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As President of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, and CEO of a limited purpose FINRA registered broker dealer, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking, and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, a firm several of our IA representatives are registered with and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have

Investment advisory and financial planning services offered through Summit Financial, LLC., an SEC Registered Investment Adviser. Some advisers may offer securities through Purshe Kaplan Sterling Investments, Member FINRA/SIPC. Headquartered at 80 State Street, Albany NY 12207 ("PKS"). PKS and Summit Financial, LLC. are not affiliated companies.

person(s) also registered with an unaffiliated FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08. Thank you for your consideration.

Sincerely,



Steve Weinman

President of Summit Financial LLC
CEO L.S. Securities LLC

TSW WEALTH MANAGEMENT

Terry B. Wells, CFP®, ChFC®, CLU®
Managing Principal

205 Newbury Street, Suite 201
Framingham, MA 01701

May 13, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

As an owner of a Registered Investment Advisory (RIA) firm having registered representatives at a member firm that is independent and not affiliated in any manner with my RIA firm, I strongly object to the newly proposed Rule 3290 in Regulatory Notice 25-05.

This proposed Rule would subject certain independent RIA/IAs to an additional layer of corporate and regulatory oversight that doesn't exist for other RIA/IAs that do not have FINRA licensure. Further, the proposed Rule claims jurisdiction over real estate, banking and insurance businesses, where FINRA has no right to regulate under its Charter or are otherwise subject to regulation by other Federal and/or State(s) agencies.

I have read the Comment Letter submitted by Mr. Purcell of PKS Investments, and I fully agree with his stated arguments against promulgating the proposed Rule 3290. It will be impossible to comply with client privacy mandates, and his citation of voluminous conflicting rules and guidance presages greater regulatory confusion and turmoil should Rule 3290 be adopted.

Registered Investment Advisory firms already are regulated by the SEC and the States and are not subject to FINRA jurisdiction. We are fiduciaries and subject to those standards. Imposition of FINRA Rules, that are in no way related to our business, on only those RIA firms that have person(s) also registered with a FINRA member creates an uneven regulatory environment and serves no purpose other than an unwarranted expansion of FINRA's jurisdiction.

I strongly believe that the proposed Rule 3290 as currently written, together with the guidance and analysis provided within Regulatory Notice 25-05, should not be adopted. I respectfully ask that FINRA reconsider the proposed Rule as originally drafted and discussed in Regulatory Notice 18-08.

Thank you for your consideration,

Terry Wells

P: 508-655-9303 | F: 508-655-9305 | twells@tswmanagement.com

Securities offered through Purshe Kaplan Sterling Investments, Member FINRA/SIPC
Headquartered at: 80 State Street, Albany, NY 12207
Purshe Kaplan Sterling Investments and Wells Financial Advisors, Inc. d/b/a TSW Wealth Management are not affiliated companies.

Date: 5-12-25

Ms. Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA

1735 K Street

Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am an owner of a Registered Investment Advisory firm and a registered representative of an unaffiliated FINRA member firm. I appreciate the opportunity to comment the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust

that our clients have that their personal information and objectives will remain confidential. This

trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the
member shall record each transaction on the books and records of the member and
supervise the person's participation in the transaction as if executed on behalf of the member.

Sincerely,

woody woodmanssee – President Commerce Advisors llc.

May 13, 2025

Jennifer Piorko Mitchell

Office of the Corporate Secretary

FINRA

1700 K Street, NW

Washington, DC 20006

RE: Request for Comment on FINRA Regulatory Notice 25-05

Dear Ms. Mitchell,

We are pleased to hear that FINRA is looking to streamline and reduce unnecessary burdens regarding the existing requirements for reporting and approving non-securities related outside business activities. Over the last few years we have seen an increase in registered persons having a second job, side hustle or hobbies that result in income. One of the reasons we see so many non-securities outside business activities is because anyone looking to start a career in the securities industry, requires weeks or even months of studying and the cost of the exam and study materials add up quickly. Even after successfully obtaining the required licenses it may take several months before you can build your book of business and start receiving commissions. Requiring the firm to take the time to review, approve and monitor outside business activities that have no direct impact on the securities industry, in our opinion, continues to add costs to supervision and brings additional risk to the firm. Any action taken to eliminate the burden of reporting and monitoring non-securities related outside business is seen as a great improvement.

Another area of concern, is in regards to the supervision and recordkeeping obligation for outside IA activities at an unaffiliated IA. We as a firm have policies and procedures in place to oversee the Registered Representatives broker dealer transactions. Their relationship with clients under an unaffiliated IA should be separate as they are already regulated by the SEC or state securities authorities. Requiring the broker dealer to supervise and keep records from an unaffiliated IA business adds an unnecessary risk to the firm and potentially goes against the IA's client privacy policy. We should have no direct access to the IA client's personal information and then forcing the broker dealer to obtain, store and supervise this information will only add additional costs to the firm and risks to the client.

I appreciate the opportunity to comment on FINRA Regulatory Notice 25-05.

Thank you,

RB Capital Management

May 6, 2025

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street
Washington, DC 20006

Re: Request for Comment on Regulatory Notice 25-05

Dear Ms. Mitchell,

I am the CCO/COO of a Registered Investment Advisory firm and some of our IAR's are registered representatives of unaffiliated FINRA member firms. I appreciate the opportunity to comment on the newly proposed Rule 3290 as set forth in FINRA Regulatory Notice 25-05.

Fundamental to the fiduciary relationship that exists between our firm and our clients is the trust that our clients have that their personal information and objectives will remain confidential. This trust, and the confidentiality of the advisor-client relationship, is critical to our function as fiduciaries and advisors.

Advisor-client confidentiality, and specifically the confidentiality of client non-public personal information, is protected under federal law and specifically Regulation SP. State privacy laws also protect the confidential information of investment advisory clients, in some states more stringently that Regulation SP.

The proposed Section 3290 provides, at subsection (d)(4) thereof, as follows:

For an approved outside securities transaction for selling compensation, the

member shall record each transaction on the books and records of the member and

supervise the person's participation in the transaction as if executed on behalf of the member.

Regulatory Notice 25-05 interprets "outside securities transactions" to include securities orders placed by advisors on behalf of their clients, thus requiring broker-dealer supervision of these transactions "as if executed on behalf of the member." Such supervision, under the proposed rule and its incorporated notices, would appear to require extensive information regarding affected advisory clients to be provided to an unaffiliated broker-dealer.

Forcing an investment advisor to provide non-public personal information of an advisory client to an unaffiliated broker-dealer violates the privacy rights of the advisory client under federal and state law

and undermines the confidentiality that advisory clients expect and deserve in their advisory relationship. Providing unaffiliated broker-dealers access to confidential advisory client information exposes the client's sensitive financial information to parties who are neither entitled to it nor directly responsible for managing the client's assets, thereby violating the advisor's ethical obligations regarding client confidentiality.

Further, the proposed Rule would subject affected advisors to additional oversight that doesn't exist for investment advisory firms that do not have associated persons with FINRA licensure. This uneven layer of oversight is unjustified, as there is no evidence that broker-dealer oversight of investment advisory transactions provides any meaningful protection for advisory clients. Finally, this additional oversight is unsupported anywhere in federal or state law.

Based on these considerations, I believe that proposed Rule 3290 as proposed in Regulatory Notice 25-05 should not be adopted.

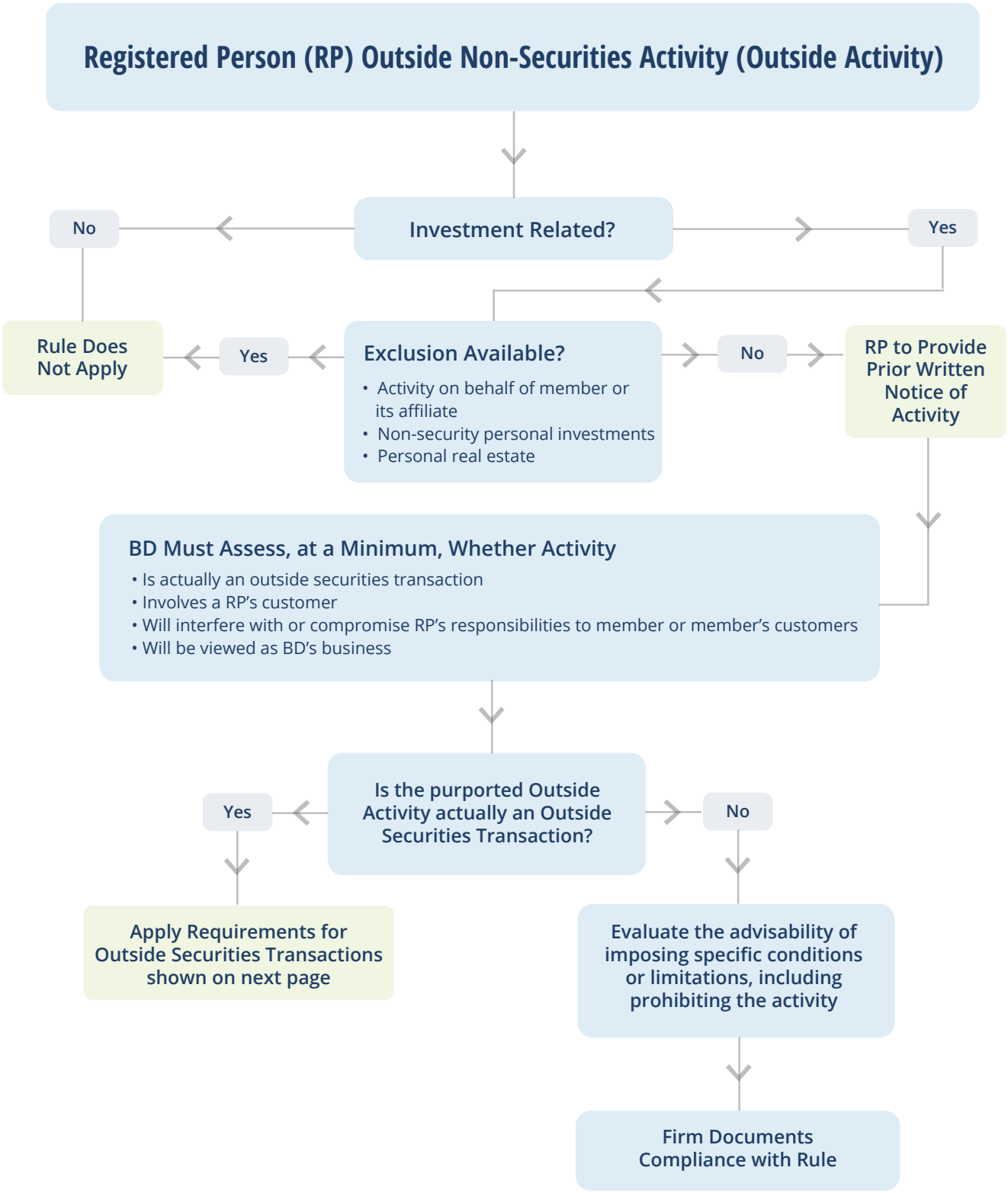
Thank you.

Sincerely,

Shawn Young

6435 N Palm Ave, Suite 101
Fresno, CA 93704
(559)478-2565
www.rbcapitalmanagement.com

EXHIBIT 2d


Registered Person (RP) Outside Non-Securities Activity (Outside Activity)
Investment Related?
No
Yes
Rule Does Not Apply
Yes
Exclusion Available?
• Activity on behalf of member or its affiliate
• Non-security personal investments
• Personal real estate
No
RP to Provide Prior Written Notice of Activity
BD Must Assess, at a Minimum, Whether Activity
• Is actually an outside securities transaction
• Involves a RP's customer
• Will interfere with or compromise RP's responsibilities to member or member's customers
• Will be viewed as BD's business
Is the purported Outside Activity actually an Outside Securities Transaction?
Yes
No
Apply Requirements for Outside Securities Transactions shown on next page
Evaluate the advisability of imposing specific conditions or limitations, including prohibiting the activity
Firm Documents Compliance with Rule

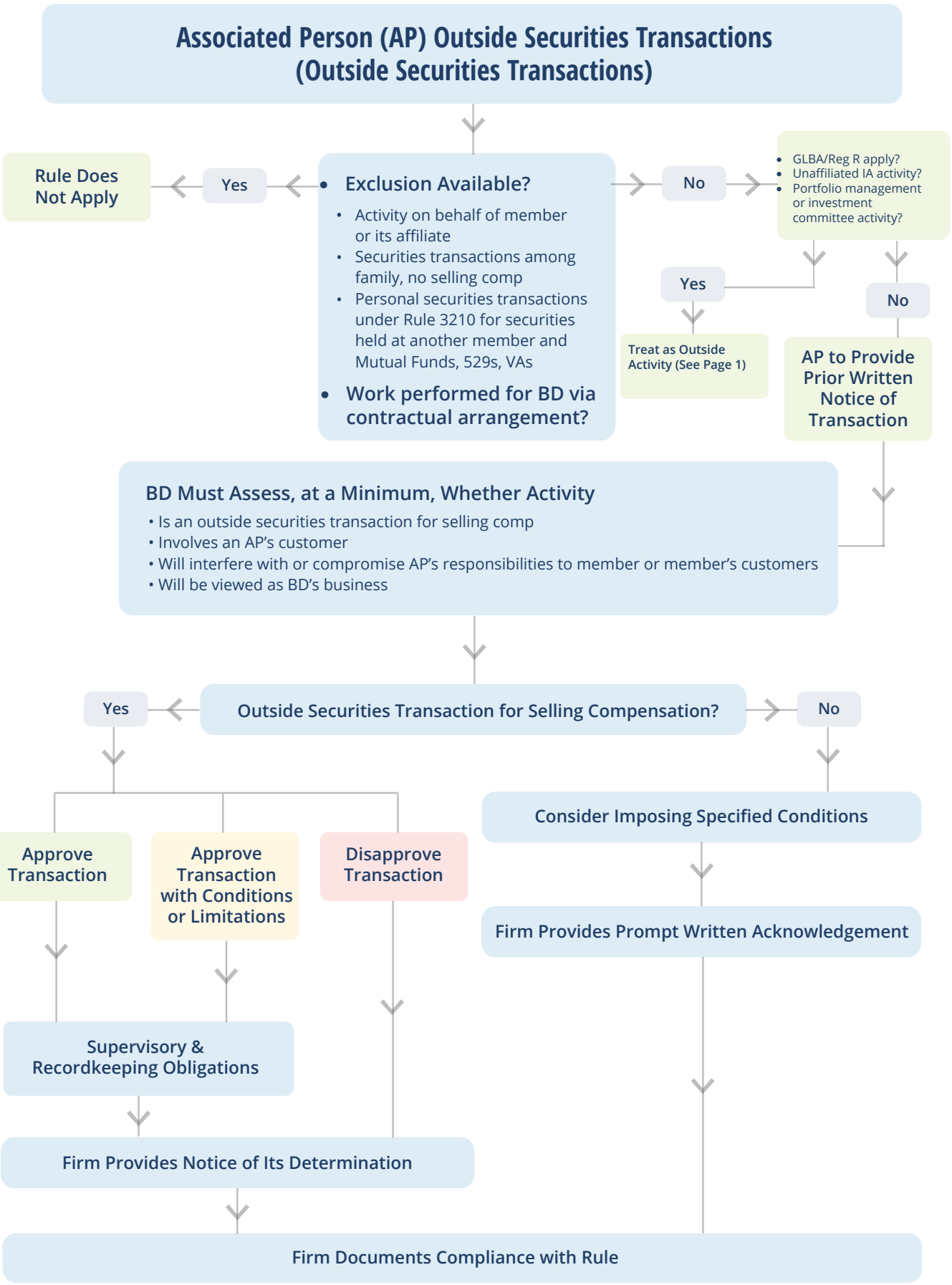

Associated Person (AP) Outside Securities Transactions (Outside Securities Transactions)
Exclusion Available?
Activity on behalf of member or its affiliate
Securities transactions among family, no selling comp
Personal securities transactions under Rule 3210 for securities held at another member and Mutual Funds, 529s, VAs
Work performed for BD via contractual arrangement?
Yes
Rule Does Not Apply
No
GLBA/Reg R apply?
Unaffiliated IA activity?
Portfolio management or investment committee activity?
Yes
Treat as Outside Activity (See Page 1)
No
AP to Provide Prior Written Notice of Transaction
BD Must Assess, at a Minimum, Whether Activity
Is an outside securities transaction for selling comp
Involves an AP's customer
Will interfere with or compromise AP's responsibilities to member or member's customers
Will be viewed as BD's business
Outside Securities Transaction for Selling Compensation?
Yes
No
Approve Transaction
Approve Transaction with Conditions or Limitations
Disapprove Transaction
Consider Imposing Specified Conditions
Firm Provides Prompt Written Acknowledgement
Supervisory & Recordkeeping Obligations
Firm Provides Notice of Its Determination
Firm Documents Compliance with Rule

EXHIBIT 5

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

3200. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS

* * * * *

[3270. Outside Business Activities of Registered Persons]

Entire text deleted.

[3280. Private Securities Transactions of an Associated Person]

Entire text deleted.

3290. Outside Activities Requirements

(a) Obligations of a Registered Person for Outside Activity

A registered person who intends to participate in an investment-related activity outside the scope of such person's relationship with the member that is not in connection with a securities transaction ("outside activity") shall provide prior written notice to the member regarding such outside activity. In the case of a material change to the outside activity, a registered person shall provide updated prior written notice to the member. For any such notice, the registered person shall describe in detail the proposed outside activity and the person's proposed role therein.

(b) Obligations of an Associated Person for Outside Securities Transactions

(1) Notice of Outside Securities Transaction

An associated person who intends to participate in an investment-related activity outside the scope of such person's relationship with the member that is in

connection with a securities transaction ("outside securities transaction") shall provide prior written notice to and, in the case of an outside securities transaction for selling compensation, obtain prior written approval from the member regarding each such transaction, except that:

(A) An associated person who intends to participate in an outside securities transaction that is in connection with a series of related securities transactions not for selling compensation may provide a single prior written notice to the member.

(B) An associated person acting in a capacity described in Supplementary Material .02 of this Rule who is not selling an entity's shares for selling compensation may provide a single prior written notice to the member.

(2) Material Change

In the case of a material change to the information provided pursuant to paragraph (b)(1) of this Rule, an associated person shall provide updated prior written notice to and, in the case of an outside securities transaction for selling compensation, obtain updated prior written approval from the member.

(3) Contents of Notice

For any such notice provided pursuant to paragraph (b)(1) of this Rule, the associated person shall describe in detail the proposed transaction, series of related transactions, the person's proposed role therein and whether the person will receive selling compensation.

(c) Obligations of a Member for a Registered Person's Outside Activity

Upon receipt of written notice from a registered person pursuant to paragraph (a) of this Rule, the member shall:

(1) Assess, at a minimum, whether the outside activity:

(A) is an outside securities transaction;

(B) involves a customer of the registered person;

(C) will interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers; and

(D) will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.

(2) Based on the member's review of such factors, evaluate the advisability of imposing specific conditions or limitations on a registered person's outside activity, including where circumstances warrant, prohibiting the activity.

(d) Obligations of a Member for an Associated Person's Outside Securities Transactions

Upon receipt of written notice from an associated person pursuant to paragraph (b) of this Rule, the member shall:

(1) Except when disapproving an outside securities transaction for selling compensation under paragraph (d)(3)(C), assess, at a minimum, whether the securities transaction:

(A) is a securities transaction for selling compensation;

(B) involves a customer of the associated person;

(C) will interfere with or otherwise compromise the associated person's responsibilities to the member or the member's customers; and

(D) will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.

(2) For an outside securities transaction not for selling compensation, provide the associated person prompt written acknowledgement of such notice and, at the member's discretion, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction. A single written notice and a single written acknowledgement may be used in the case of a series of related outside securities transactions not for selling compensation.

(3) For an outside securities transaction for selling compensation, notify the associated person in writing of the member's decision to:

(A) approve the proposed transaction after making a reasonable determination based on the criteria enumerated in paragraph (d)(1);

(B) approve the proposed transaction subject to specific conditions or limitations after a reasonable determination based on the criteria enumerated in paragraph (d)(1); or

(C) disapprove the proposed transaction.

(4) For an approved outside securities transaction for selling compensation, the member shall record each transaction on the books and records

of the member and supervise the person's participation in the transaction as if executed on behalf of the member.

(e) Recordkeeping

A member shall keep a record of its compliance with the obligations under this Rule and preserve this record for the period of time and accessibility specified in SEA Rule 17a-4(e)(1).

(f) Definitions

For purposes of this Rule:

(1) "Affiliate" means any entity that controls, is controlled by, or is under common control with a member.

(2) "Immediate family" shall have the same meaning as defined in Rule 3240(c).

(3) "Investment-related activity" means pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance.

(A) The term includes, but is not limited to, acting as or being associated with a broker-dealer; issuer; insurance agent or company; investment company; investment adviser; futures commission merchant; commodity trading advisor; commodity pool operator; municipal advisor; futures sponsor; bank; savings association; or credit union.

(B) The term also includes an associated person's participation in any manner in a personal investment involving a securities transaction,

sometimes referred to as "buying away," other than transactions indicated in paragraph (g)(3)(A) of this Rule.

(4) "Secondary home" means a property that is used for residential purposes by the associated person for at least part of the year.

(5) "Selling compensation" means any compensation paid directly or indirectly from whatever source in connection with or as a result of the purchase, sale or exchange of a security, including, though not limited to, commissions; finder's fees; securities or rights to acquire securities; rights of participation in profits; tax benefits; dissolution proceeds, as a general partner or otherwise; or expense reimbursements.

(g) Exclusions. This Rule shall not apply to an associated person's (including a registered person's):

(1) activity on behalf of a member or its affiliate (e.g., investment advisory activity conducted for a dually registered broker-dealer/investment adviser or investment advisory, insurance or banking activity conducted at an affiliate of the member);

(2) securities transactions among immediate family for which the associated person (including a registered person) receives no selling compensation;

(3) the following personal investments:

(A) securities transactions subject to or delineated in Rule 3210;

(B) personal investments in non-securities; and

(C) the purchase, sale, rental or lease of a main home and up to two secondary homes that are: (1) solely owned by the associated person or the associated person and immediate family; (2) owned by the associated person as a sole proprietorship; (3) owned by a corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the associated person or the associated person and immediate family; or (4) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries.

(h) Exemption from Rule 3290. Pursuant to the Rule 9600 Series, FINRA staff, for good cause shown after taking into consideration all relevant factors, may conditionally or unconditionally grant an exemption from any provision of this Rule to the extent that such exemption is consistent with the purpose of the Rule, the protection of investors, and the public interest.

• • • Supplementary Material: ----------

.01 Formal Allocation Agreement. For purposes of this Rule, if a member approves an associated person's participation in an outside securities transaction involving selling compensation and that person is associated with more than one member, the members may develop a written allocation arrangement whereby at least one member agrees to be responsible for compliance with respect to all applicable securities laws and regulations and FINRA rules regarding the proposed activity, including those requiring supervision and recordkeeping.

.02 Portfolio Managers and Investment Committee Members. An associated person shall not be considered to be participating in an outside securities transaction to the extent

the associated person's activities are limited to acting as portfolio manager or investment committee member for registered investment companies (e.g., mutual funds, exchange traded funds, unit investment trusts, or registered closed-end funds), unregistered investment companies, business development companies, real estate investment trusts and entities that are recognized as tax exempt. Such activity shall be considered an outside activity of a registered person. This exception shall not include an associated person's activities related to purchasing or selling such entities' shares (unless otherwise excluded under paragraph (g) of this Rule).

.03 Activity at an Unaffiliated Registered Investment Adviser. An associated person's activity at an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions) shall be considered an outside activity of a registered person and not an outside securities transaction for purposes of this Rule.

.04 Activity Subject to a Contractual Arrangement. An associated person's activity that is pursuant to a contract between a member and another entity (e.g., banking or insurance networking arrangement) shall not be subject to the Rule if such activity is conducted on behalf of the member as it is within the scope of the associated person's relationship with the member.

.05 Outside Securities Activity Subject to the Gramm-Leach-Bliley Act (GLBA) or SEC Regulation R. An associated person's securities activity that is not covered by Supplementary Material .04 but that qualifies under the GLBA or SEC Regulation R's exception to broker or dealer registration requirements shall be considered an outside

activity of a registered person and not an outside securities transaction for purposes of this Rule.

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9600. PROCEDURES FOR EXEMPTIONS

9610. Application

(a) Where to File

A member seeking exemptive relief as permitted under Rules 0180, 1210, 1220, 2030, 2114, 2210, 2231, 2241, 2242, 2310, 2359, 2360, 3170, 3290, 4210, 4311, 4320, 4360, 4540, 5110, 5121, 5122, 5123, 5130, 5131, 6183, 6625, 6731, 6732, 8211, 8213, 11870, or 11900, or Municipal Securities Rulemaking Board Rule G-37 shall file a written application with the appropriate department or staff of FINRA.

(b) through (c) No Change.

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