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May 1, 2026

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Via email to rule-comments@sec.gov

RE: File No. SR-FINRA-2026-001 (Proposed Rule Change to Adopt FINRA Rule 3290 (Outside Activities Requirements))

Dear Ms. Countryman:

The Financial Industry Regulatory Authority, Inc. ("FINRA") submits this letter in response to comments received by the Securities and Exchange Commission ("SEC" or "Commission") regarding the above-referenced rule filing. The proposed rule change would adopt FINRA Rule 3290 and delete existing FINRA Rules 3270 (Outside Business Activities) and 3280 (Private Securities Transactions of an Associated Person) (the "Proposal"). The Proposal focuses on outside activities appropriately within members' purview that potentially present heightened risks for members and the public. In so doing, the Proposal would bolster members' review of these activities while reducing unnecessary burdens.

The Commission published the Proposal for public comment in the Federal Register on February 3, 2026.[1] The Commission received 2,029 comment letters on the proposed rule change, 90 of which were individualized letters and 1,939 of which were one of four letter types.[2]

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1 See Securities Exchange Act Release No. 104746 (January 29, 2026), 91 FR 5003 (February 3, 2026) (Notice of Filing of File No. SR-FINRA-2026-001).

2 See Attachment A: Alphabetical List of Commenters to File No. SR-FINRA-2026-001. The Commission received 1,714 comments of Letter Type A, 99 comments of Letter Type B, 82 comments of Letter Type C and 44 comments of Letter Type D.

In light of the comments received, FINRA proposes to amend the Proposal, as set forth in Partial Amendment No. 1, to:

- clarify that if a member imposes conditions or limitations on a registered person's outside activity or an associated person's outside securities transaction, the member would be required to reasonably supervise such person's compliance with those conditions or limitations;

- amend the definition of "investment-related activity" to: (1) include in proposed Rule 3290(f)(3) the language "but not limited to"; and (2) expressly add "money services business" to proposed Rule 3290(f)(3)(A).

The following discusses Partial Amendment No. 1, as well as FINRA's responses, by topic, to the material points raised in the comments.

I. Broad Support for Consolidating Existing Rules and Eliminating Non-Investment Related Activities from Outside Activities Requirements

The Proposal replaces the two current rules—Rules 3270 and 3280—with one rule, proposed Rule 3290, and focuses on outside investment-related activities that may pose a greater risk to members and the public. Current Rule 3270, among other things, 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 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. The Proposal significantly narrows this reporting requirement to "investment-related activity."

Current Rule 3280, among other things, provides that, prior to participating in any private securities transaction ("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. The Proposal maintains this reporting requirement.

There was broad support from a range of commenters for streamlining the current rules (Rules 3270 and 3280) into a new consolidated rule that focuses on activities that pose the greatest risk to investors and members and eliminates 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).[3] Commenters generally agreed that this approach would enhance investor protection and regulatory efficiency. However, a bar association composed of attorneys who represent investors in securities arbitration and litigation ("PIABA"), and a number of its members opposed the Proposal's objective and advocated for maintaining the status quo, in which all OBAs are reported, asserting that FINRA overstated the burden of reporting non-investment related OBAs. These commenters asserted that registered representatives use non-investment related outside activities for fraudulent schemes. These commenters further asserted that broker-dealers ("BDs") should be required to supervise all OBAs in order to comply with the Exchange Act.[4] In addition, a state regulator opposed the Proposal, stating that it would replace reasonable frameworks for BD supervision with reliance on a BD's interpretation and disclosure. This commenter opined that separate rules are necessary to provide clear oversight of agent activities.[5]

FINRA respectfully disagrees with the commenters who opposed the Proposal's approach to non-investment related activities. The existing framework in which all OBAs, including those that are non-investment-related, are reported creates significant compliance burdens without commensurate investor protection benefits. By requiring registered persons to provide notice to members and members to assess non-investment related activities presenting minimal investor protection concerns, the existing rules generate substantial "white noise" that diverts member resources and attention from activities more likely to involve potential customer confusion or harm. The Proposal's risk-based approach sharpens members' focus on activities where investor harm is most likely to occur.

II. Definition of "Investment-Related Activity"

Proposed Rule 3290 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 BD; issuer; insurance agent or

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3 See A&P Services, ACA, CAI, Cambridge, Cetera, FSI, Letter Type A, Letter Type B, LPL, Miami Clinic, Nguyen, PKS Securities, Robinhood, Seacrest, Shamberger, SIFMA and St. John's Law.

4 See PIABA; see also Anzola, Bingham, Brewer, Brickley/Sears, Carlson, Cornish, Cosgrove, Epperson, Erez, Evans 1, Evans 2, Gana, Goehring, Greco, Halling, Iorio, JSB, Kane, Levin, Lewins, Mattson, Mauriello, Mazer, Meyer, Nolan, Pearce, Peiffer, Rex, Rosenfield, Savage, Saxon, Schwartz, Shepherd, Simms, Steuer, Stoltmann, Vannoy, Varnavides, Weltz, Wering, Wojciechowski and Young.

5 See Massachusetts.

company; investment company; investment adviser ("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"), 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). This definition is designed to target activities where the potential for customer confusion about the registered person and their BD's involvement and potential harm is most acute (e.g., selling fixed annuities, crypto assets or commodities).

Commenters expressed varying perspectives on the definition of "investment-related activity." The majority of industry commenters supported the proposed definition and believed it would maintain investor protection and decrease burdens on members.[6] However, several commenters suggested broadening the definition, one commenter suggested narrowing it, and one commenter suggested the term is confusing.

The commenters who favored broadening the definition of "investment-related activity" suggested including collectibles; lending; private funds; investment partnerships, cooperatives or pooled ventures; crypto asset developers, promoters or market intermediaries; money transmitters; capital raising; financial planning; consulting, legal, tax, and marketing functions; accountancy; financial control positions; business advice; and broker-customer business relationships.[7]

The proposed definition of "investment-related activity" covers activity pertaining to financial assets and provides non-exclusive examples of financial assets and related roles or associations. Even if not expressly listed among the examples in the definition, activities pertaining to financial assets and other related roles or associations would be covered. Accordingly, in FINRA's view, the proposed definition would cover activities related to capital raising, lending,[8] financial planning, selling private funds, investment partnerships and crypto asset development, promotion or market intermediation. With respect to money transmitters, while FINRA believes such activity is already covered under the definition of "investment-related activity," FINRA believes the addition of the broader term "money services business" to proposed Rule 3290(f)(3)(A) would provide regulatory clarity. Therefore, FINRA is proposing to amend the definition of

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6 See ACA, CAI, FSI, Lawrance, Letter Type A, Letter Type B, LPL, Naugle, Robinhood and Shamberger.

7 See Chapman, Massachusetts, NASAA and St. John's Law.

8 FINRA notes that Rule 3240 (Prohibition on Borrowing From or Lending to Customers) generally prohibits registered persons from borrowing money from or lending money to their customers.

"investment-related activity" to expressly add "money services business" to proposed Rule 3290(f)(3)(A) as discussed in Partial Amendment No. 1.

Although consulting, marketing, accounting, legal and tax advice standing alone would not be covered (e.g., assistance with tax returns), such services that are concomitant to investment-related activity would be covered. For example, recommending the sale of a security for a loss for tax purposes or recommending the purchase of an investment in a tax-advantaged account would be considered investment-related activity. FINRA does not believe it would be appropriate to include collectibles in the definition as such activity may or may not pertain to financial assets and may not create the risks that this rule is intended to address. To the extent collectibles activity pertains to financial assets, such activity would be subject to proposed Rule 3290 unless otherwise excluded. With regard to the other examples, FINRA believes the scope of the definition of "investment-related activity" would capture relevant activities depending on the facts and circumstances and strikes the right balance regarding disclosure of activities that may pose a greater risk to the investing public and members.

With respect to the list of financial assets in Rule 3290(f)(3), one commenter suggested, among other things, amending the provision to add the underlined text: "'Investment-related activity' means pertaining to financial assets, including, but not limited to," to clarify that the examples listed are illustrative, not exhaustive.[9] FINRA agrees that the term "but not limited to" would clarify that the listed examples in the definition are non-exclusive and this terminology would be consistent with proposed Rule 3290(f)(3)(A) ("The term includes, but is not limited to, . . ."). For consistency and clarity, in response to the comment, we are submitting Partial Amendment No. 1 to amend the Proposal to include such language.

One commenter asserted that the definition of "investment-related activity" expands the requirements beyond current rules and recommended that FINRA limit the definition of "investment-related activity" to securities transactions.[10] For example, the commenter stated that "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."[11] FINRA believes the commenter's concern may stem from a misinterpretation of how the supervisory and recordkeeping requirements would apply under the Proposal. Similar to the requirements under current Rule 3280, the supervisory and recordkeeping requirements would only apply if an associated person engages in an approved outside securities transaction for selling compensation.

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9 See NASAA.

10 See LPL.

11 Id.

With respect to the commenter's suggestion to limit the definition to securities transactions, such limitation would inappropriately exclude activities that present risks to customers and BDs, 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 representatives offering non-securities investment-related services (e.g., selling fixed annuities, crypto assets 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 member. By encompassing both securities and non-securities investment-related activity, the proposed definition of "investment-related activity" would allow members to be notified of and dedicate compliance resources to assessing their registered persons' involvement in these activities.

Another commenter asked if particular real estate activities, especially rental properties, are intended to be in scope for investment-related activity.[12] Real estate is expressly included in the definition of "investment-related activity" and would be subject to proposed Rule 3290 unless such activity meets the exclusion in proposed Rule 3290(g)(3)(C) for a main home and up to two secondary homes.[13]

One commenter suggested excluding fundraising for a non-profit organization from proposed Rule 3290.[14] FINRA declines to provide a blanket exclusion because fundraising activity, depending on the facts and circumstances, could be investment related. The same commenter suggested excluding the receipt of residual insurance commissions.[15] FINRA notes that such outside activity would already be excluded under the Proposal if the residual commissions are paid by an entity that is an affiliate of the BD. However, FINRA declines to broadly exclude the receipt of such residual commissions and notes the applicability of Rules 2320 and 2341.[16]

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12 See ASA.

13 Proposed Rule 3290(g)(3)(C) excludes 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.

14 See CAI.

15 Id.

16 Rules 2320 and 2341 generally prohibit associated persons of a member from accepting any compensation in connection with the sale and distribution of

III. Members' Obligations Upon Receiving Notice

Under both proposed Rule 3290 and the current rules for investment-related outside activities, registered persons must provide their BD with prior written notice of the proposed activity and members must review the proposed activity using specified criteria. The Proposal standardizes the minimum assessment that members must conduct upon receiving notice of registered persons' outside activities and associated persons' outside securities transactions. This approach borrows from Rule 3270 but includes a new requirement to assess whether the activity involves the customer of such registered or associated person.

Two industry commenters expressed support for the scope of the customer involvement assessment.[17] One commenter stated that focusing on customers of the associated or registered person, rather than customers of the BD more broadly, establishes an obligation tied to relationships that firms can realistically identify and verify.[18] One commenter stated that this consideration should be expanded to a customer of the member and believed, at a minimum, the Proposal should be amended to specify in supplementary material that the involvement of BD customers after the initial notice is a "material change" that requires updated notice and review.[19]

Customer confusion and the associated reputational and legal risks to the member are most acute when the customer has a direct relationship with the associated person conducting the outside activity. In such cases, the customer may reasonably believe the activity is part of the member's business because they know the person in their capacity at the member.

Capturing customers of the member would not meaningfully enhance investor protection, as customers who have no relationship with the particular associated person conducting the outside activity face lower risk of confusion about the member's involvement. Moreover, FINRA understands that a broader requirement to assess whether an outside activity involves "customers of the member" could present practical challenges, including informational barriers.[20] For example, depending on the nature of

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variable contracts or investment company securities, respectively, from anyone other than the member with which the person is associated.

17 See Robinhood and SIFMA.

18 See SIFMA.

19 See NASAA.

20 See, e.g., letter from Bernard V. Canepa, Managing Director and Associate General Counsel, SIFMA, to Jennifer Piorko Mitchell, Office of the Corporate

the outside activity and the size of the relevant business, the full universe of participants may not be known to the associated or registered person. In addition, some BDs may face operational challenges and burdens cross-referencing outside activity participants against the firm's entire customer base.

Requiring members to assess whether the activity involves a customer of the associated person is a targeted workable approach that appropriately directs members' attention to situations presenting heightened risk. FINRA notes that the Proposal sets forth the minimum assessment that BDs must conduct. The Proposal would not limit a BD's ability to expand the scope of its assessment, if the BD determines a broader scope would be appropriate for its business.

Separately, one commenter suggested that FINRA require members to surveil associated persons' personal bank accounts to uncover undisclosed outside securities transactions and potential wrongdoing.[21] FINRA respectfully declines to impose such a requirement. While FINRA understands the concern about detecting undisclosed outside securities transactions, a blanket bank account inspection requirement would raise significant privacy concerns and be operationally infeasible.

IV. Affiliate Exclusion

Proposed Rule 3290 contains an exclusion from the rule's coverage for an associated person's (including a registered person's) activity on behalf of a member or its affiliate. Current Rules 3270 and 3280 do not have such an exclusion.

A large number of industry commenters supported the affiliate exclusion[22] and noted that this exclusion appropriately recognizes that activities within a common corporate structure are already subject to supervisory oversight and that imposing

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Secretary, FINRA, dated May 14, 2025 ("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."); letter from Roseann Viscardi, President, Association of Registration Management, Inc., to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated May 29, 2025; letter from Matt Billings, President, Robinhood Financial LLC and Robinhood Securities, LLC, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated May 13, 2025.

21 See Hill.

22 See A&P Services, BEAM, CAI, Letter Type B, Seacrest and Shamberger.

duplicative notice and assessment requirements would create inefficiency without enhancing investor protection. For example, many commenters noted that integrated or shared compliance systems already provide oversight and that the proposed exclusion would reduce unnecessary duplication.[23] However, several commenters opposed the affiliate exclusion.[24] PIABA asserted the Exchange Act provides no supervisory exemption based on affiliate status.

The proposed affiliate exclusion is appropriate because activity conducted on behalf of an affiliate occurs within the scope of the person's relationship with the broader corporate organization and does not present the same risks that the rule is designed to address. The Proposal's standardized notice and assessment process is designed to bring external activities to the BD's attention so the risks that may not otherwise be apparent can be evaluated; this process is unnecessary where the activity is conducted within the corporate family, where the member can access information about such activities through corporate governance structures, shared compliance systems, or other internal coordination mechanisms.

The proposed affiliate exclusion also recognizes that activity at a BD's affiliate is generally subject to its own regulatory and supervisory framework. The BD can determine, based on the nature of the activity and the applicable regulatory framework, whether any controls should be imposed by the BD or an affiliate over such activity. This determination is best made by the BD based on its business model, organizational structure, and the specific activities involved, rather than through a one-size-fits-all notice and assessment process designed for genuinely external activities where the BD may have limited visibility or information. This exclusion provides flexibility for how BDs manage affiliate activities; it does not limit a BD's ability to implement additional safeguards, which could include notice requirements, if the BD determines such safeguards are appropriate for its business. As further discussed below, FINRA also notes that the Proposal in no way lessens a member's general supervisory obligations under federal law or under Rule 3110.

One commenter believed that the definition of "affiliate" should be expanded to include an entity or individual that employs or contracts with a BD for the use of BD and other regulated services.[25] FINRA notes that proposed Supplementary Material .04 excludes an associated person's activity that is pursuant to a contract between a member and another entity (e.g., banking or insurance networking arrangement) from proposed

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23 See A&P Services, BEAM, Letter Type B, Seacrest and Shamberger.

24 See Brickley/Sears, Massachusetts and PIABA.

25 See LPL (describing networking relationships between independent BDs and third-party institutions including banks, credit unions and insurance companies).

Rule 3290 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.

The proposed approach is consistent with regulatory efficiency principles and avoids imposing unnecessary procedural requirements on activity that is already subject to oversight within the BD's organizational structure. For these reasons, FINRA believes the affiliate exclusion is appropriately calibrated.

V. Portfolio Manager/Investment Committee Member Clarification

Proposed Rule 3290 clarifies obligations with respect 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, consistent with how FINRA staff has interpreted Rules 3270 and 3280. Proposed Supplementary Material .02 clarifies that such activity is considered an outside activity requiring prior written notice to and assessment by the member. However, if an associated person sells such entities' shares for selling compensation, the activity would be treated as an outside securities transaction, requiring supervision and recordkeeping unless the activity is otherwise excluded under proposed Rule 3290.

One commenter asserted these activities should not be excluded from the requirements to supervise and maintain records due to the range of conflicts in these roles.[26] FINRA believes that portfolio manager and investment committee member roles for registered investment companies, unregistered investment companies, business development companies, real estate investment trusts, and tax-exempt entities do not present the same level of risk as direct participation in securities transactions. These roles typically involve management of third-party capital with associated fiduciary duties and regulatory oversight. Requiring notice and assessment by the BD appropriately ensures the BD is aware of the activity and can evaluate the risks. Where an associated person sells the fund's shares for selling compensation, shifting from a governance or management role to a sales capacity, the approval, supervision and recordkeeping requirements apply. FINRA notes that members retain discretion under proposed Rule 3290 to impose conditions or limitations on outside activities based on their risk assessment. Proposed Partial Amendment No. 1 would explicitly require members to supervise compliance with any such conditions or limitations.

VI. Unaffiliated IA Activity

Proposed Rule 3290 would treat activity at an unaffiliated IA registered either with the SEC or with a state as an outside activity subject to notice and member

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[26] See Massachusetts.

assessment but would no longer require a member to recordkeep and supervise such activity as required currently under Rule 3280.[27] The vast majority of industry commenters supported this aspect of the Proposal. These commenters stated that requiring members to supervise IA activity is outside of FINRA's jurisdiction,[28] creates duplicative oversight,[29] disregards the practical barriers, including privacy concerns, of acquiring the information needed to provide effective supervision,[30] fails to recognize the IA regulatory framework,[31] imposes litigation risks,[32] and imposes significant burdens on BDs without commensurate benefits to investor protection.[33]

However, the proposed treatment of unaffiliated IA activity received substantial opposition from PIABA and a number of its members who contended that the proposed elimination of BD supervisory requirements creates an unacceptable "blind spot" enabling fraud, and violates the Exchange Act's supervisory mandate under Section

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27 Supplementary Material .03 provides that "[a]n 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." Accordingly, an associated person's activity at an IA that is neither registered with the SEC nor with a state would not meet the conditions under Supplementary Material .03, and could be an outside securities transaction.

28 See IAA, Letter Type C, Merit and Woodlands.

29 See A&P Services, BEAM, Gratus, Hammond, Letter Type A, Letter Type B, LPL, Main Street, Nguyen, Seacrest and Shamberger.

30 See ACA, BEAM, CAI, Gratus, IAA, Letter Type D, Merit, MPPL, PKS, PKS Securities, Redwood and Sterling.

31 See A&P Services, BEAM, Gratus, Hammond, IAA, Letter Type A, Letter Type B, Letter Type C, LPL, Merit, Nguyen, Seacrest, Shamberger, SIFMA, Sterling and Woodlands.

32 See CAI.

33 See IAA, Seacrest and Shamberger.

15(b)(4)(E).[34] Several other commenters opposed this approach on investor protection grounds.[35]

FINRA notes that members would retain awareness of outside activities by virtue of the notice requirement and would continue to have discretion to prohibit or condition the activity based on risk. In addition, the Proposal does not address a member's general supervisory obligations under federal law or under Rule 3110.[36] Critically, as has long

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34 See PIABA; see also Anzola, Bingham, Brewer, Brickley/Sears, Carlson, Chapman, Cornish, Cosgrove, Dreher, , Epperson, Erez, Evans 1, Evans 2, Gana, Goehring, Greco, Halling, Iorio, JSB, Kane, Levin, Lewins, Mattson, Mauriello, Mazer, Meyer, Nolan, Pearce, Peiffer Rex, Rosenfield, Savage, Saxon, Schwartz, Shepherd, Simms, Steuer, Stoltmann, Vannoy, Varnavides, Veach, Weltz, Werning, Wojciechowski and Young. Exchange Act Section 15(b)(4)(E) states: "The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding twelve months, or revoke the registration of any broker or dealer if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such broker or dealer, whether prior or subsequent to becoming such, or any person associated with such broker or dealer, whether prior or subsequent to becoming so associated— (E) has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other 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, this title, 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. For the purposes of this subparagraph (E) no person shall be deemed to have failed reasonably to supervise any other person, if— (i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and (ii) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with."

35 See Banks, Buchwalter, Cambridge, Chapman, Guiliano, Hill, Massachusetts, Miami Clinic, Mortensen, NASAA, Pugsley, Rogers, Sonn, St. John's Law and White.

36 Rule 3110 requires members to maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules. Pervasive non-compliance among associated persons may indicate that the BD lacks a

been the case under Rule 3110 (and its predecessor rule), BDs retain responsibility to investigate "red flags" that suggest that misconduct may be occurring and to act upon the results of such investigation.[37] This would include the responsibility to investigate and act upon "red flags" suggesting that an associated person is involved in an undisclosed outside activity or that a disclosed outside activity involves undisclosed securities transactions, compensation not previously disclosed, or other misconduct.[38]

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reasonable supervisory system to ensure its associated persons' compliance with Rule 3290, in violation of Rule 3110. See, e.g., Dep't of Market Regulation v. Kresge, Complaint No. CMS030182, 2008 FINRA Discip. LEXIS 46, at *11 (FINRA NAC October 9, 2008) (finding that the BD president violated NASD Rule 3010 by failing to establish and maintain a system reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules when he turned a blind eye to pervasive antifraud and suitability violations); see also In re Ronald Pellegrino, Exchange Act Release No. 59125, 2008 SEC LEXIS 2843 (December 19, 2008).

37 See, e.g., Pellegrino, 2008 SEC LEXIS 2843, at *25 (stating that "[t]he duty of supervision includes the responsibility to investigate 'red flags' that suggest that misconduct may be occurring and to act upon the results of such investigation." (citing In re Michael Studer, Exchange Act Release No. 50543A, 2004 SEC LEXIS 3157, at *22 (November 30, 2004)); In re Dennis Kaminski, Exchange Act Release No. 65347, 2011 SEC LEXIS 3225, at *25 (September 16, 2011) (stating that "Once indications of irregularity arise, supervisors must respond appropriately." (citing In re La Jolla Cap. Corp., Exchange Act Release No. 41755, 1999 LEXIS 1642, at *21 (August 18, 1999))). See also, e.g., Notice to Members 99-45 (June 1999) ("The 'reasonably' designed standard means, for example, that indications of problems, or 'red flags,' must be investigated.").

38 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 January 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 BD failed to investigate and act upon red flags indicating that an outside business activity in fact involved PSTs) (citing Pellegrino, 2008 SEC Lexis 2843, at *33)); Dep't of Enforcement v. Merrimac Corp. Sec., Inc., Complaint No. 2009017195204, 2015 FINRA Discip. LEXIS 4, at *9 (FINRA NAC April 29, 2015) (affirming the imposition of sanctions for the BD's failure to adequately consider red flags of OBAs and PSTs, 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.").

Activities at unaffiliated IAs are fundamentally different from other situations involving PSTs because IAs are subject to a fiduciary duty and oversight from the SEC or states. The Proposal respects this allocation of regulatory responsibility. To our knowledge, neither the SEC nor any court has interpreted Section 15(b)(4)(E) of the Exchange Act as imposing a general obligation for BDs to supervise IA activities. Moreover, FINRA notes that members are free to impose supervisory obligations on their associated persons as a condition to participating in unaffiliated IA activity, whether or not required by the rule. Specifically, members retain discretion under proposed Rule 3290 to impose conditions or limitations on outside activities based on their risk assessment. Proposed Partial Amendment No. 1 would explicitly require members to supervise compliance with any such conditions or limitations.

One commenter asserted that IAs are not examined regularly and in some states are examined only once every 10 years, if not longer.[39] However, registered IAs are subject to direct regulation by the SEC or state securities commissions, operate under fiduciary obligations to their clients, and are required to maintain comprehensive compliance and supervisory systems. Regulatory effectiveness is not determined solely by examination frequency but encompasses the full spectrum of regulatory requirements, ongoing oversight mechanisms, internal compliance obligations, and the fiduciary duty framework applicable to IAs. The SEC and state regulators are best positioned to allocate their examination resources and determine supervisory priorities based on market conditions, risk assessments, and available resources.

One commenter believed the economic analysis did not adequately quantify the cost of unsupervised outside activity on investors.[40] FINRA's Economic Impact Analysis (EIA) discusses that unaffiliated IA activity is subject to supervision by the unaffiliated IA and is overseen by other regulators. As discussed in the filing, BDs may not have access to complete information about unaffiliated IA activities, which may hinder their ability to supervise unaffiliated IA activities effectively such that any additional investor protections arising from BD supervision of unaffiliated IA activities may be limited. To directly assess any potential loss in investor protections, FINRA would require more granular data to quantify the effectiveness of other regulatory regimes and then the marginal impact of additional supervision by broker-dealer firms. FINRA believes that the assessment conducted is appropriate to capture the associated economic impacts.

FINRA's proposal recognizes this established regulatory structure by eliminating duplicative BD supervisory obligations over unaffiliated IA activities while maintaining prior written notice and upfront assessment obligations. This approach reduces regulatory inefficiencies and confusion about which regulatory standards apply without diminishing the comprehensive oversight framework already in place.

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39 See Cambridge.

40 See JSB.

Several commenters suggested that the privacy concerns about BD supervision of unaffiliated IA activities are overstated and can be managed through disclosure, information-sharing agreements and consent mechanisms.[41] After careful consideration of all comments received and based on FINRA's examination experience, FINRA believes that privacy protections constitute a legitimate concern that cannot be dismissed as mere "operational inconvenience."

Many industry commenters emphasized that advisory clients possess privacy rights under both federal and state law that create genuine legal and practical impediments to BD access to advisory client information.[42] For example, one commenter stated that "forcing an [IA] to provide non-public personal information of an advisory client to an unaffiliated [BD] not only violates the privacy rights of the advisory client under federal and state law, but also undermines the confidentiality that advisory clients expect and deserve in their advisory relationship."[43] Moreover, commenters asserted that clients of unaffiliated IAs whose transactions are executed away from a particular BD do not enter into and have not necessarily agreed to share their confidential information with that BD. This includes, for example, their account and transaction information and information about their financial situation and investment objectives. In addition, in examinations, FINRA has observed that BDs may face practical hurdles to obtaining information regarding unaffiliated IA activities.

Several commenters suggested alternatives that imposed some level of supervision on unaffiliated IAs.[44] One commenter recommended requiring: (1) notice of outside investment advisory activities from all associated persons; (2) BD approval before engaging in such activities at an unaffiliated IA; and (3) BD supervision of the approved activities, but with supervisory obligations under Rule 3290 limited to advisory clients who are also customers of the broker-dealer and advisory accounts for which the BD is the custodian.[45] This commenter also suggested that FINRA could clarify in guidance that BDs are not responsible for ensuring that the IA complies with certain "back-office" regulatory requirements, such as recordkeeping. According to this commenter, this tailored approach would align supervision with BD interests and their broader responsibilities to their customers, while helping to mitigate concerns about access to information, privacy, jurisdiction, and overall compliance burden.

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41 See Albin, Cambridge and PIABA.

42 See FSI, IAA, Letter Type C, Letter Type D, PKS, Redwood and Woodlands.

43 Redwood.

44 See Chapman, FSI, NASAA and St. John's Law.

45 See NASAA; see also St John's Law.

FINRA believes that the suggested approach disregards the comprehensive regulatory regime for federally or state registered IAs. Moreover, this suggested approach is potentially at odds with our longstanding policy of creating rules, to the extent possible, that are business-model neutral, and could create unintended consequences depending on a member's business model (e.g., whether or not the member requires its associated persons to execute and custody their outside securities transactions at the member).

One commenter recommended adding a provision requiring members to supervise any conditions or limitations they impose on approved outside activities.[46] FINRA notes that under current Rules 3270 and 3280, while not explicitly stated, members have a supervisory obligation for any conditions or limitations imposed. While this obligation has always been implicit, in response to the comment, we are submitting Partial Amendment No. 1 to amend the Proposal to explicitly require members to supervise any conditions or limitations they impose on outside activities or outside securities transactions. As discussed in Partial Amendment No. 1, the proposed amendment would provide greater clarity to members.

Having considered these alternatives and for the reasons discussed above, FINRA believes that the exclusion strikes the right balance and declines to impose supervisory responsibility on unaffiliated IA activity.

VII. Alignment with Form U4 Disclosures

Several commenters noted discrepancies between the Proposal's notification requirements and the existing Form U4 disclosures, and urged FINRA to coordinate with the SEC and states to harmonize these requirements.[47] As FINRA noted in the Proposal, Form U4 disclosures go beyond the scope of the proposed rule change but FINRA would endeavor to work with the SEC and states to harmonize the requirements where appropriate.

VIII. Other Requested Guidance

Several commenters requested interpretive guidance and examples on the application of the Proposal in different scenarios. One commenter suggested FINRA provide interpretive guidance or FAQs on: (1) what constitutes a "material change"; (2) the scope of "investment-related activity"; and (3) the customer involvement standard.[48]

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46 See FSI.

47 See CAI, Cetera, FSI, Robinhood and SIFMA.

48 See Robinhood.

Another commenter requested additional guidance on the application of the rule to non-registered associated persons and further clarification of expectations around passive investments in private securities.[49] If the Commission approves the proposed rule change, FINRA will consider providing additional guidance on these or other topics as appropriate.

IX. Implementation Period

One commenter requested an effective date of 12 months after Commission approval of the Proposal due to the scope of change and the need for systems and process work.[50] FINRA acknowledges the commenter's concern regarding implementation timeline and the need for adequate time for systems and process development. While FINRA believes the proposed rule maintains many of the same requirements as the existing Rules 3270 and 3280, FINRA recognizes that consolidating these rules and implementing certain modifications will require member systems updates. If the Commission approves the proposed rule change, FINRA will determine an effective date balancing an adequate implementation time with the objective of reducing unnecessary burdens.

* * * * *

FINRA believes that the foregoing responds to the material issues raised by the commenters to the rule filing. If you have any questions, please contact me at (240) 386-6490, email: matthew.vitek@finra.org.

Best Regards,

/s/ Matthew E. Vitek

Matthew E. Vitek
Associate General Counsel

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49 See ASA.

50 Id.

Attachment A: Alphabetical List of Commenters to File No. SR-FINRA-2026-001

1. Jason T. Albin, Chapman Albin ("Chapman") (February 20, 2026)
2. Adolfo J. Anzola, Sonn Law Group ("Anzola") (February 24, 2026)
3. Nico E. Banks, Banks Law Office ("Banks") (February 19, 2026)
4. Doug Baxley, Merit Financial Advisors ("Merit") (February 22, 2026)
5. David T. Bellaire, Financial Services Institute ("FSI") (February 24, 2026)
6. Jaime Benedetti, BEAM Wealth Advisors ("BEAM") (February 23, 2026)
7. Gail C. Bernstein & Monique S. Botkin, Investment Adviser Association ("IAA") (February 24, 2026)
8. Matt Billings, Robinhood Financial LLC and Robinhood Securities, LLC ("Robinhood") (February 24, 2026)
9. Tony Bingham ("Bingham") (February 20, 2026)
10. Michael C. Bixby, Public Investors Advocate Bar Association ("PIABA") (February 18, 2026)
11. G. Mark Brewer, Brewer Law Firm, APC ("Brewer") (February 24, 2026)
12. Jennifer Brunner, Susan La Fond, Alicia Strout & Gordon Taylor, ACA Foreside ("ACA") (February 24, 2026)
13. Steve Buchwalter ("Buchwalter") (February 24, 2026)
14. John S. Burke, John Sheridan Burke Law LLC ("JSB") (February 20, 2026)
15. Bernard V. Canepa, Securities Industry and Financial Markets Association ("SIFMA") (February 24, 2026)
16. Anthony C. Ciaccio, Weltz Kakos Gerbi Wolinetz Volynsky LLP ("Weltz") (February 24, 2026)
17. David P. Cosgrove, Cosgrove Simpson ("Cosgrove") (February 19, 2026)
18. Timothy J. Dennin ("Dennin") (February 24, 2026)

19. Robert Scott Dreher, Dreher Law Firm ("Dreher") (February 20, 2026)

20. Samuel B. Edwards, Shepherd Smith Edwards & Kantas, LLP ("Shepherd") (February 19, 2026)

21. Scott Eichhorn & Melanie S. Cherdack, University of Miami Investor Rights Clinic ("Miami Clinic") (February 24, 2026)

22. Jonathan W. Evans, Jonathan W. Evans & Associates ("Evans 2") (February 24, 2026)

23. Jonathan W. Evans & Michael S. Edmiston, Jonathan W. Evans & Associates ("Evans 1") (February 19, 2026)

24. Marc Fitapelli, MDF Law PLLC ("MDF"), (February 24, 2026)

25. Timothy E. Flatley, Sterling Investment Advisors, Ltd. ("Sterling") (February 24, 2026)

26. Katherine M. Flouton, PKS Securities ("PKS Securities") (February 24, 2026)

27. Adam J. Gana & Adam J. Weinstein, Gana Weinstein LLP ("Gana") (February 20, 2026)

28. William F. Galvin, Commonwealth of Massachusetts, Secretary of the Commonwealth ("Massachusetts") (February 24, 2026)

29. Jessica R. Giroux, American Securities Association ("ASA") (February 24, 2026)

30. Robert W. Goehring ("Goehring") (February 19, 2026)

31. W. Scott Greco, Greco & Greco, P.C. ("Greco") (February 20, 2026)

32. Andrew M. Greenidge, Epperson & Greenidge, P.A. ("Epperson") (February 20, 2026)

33. Nicholas J. Guiliano, The Guiliano Law Group ("Guiliano") (February 24, 2026)

34. David Gutierrez, Gutierrez Wealth Advisory ("Gutierrez") (February 24, 2026)

35. Michael Hill ("Hill") (February 24, 2026)

36. August M. Iorio, Iorio Law PLLC ("Iorio") (February 24, 2026)

37. Jason J. Kane, Peiffer Wolf Carr Kane Conway & Wise ("Kane") (February 23, 2026)
38. Clifford Kirsch & Eric Arnold, Eversheds Sutherland (on behalf of the Committee of Annuity Insurers) ("CAI") (February 25, 2026)
39. Law Offices of Robert V. Cornish, Jr PC ("Cornish") (February 19, 2026)
40. Frank C. Lawrance, Seacrest Wealth Management ("Seacrest") (February 24, 2026)
41. Letter Type A
42. Letter Type B
43. Letter Type C
44. Letter Type D
45. Richard A. Lewins, LewinsLaw, PC ("Lewins") (February 19, 2026)
46. Matthew Lewis ("Lewis") (February 24, 2026)
47. Jamal Mahmood, Main Street Financial Solutions LLC ("Main Street") (February 24, 2026)
48. Thomas D. Mauriello, Mauriello Law Firm ("Mauriello") (February 24, 2026)
49. Glenn Mazer, Mazer Law Firm PC ("Mazer") (February 20, 2026)
50. Michael McLane, Redwood Financial Planning ("Redwood") (February 22, 2026)
51. David P. Meyer, Meyer Wilson Werning ("Meyer") (February 22, 2026)
52. Seth A. Miller, Cambridge Investment Research, Inc. ("Cambridge") (February 24, 2026)
53. Matthew Morningstar, LPL Financial ("LPL") (February 24, 2026)
54. Mary E. Mortensen ("Mortensen") (February 19, 2026)
55. Peter J. Mougey, Levin Papantonio Proctor Buchanan O'Brien Barr Mougey P.A. ("Levin") (February 25, 2026)

56. Joe Muzaurieta, Carlson Law ("Carlson") (February 20, 2026)

57. Ryan Naugle, Advice & Planning Services ("A&P Services") (February 22, 2026)

58. Brian Nguyen ("Nguyen") (February 22, 2026)

59. William Paul Nolan, The Nolan Law Firm ("Nolan") (February 21, 2026)

60. Robert W. Pearce, The Law Offices of Robert Wayne Pearce ("Pearce") (February 20, 2026)

61. Joseph C. Peiffer, Peiffer Wolf Carr Kane Conway & Wise, LLP ("Peiffer") (February 24, 2026)

62. Mark Pugsley, The Anti-Fraud Coalition ("Pugsley") (February 20, 2026)

63. J. Peter Purcell, Purshe Kaplan Sterling Investments ("PKS") (February 22, 2026)

64. Mark Quinn, Cetera Financial Group ("Cetera") (February 23, 2026)

65. John A. Ramirez, Woodlands Portfolio Management ("Woodlands") (February 22, 2026)

66. Michael G. Rapaport, Erez Law ("Erez") (February 24, 2026)

67. Cline E. Reasor, Gratus Wealth Advisors, LLC ("Gratus") (February 24, 2026)

68. Robert H. Rex, Rex Securities Law ("Rex") (February 19, 2026)

69. Alex Rogers ("Rogers") (February 24, 2026)

70. Howard Rosenfield ("Rosenfield") (February 24, 2026)

71. Marni Rock Gibson, North American Securities Administrators Association, Inc. ("NASAA") (February 24, 2026)

72. Robert Savage, Savage Villoch Law, PLLC ("Savage") (February 19, 2026)

73. Jeffrey Saxon, MDF Law, PLLC ("Saxon") (February 24, 2026)

74. Matthew Schwartz, The Schwartz Law Firm, P.A. ("Schwartz") (February 20, 2026)

75. Ben Shamberger ("Shamberger") (February 21, 2026)

76. Mark S. Simms, Simms Law PC (“Simms”) (February 24, 2026)

77. Scott R. Solod, Hammond Iles Wealth Advisors (“Hammond”) (February 24, 2026)

78. Jeffrey R. Sonn, Sonn Law Group P.A. (“Sonn”) (February 20, 2026)

79. J.L. Spray, Mattson Rickets Law Firm, LLP (“Mattson”) (February 20, 2026)

80. Melinda Jane Steuer (“Steuer”) (February 19, 2026)

81. Andrew Stoltmann, Stoltmann Law Offices, PC (“Stoltmann”) (February 20, 2026)

82. John E. Sutherland, Brickley/Sears, P.A. (“Brickley/Sears”) (February 25, 2026)

83. Sean M. Sweeney, Halling & Cayo, S.C. (“Halling”) (February 20, 2026)

84. Matthew Thibaut, Haselkorn & Thibaut (“Thibaut”) (February 24, 2026)

85. Dina Travis, Aniqah Nashiat, Aisha Sabar, Elissa Germaine & Christine Lazaro, St. John’s University School of Law (“St. John’s Law”) (February 24, 2026)

86. Patricia L. Vannoy, Mattson Ricketts Law Firm, LLP (“Vannoy”) (February 20, 2026)

87. Gary Varnavides, Varnavides Law, PC (“Varnavides”) (February 20, 2026)

88. John B. Veach, III, Veach Law PLLC (“Veach”) (February 20, 2026)

89. Scott Wallschlaeger, MPPL Financial (“MPPL”) (February 22, 2026)

90. Courtney M. Werning, Meyer Wilson Werning (“Werning”) (February 19, 2026)

91. D. Daxton White, The White Law Group, LLC (“White”) (February 24, 2026)

92. Joseph R. Wojciechowski, Stoltmann Law Offices, PC (“Wojciechowski”) (February 20, 2026)

93. Matthew Wracher (“Wracher”) (February 24, 2026)

94. William B. Young, Jr. (“Young”) (February 19, 2026)