FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT, Complainant, v. SPARTAN CAPITAL SECURITIES, LLC (CRD No. 146251), Respondent.	Expedited Proceeding No. RF260002 RCM No. 20250872097 Hearing Officer-CC **EXPEDITED DECISION** July 14, 2026

Respondent Spartan Capital Securities, LLC requested a hearing in response to FINRA's designating the firm as a Restricted Firm and imposing a maximum Restricted Deposit Requirement of $1,851,000 pursuant to FINRA Rule 4111. The matter is remanded to the Department that designated the firm for further consideration as specified in this Decision.

Appearances

For the Complainant: Christen Sproule, Esq., Michael Manning, Esq., Savvas Foukas, Esq., Christopher Perrin, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Richard J. Babnick, Esq., Emily M. Knight, Esq., Michael H. Ference, Esq., Sichenzia Ross Ference Carmel LLP

DECISION

I. Introduction

On February 23, 2026, FINRA's Department of Member Supervision ("the Department")[1] notified Respondent Spartan Capital Securities, LLC ("Spartan Capital") that, under FINRA Rule 4111 (Restricted Firm Obligations), it had designated the firm as a

[1] FINRA Rule 4111(i)(3) states that the "Department" means FINRA's Department of Member Regulation. The witnesses who testified in this proceeding referred to the department as Member Supervision. *See, e.g.*, Hearing Transcript ("Tr.") 44-45 (PD). For purposes of this Decision, "Department" means both Member Regulation and Member Supervision.

"Restricted Firm"[2] and had subjected the firm to the maximum Restricted Deposit Requirement[3] of $1,851,000 (hereafter, "the Notice").

In response to the Notice, on March 2, 2026, Spartan Capital requested a hearing before FINRA's Office of Hearing Officers pursuant to FINRA Rule 9561(a)(5) ("Hearing Request").[4] Spartan Capital requests that I withdraw the Department's Rule 4111 designation as a Restricted Firm and imposition of a maximum Restricted Deposit Requirement of $1,851,000 or, in the alternative, remand this matter to the Department.[5] The parties participated by videoconference in a hearing on April 13 and 14 and May 6 and 7, 2026.

II. Regulatory Framework

FINRA Rule 4111 addresses potential risks posed by member firms with a significant history of misconduct and member firms with a high concentration of individuals with a troubling history.[6] "Rule 4111 establishes a multi-step, annual process through which FINRA . . . determine[s] whether a member firm raises investor protection concerns substantial enough to require that it be designated (or re-designated) as a Restricted Firm and subject to additional

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[2] A "Restricted Firm" is each FINRA member designated as such in accordance with paragraphs (e)(1)(B) and (e)(1)(C) of FINRA Rule 4111. FINRA Rule 4111(i)(16).

[3] "Restricted Deposit Requirement" is: (1) the specific maximum for a member, determined by the Department, taking into consideration the nature of the firm's operations and activities, revenues, commissions, assets, liabilities, expenses, net capital, the number of offices and registered persons, the nature of the disclosure events counted in the numeric thresholds, insurance coverage for customer arbitration awards or settlements, concerns raised during FINRA exams, and the amount of any of the firm's or its associated persons' Covered Pending Arbitration Claims, unpaid arbitration awards or unpaid settlements related to arbitrations; then based on the Department's review of these factors, an amount that would be consistent with the objectives of Rule 4111, but would not significantly undermine the continued financial stability and operational capability of the firm as an ongoing enterprise over the next 12 months; or (2) the amount, adjusted after the Consultation, determined by the Department. FINRA Rule 4111(i)(15)(A), (i)(15)(B). Rule 4111(i)(15)(C) defines Restricted Deposit Requirement as it pertains to former member firms and is not applicable in this case.

[4] FINRA Rule 9561(a)(5) states that "[a] member served with a notice [of Restricted Firm designation] may file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 9559." "[I]n a request for a hearing [before a Hearing Officer] of a Department determination that imposes a Restricted Deposit Requirement or other obligations under Rule 4111, the principal issues raised may include whether: (1) [t]he member firm should not be designated a Restricted Firm; (2) the Department incorrectly included disclosure events when calculating whether the member firm meets the Preliminary Criteria for Identification; (3) a Restricted Deposit Requirement would impose an undue financial burden on the member firm; or (4) the obligations imposed are inconsistent with the standards set forth in proposed Rule 4111(e)." Notice of Filing of a Proposed Rule Change, Exchange Act Release No. 90527, 85 Fed. Reg. 78540, 78549-78550 (Dec. 4, 2020).

[5] Spartan Capital Hearing Request (Mar. 2, 2026) ("Spartan Cap. Hr'g Req."), at 23-24.

[6] Order Approving Proposed Rule Change, Exchange Act Release No. 92525, 86 Fed. Reg. 42925, 42926 (Aug. 5, 2021); Rule 4111 Frequently Asked Questions ("4111 FAQs"), Introduction, https://www.finra.org/rules-guidance/key-topics/protecting-investors-from-misconduct/faq.

obligations, including a Restricted Deposit Requirement."[7] The rule enables FINRA to impose restrictions and obligations, including to maintain a restricted deposit in a segregated account, "on broker-dealers with significantly higher levels of risk-related disclosures than other similarly sized peers, based on numeric, threshold-based criteria."[8]

Every year, the Department conducts a multi-step, annual process to compute "Preliminary Identification Metrics" for every member firm to determine if the firm meets the "Preliminary Criteria for Identification."[9] In February 2022, FINRA announced that the annual Evaluation Date would be June 1.[10]

To determine the Preliminary Criteria for Identification, the Department computes Preliminary Identification Metrics for six categories of events identified in Rule 4111(i)(4)(A) through (i)(4)(F).[11] "These six categories are all based on events or conditions disclosed through the Uniform Registration Forms,[12] with the exception of one event category (Member Firm Adjudicated Events), which also includes customer arbitrations filed with FINRA's dispute resolution forum."[13] To calculate each category, the Department will count the number of disclosure events or, for the Expelled Firm Association category, the number of the Registered Persons Associated with Previously Expelled Firms.[14] For the adjudicated-events categories, the counts include disclosure events resolved during the five-year period prior to the Evaluation Date.[15] For the pending-events categories and pending internal reviews, the counts include events pending as of the Evaluation Date.[16] For the three Registered Person disclosure-event categories, the Department counts disclosure events for all Registered Persons in Scope.[17]

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[7] FINRA Information Notice (FINRA Announces Rule 4111 Evaluation Date) (Feb. 1, 2022), at 1, https://www.finra.org/rules-guidance/notices/information-notice-020122.

[8] 4111 FAQs, Introduction.

[9] FINRA Rule 4111(b), 4111(i)(9), 4111(i)(10); Tr. 53 (PD).

[10] FINRA Information Notice, at 2. The Evaluation Date "is not the date when FINRA would actually perform the annual calculation of the Preliminary Criteria for Identification. Rather, FINRA plans to actually perform the annual calculation at least 30 days after the Evaluation Date, to account for the time between when relevant disclosure events occurred and when firms must report those events on the Uniform Registration Forms." FINRA Regulatory Notice 21-34 (Protecting Investors from Misconduct) (Sept. 28, 2021), at 7, https://www.finra.org/rules-guidance/notices/21-34.

[11] FINRA Regulatory Notice 21-34, at 4; Tr. 54 (PD).

[12] Uniform Registration Forms "means the Forms BD, U4, U5 and U6, as applicable." FINRA Rule 4111(i)(17).

[13] FINRA Regulatory Notice 21-34, at 4.

[14] FINRA Rule 4111(i)(4); *see also* FINRA Regulatory Notice 21-34, at 4.

[15] FINRA Rule 4111(i)(6), (i)(10)(A), (C), (D); *see also* FINRA Regulatory Notice 21-34, at 4.

[16] FINRA Rule 4111(i)(6), (i)(10)(B), (C), (E); *see also* FINRA Regulatory Notice 21-34, at 4.

[17] FINRA Regulatory Notice 21-34, at 4. "Registered Person in Scope" means all persons registered with the firm for one or more days within the one year prior to the Evaluation Date." FINRA Rule 4111(i)(13). As of Spartan

Five of the six categories apply to Registered Person and Member Firm Events.[18] For these categories, the Preliminary Identification Metrics are "in the form of an average number of events per Registered Persons In Scope, calculated by taking each category's sum and dividing it by the number of Registered Persons in Scope."[19] The sixth Preliminary Identification Metric is the Expelled Firm Association Metric. This metric is "a percentage concentration at the member firm of Registered Persons Associated with Previously Expelled Firms."[20] The Department calculates this metric "by taking the [total] number of Registered Persons Associated with Previously Expelled Firms and dividing it by the number of Registered Persons In-Scope."[21]

The two metrics at issue in this case are the Registered Person Pending Events Metric and the Expelled Firm Association Metric, also called "Registered Persons Associated with Previously Expelled Firms" in Rule 4111(i)(4)(F).

The Department next determines if the firm's six Preliminary Identification Criteria meet or exceed the numeric Preliminary Identification Metrics Thresholds in FINRA Rule 4111(i)(11) for the firm's similarly-sized peers.[22] If two or more of the member's six Preliminary Identification Metrics are equal to or more than the corresponding Preliminary Identification Metrics Thresholds, and at least one of these metrics is a: (1) Registered Person Adjudicated

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Capital's June 1, 2025, Evaluation Date, the firm had 110 Registered Persons in Scope. April 8, 2026, Amended Stipulations ("Am. Stip.") ¶ 2.

[18] FINRA Rule 4111(i)(12) defines "Registered Person and Member Firm Events" as the sum of the following defined categories of events during the Evaluation Period:

(A) Registered Person Adjudicated Events;

(B) Registered Person Pending Events;

(C) Registered Person Termination and Internal Review Events;

(D) Member Firm Adjudicated Events; and

(E) Member Firm Pending Events.

[19] FINRA Regulatory Notice 21-34, at 5; *see also* FINRA Rule 4111(i)(10)(A) to (i)(10)(E).

[20] FINRA Regulatory Notice 21-34, at 5; *see also* FINRA Rule 4111(i)(10)(F).

[21] FINRA Rule 4111(i)(10)(F). For this metric, FINRA includes "registered persons who were registered with a previously expelled firm within the prior five years (*i.e.*, whose registration with a previously expelled firm terminated during the prior five years) and who were registered with the expelled firm for at least one year." Exchange Act Release No. 90527, 85 Fed. Reg. 78540, 78555. "FINRA selected this formulation to analyze because the five-year lookback is consistent with the lookback periods for the other proposed metrics in the proposal and, based on staff experience, FINRA believes that individuals who are more recently associated with previously expelled firms (*e.g.*, in the last five years) and have longer tenures at expelled firms (*e.g.*, a year or more, instead of a shorter employment duration) generally pose higher risk than other individuals." *Id.* at 78555-78556.

[22] Tr. 53-55 (PD).

Event Metric; (2) Member Firm Adjudicated Event Metric; or (3) Expelled Firm Association Metric, the firm will meet the Preliminary Criteria for identification as a Restricted Firm.[23]

PD, Director of FINRA Member Supervision Operation Procedures and Standards, testified that FINRA assigned his team with developing systems and processes to implement FINRA Rule 4111.[24] PD and his team developed the Market Regulation Data Tool system ("MRDT system").[25] The Department's Risk Monitoring Analysts ("RMAs") currently use the MRDT system to enforce Rule 4111.[26] If a member firm triggers the Preliminary Identification Metrics Thresholds identified in Rule 4111, it will be identified in the MRDT system and trigger a validation task for an RMA.[27] This prompts the RMA to review the disclosures and events that triggered the potential Restricted Firm designation.[28] For example, the RMA may review certain representative-related disclosures and determine to include or exclude that representative from the calculation for the firm.[29] "[A]fter the validation step, if the firm is deemed restricted the next step would be the option to reduce staff."[30]

Next, the Department calculates the member firm's maximum Restricted Deposit Requirement under Rule 4111(i)(15).[31] Rule 4111 does not include a formula for determining the maximum Restricted Deposit Requirement.[32] Instead, the Department "consider[s] the nature of the member firm's operations and activities, revenues, commissions, assets, liabilities, expenses,

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[23] FINRA Rule 4111(b), (i)(9)(A). This ensures that a member firm does not meet the Preliminary Criteria for Identification solely because of pending matters. FINRA Regulatory Notice 21-34, at 5. The other condition that must be met is that "[t]he member has two or more Registered Person and Member Firm Events during the Evaluation Period." Rule 4111(i)(9)(B); *see also* Tr. 59 (PD).

[24] Tr. 43-45, 48-49 (PD).

[25] Tr. 49-50, 130-31 (PD).

[26] Tr. 49-50 (PD).

[27] Tr. 62-67 (PD); Joint Exhibit ("JX-") 33.

[28] Tr. 67 (PD); JX-34. PD testified that the designation of a firm as a Restricted Firm is not automatic based on a numeric threshold and that the RMAs must review the events and determine the possible risk to investors. Tr. 155-56 (PD).

[29] Tr. 70-71 (PD); JX-34.

[30] Tr. 74 (PD). A member firm that meets the Preliminary Criteria for the first time only may reduce its staffing level to no longer meet the Preliminary Criteria within 30 business days after being informed by the Department that it meets the Preliminary Criteria. FINRA Rule 4111(c)(2). A member firm may reduce staff to no longer meet the Preliminary Criteria but may not hire registered persons who have no relevant disclosures to no longer meet the Preliminary Criteria. 4111 FAQs, Section 6. The staff-reduction option was not available to Spartan Capital because the firm opted to use it during a prior evaluation. Tr. 75-76 (PD); Am. Stip. ¶ 26. As such, the one-time staff reduction option is not relevant in this case.

[31] Tr. 76-77 (PD). "FINRA's intent is that the maximum Restricted Deposit Requirement should be significant enough to change the member firm's behavior but not force the member firm out of business solely by virtue of the imposed deposit requirement." FINRA Regulatory Notice 21-34, at 9.

[32] Tr. 76-77 (PD).

net capital, the number of offices and registered persons, the nature of the disclosure events counted in the numeric thresholds, insurance coverage for customer arbitration awards or settlements, concerns raised during FINRA exams and the amount of any of the firm's or its Associated Persons' 'Covered Pending Arbitration Claims' or unpaid arbitration awards."[33] PD testified that his team sought to develop "a methodology that was data driven . . . consistent, repeatable and fair."[34] He described a three step process:[35] (1) develop a range into which the deposit requirement might fall based on the firm's average total compensation and average total revenues over the preceding eight quarters;[36] (2) determine where the firm fits within that range by answering a series of three qualitative questions (based on readily available data) and choosing from possible answers that have been assigned a point value, the total of which determines where the firm falls within the range;[37] and (3) consider any pending or unpaid arbitration claims filed against the firm.[38]

PD testified that, once the RMA reviews the maximum Restricted Deposit calculation for accuracy, that amount is presented to a Rule 4111 "governance committee and then there is a decision made at the governance committee level to determine whether or not it undermines the

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[33] FINRA Rule 4111(i)(15); *see also* FINRA Regulatory Notice 21-34, at 9; Tr. 78-79 (PD).

[34] Tr. 79 (PD). PD testified that, during this step, the RMAs rely on financial data from the firms FOCUS Reports and Supplemental Statements of Income ("SSOIs") and covered and pending arbitration data from FINRA's Dispute Resolution Department. Tr. 83 (PD). An SSOI is a regulatory filing submitted on a regular cadence that lists all firm income statement items. Tr. 780-81 (SBZ). The SSOI shows "how the firm is making its money, from what activities and where it's spending its money in its expense categories." Tr. 780-81 (SBZ). Spartan Capital filed an SSOI quarterly. Tr. 781 (SBZ).

[35] Tr. 83-84 (PD).

[36] Tr. 83-85 (PD); JX-37. PD testified that significant testing and observations led his team to develop an overall range of five to ten percent. Tr. 85-91 (PD).

[37] Tr. 84, 93-98 (PD). PD testified that he and his team developed the questions and answers by testing them against multiple member firms and revising the questions to reach three that are "consistent with the rule and fairly applied." Tr. 95 (PD). The questions are:

> (1) Looking at the past 12 months, has the quality of the firm's roster improved?
>
> (2) Adequacy of the firm's Supervisory Procedures and Controls over the last 18 months.
>
> (3) Results of FINRA and Securities and Exchange Commission ("SEC") examinations over the last four years.

Tr. 94-97 (PD); JX-35. PD testified that his team similarly developed choices of three answers to the qualitative questions by testing response options against "a subset of firms who could have met the preliminary criteria leading up to the implementation of the rule." Tr. 97 (PD).

[38] Tr. 84, 102-113 (PD); Complainant's Exhibit ("CX-") 41. PD testified that the MRDT system workflow for determining the maximum Restricted Deposit Requirement also considers a firm's excess net capital as a "comparative figure against the firm's pending and unpaid arbitrations to determine a potential multiplier associated — to add on to the preliminary restricted deposit amount to account for any risks that may be inherent with the firm's pending and unpaid arbitrations." Tr. 104 (PD). As with other steps in the process for developing a Restricted Deposit Requirement, PD testified that FINRA staff "back tested" this step against "multiple firms who could have met the preliminary criteria." Tr. 109 (PD).

continued financial stability of the firm."[39] Neither the governance committee nor the three-step process are mentioned in Rule 4111.

The Department next conducts a Consultation with the member firm.[40] At the Consultation, the member firm bears the burden of overcoming two rebuttable presumptions: (1) that the member firm should be designated as a Restricted Firm; and (2) that it should be subject to the maximum Restricted Deposit Requirement.[41]

FINRA Rule 4111(d)(1) provides that a member firm may overcome the presumption by "clearly demonstrating" that the Department improperly included information it should not have included in its calculation of the Preliminary Criteria for Identification.[42] For example, a member firm may demonstrate that the Department included events (in the six categories) that are "duplicative, involving the same customer and the same matter, or are not sales-practice related."[43] Additionally, a member firm may overcome the presumption by "clearly demonstrating" that the member firm would face significant undue financial hardship if it were subject to the maximum Restricted Deposit Requirement and that "a lesser deposit requirement would satisfy the objectives of [the] Rule and be consistent with the protection of investors and the public interest."[44] The member firm also could demonstrate "that other conditions and restrictions on the operations and activities of the member firm and its associated persons would address the concerns indicated by the thresholds and protect investors and the public interest."[45]

After the Consultation, the Department must issue its decision under Rule 4111(e). Under FINRA Rule 9561(a)(5), the member may file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 9559. Rule 4111(e)(2) provides that a request for a hearing will not stay the effectiveness of the Department's decision. "However, upon requesting a hearing . . . the member firm will only be required to deposit . . . the lesser of 25 percent of its Restricted Deposit Requirement or 25 percent of its average excess net capital during the prior calendar year" until FINRA issues its final decision on the hearing request.[46] In any action brought under FINRA Rule 9561(a), the Hearing Officer may approve or withdraw any and all of

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[39] Tr. 115-16 (PD). PD testified that the Rule 4111 governance committee is a committee "made up of senior leaders within [FINRA] Member Supervision that serves as a control to make sure that 4111 is applied consistently and fairly to all member firms." Tr. 116 (PD).

[40] FINRA Rule 4111(d); Tr. 118 (PD). "Consultation" means one or more meetings or consultations between the Department and a member firm that meets the Preliminary Criteria for Identification. FINRA Rule 4111(i)(1).

[41] FINRA Regulatory Notice 21-34, at 10.

[42] FINRA Rule 4111(d)(1)(A).

[43] FINRA Regulatory Notice 21-34, at 10.

[44] FINRA Rule 4111(d)(1)(B).

[45] FINRA Regulatory Notice 21-34, at 10.

[46] FINRA Regulatory Notice 21-34, at 10. There is one exception to the reduced deposit requirement for a member firm that is re-designated as a Restricted Firm. *See* Rule 4111(e)(2). That exception is not applicable here.

the Rule 4111 requirements, or remand the matter to the Department, but may not modify any of the Rule 4111 requirements, or impose any other requirements or obligations available under Rule 4111.[47]

III. The Department's Notice

In the February 23, 2026, Notice, the Department indicates that on July 12, 2025, it conducted its annual Rule 4111 calculation as of the June 1, 2025, Evaluation Date.[48] The Department states it notified Spartan Capital on October 14, 2025, that it met the Preliminary Criteria for Identification under FINRA Rule 4111(i)(9). The Department proceeded with a Consultation on January 23, 2026.[49]

The Department identified Spartan Capital as a Restricted Firm because its Expelled Firm Association Metric[50] and Registered Person Pending Events Metric[51] met or exceeded the Preliminary Identification Metrics Thresholds for those categories.[52] The Department found that:

1. Spartan Capital has 110 Registered Persons in Scope and, based upon this number, the Preliminary Identification Metrics Thresholds for Firm Size Category 5 are applicable to the firm;[53]

2. Spartan Capital has 12 Registered Person Pending Events,[54] resulting in a Registered Person Pending Event Metric of 0.109, which exceeds the applicable threshold of .05 for that metric;[55] and

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[47] FINRA Rule 9559(n)(6); Exchange Act Release No. 90527, 85 Fed. Reg. 78540, 78549.

[48] Notice of Department Decision (Rule 9561(a)) Spartan Capital Securities, LLC (CRD 146251) Matter No. 20250872097 (February 23, 2026) ("Notice"), at 1.

[49] Notice, at 1-2.

[50] "Expelled Firm Association Metric" means the sum of Registered Persons Associated with Previously Expelled Firms, divided by the number of Registered Persons In-Scope. FINRA Rule 4111(i)(10)(F).

[51] "Registered Person Pending Event Metric" means the sum of Registered Person Pending Events as of the Evaluation Date, across all Registered Persons In-Scope and divided by the number of Registered Persons In-Scope. FINRA Rule 4111(i)(10)(B).

[52] Notice, at 2.

[53] Notice, at 2; *see also* FINRA Rule 4111(i)(11).

[54] "Registered Person Pending Events" means any one of the following events associated with the registered person that are reportable on the registered person's Uniform Registration Forms: (1) a pending investment-related civil judicial matter; (2) a pending investigation by a regulatory authority; (3) a pending regulatory action that was brought by the SEC or Commodity Futures Trading Commission, other federal regulatory agency, a state regulatory agency, a foreign financial regulatory authority, or a self-regulatory organization; or (4) a pending criminal charge associated with any felony or any reportable misdemeanor. FINRA Rule 4111(i)(4)(B).

[55] Notice, at 2; *see also* Rule 4111(i)(11).

3. Spartan has 11 Expelled Firm Association Events,[56] resulting in an Expelled Firm Association Event Metric of 0.10, which exceeds the applicable threshold of .03 for that metric.[57]

The Department determined Spartan Capital's maximum Restricted Deposit Requirement is $1,851,000 after taking into consideration the factors described in FINRA Rule 4111(i)(15)(A) as they relate to Spartan Capital, including (1) the firm's average quarterly revenue of $9,254,995 and average quarterly compensation expenses of $6,869,388, as reported in its FOCUS filings for the eight quarters preceding the Evaluation Date; (2) concerns raised during the most recent FINRA firm exams; and (3) the firm's pending arbitration claims.[58] The Department's Notice states that a Restricted Deposit Requirement in the amount of $1,851,000 satisfies the investor protection objectives of Rule 4111 without significantly undermining the continued financial stability and operational capability of the firm as an ongoing enterprise over the next 12 months.[59]

The Department repeated an objection that Spartan Capital raised to imposing any restricted deposit on the firm. Spartan Capital claimed that depositing funds into a Rule 4111 restricted account would undermine the Rule's goal of investor protection because it would prohibit the firm from using these funds to settle claims from previously harmed investors.[60] As an alternative, the firm proposed that Spartan use the same funds to purchase additional insurance to cover its potential liability for customer claims.[61] The Department rejected this proposal, finding that Spartan Capital did not clearly demonstrate the firm would face significant undue financial hardship if subject to the maximum Restricted Deposit Requirement and that a lesser requirement would satisfy the objective of Rule 4111, and be consistent with protection of investors and the public interest, or that conditions and restrictions on the operations and activities of the firm would address concerns indicated by the Preliminary Criteria for Identification and protect investors and the public interest.[62]

The Department concluded that the firm consistently earned significant revenue during the most recent calendar quarters, and it had positive net income in the most recent fiscal year

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[56] "Expelled Firm Association Events," also identified in Rule 4111 as "Registered Persons Associated with Previously Expelled Firms," means any Registered Person In-Scope who was registered for at least one year with a previously expelled firm and whose registration with the previously expelled firm terminated during the Evaluation Period. FINRA Rule 4111(i)(4)(F); *see also* FINRA Rule 4111(i)(10)(F). "Evaluation Period" means the five years prior to the Evaluation Date. FINRA Rule 4111(i)(6).

[57] Notice, at 2; *see also* Rule 4111(i)(11).

[58] Notice, at 2.

[59] Notice, at 2-3.

[60] Notice, at 3.

[61] Notice, at 3.

[62] Notice, at 3.

greater than the deposit amount.[63] The Department also found that Spartan Capital failed to demonstrate that a lesser deposit would satisfy the objectives of Rule 4111 and be consistent with the protection of investors and the public interest. The firm's proposed alternative—diverting funds from the required deposit to purchase more insurance—failed to address the concerns highlighted by the Preliminary Criteria for Identification.[64]

IV. Spartan Capital's Hearing Request

Spartan Capital timely filed a Hearing Request.

A. Arguments Related to Restricted Deposit Requirement

Spartan Capital makes a series of arguments related to the Department's calculation of the Restricted Deposit Requirement.[65]

First, it contends that the Restricted Deposit Requirement would impose significant undue financial hardship on the firm. Spartan Capital argues that the relevant measure is not gross revenue or annual net income; rather, it is the firm's actual liquidity and available capital to absorb an immediate, non-operational cash outflow of $1,851,000, the amount of the Restricted Deposit Requirement, which would cause a reduction in the firm's available capital base.[66] The firm argues that Spartan Capital's 12-month excess net capital average is approximately $490,056, and that even that figure is inflated by four months of capital contributions injected by the firm's principals totaling $3,315,000.[67] The firm contends that its underlying operational capital is substantially lower than the average figure suggests and there is no guarantee or obligation that the capital infusions will continue.[68] A deposit at the current amount, the firm argues, would require the firm to immediately liquidate or encumber assets needed for daily operations, compliance, and supervision and force the firm out of business.[69]

Second, Spartan Capital argues that the Department's calculation of the Restricted Deposit Requirement relies on "legally erroneous inputs" and a "secret methodology" that was unfairly withheld from Spartan Capital.[70] The firm argues that, by looking back eight quarters to the third quarter of 2023, which is two years before the February 2026 Notice, the Department's review predated the firm's comprehensive compliance and supervisory restructuring that began

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[63] Notice, at 3.

[64] Notice, at 3.

[65] Spartan Cap. Hr'g Req., at 3-10.

[66] Spartan Cap. Hr'g Req., at 3.

[67] Spartan Cap. Hr'g Req., at 2-4.

[68] Spartan Cap. Hr'g Req., at 4.

[69] Spartan Cap. Hr'g Req., at 5.

[70] Spartan Cap. Hr'g Req., at 6-8.

in early 2025, the departure of virtually all legacy personnel associated with the firm's historical disclosure profile, and a material reduction in the firm's registered person headcount.[71] Essentially, Spartan Capital argues, the Department calculated a deposit obligation that does not reflect Spartan Capital's current financial capacity or operational profile and that the four most recent quarters show a more accurate picture of the firm's financial profile.[72]

The firm also takes issue with the Department's failure to disclose: the formula applied to revenue and compensation figures; the specific pending arbitration claims treated as "Covered Pending Arbitration Claims" and the dollar amounts attributed to each; the offsets, if any, applied to reflect settlements, receiver distributions, or insurance proceeds; and any other inputs, assumptions, or factors underlying the proposed amount.[73] The firm argues that, with no understanding of the Department's "secret methodology," the firm could not propose alternatives as the rule suggests it should.[74] Spartan Capital argues that this alleged lack of transparency is further underscored by the $716,000 increase in the Restricted Deposit Requirement between the Department's first notice letter on October 30, 2025, which imposed a maximum Restricted Deposit Requirement of $1,135,000, and the December 12, 2025, revised Notice, which increased the maximum Restricted Deposit Requirement to $1,851,000.[75] Although both Notices purport to be grounded in the same June 1, 2025, Evaluation Date, the Department offered Spartan Capital no explanation for the $716,000, or 63%, increase.[76]

Third, Spartan Capital argues that the Restricted Deposit Requirement overstates the firm's litigation exposure and would harm, not protect, investors.[77] The fundamental investor-protection concern motivating any Restricted Deposit Requirement is the risk that customer arbitration claims will go unpaid. Spartan Capital argues that, based on its record, that risk is not present. The firm contends that, in nearly 20 years of operation, it has never failed to pay an arbitration award and has never left a settlement obligation unfulfilled.[78] Under Rule 4111(i)(2), "Covered Pending Arbitration Claims" are measured by the compensatory damages claimed, which the firm argues is a figure that does not reflect reality, as a claimant's lawyer may

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[71] Spartan Cap. Hr'g Req., at 6.

[72] Spartan Cap. Hr'g Req., at 7.

[73] Spartan Cap. Hr'g Req., at 7.

[74] Spartan Cap. Hr'g Req., at 7-8.

[75] Spartan Capital states that it first learned that the Department determined the firm met the Preliminary Criteria for Identification on October 14, 2025. It states that, on October 30, 2025, nearly five months after the June 1 Evaluation Date, the Department issued a notice scheduling a Rule 4111(d) Consultation and proposed a maximum deposit of $1,135,000. Spartan Cap. Hr'g Req., at 2. On December 12, 2025, more than six months after the Evaluation Date, the Department inexplicably issued a revised Notice under the same June 1 Evaluation Date increasing the proposed maximum deposit to $1,851,000. Spartan Cap. Hr'g Req., at 2.

[76] Spartan Cap. Hr'g Req., at 8.

[77] Spartan Cap. Hr'g Req., at 9-10.

[78] Spartan Cap. Hr'g Req., at 9.

exaggerate compensatory damages. Spartan Capital also notes that it maintains comprehensive errors and omissions insurance with an aggregate coverage in the amount of $4,000,000—a meaningful and specific financial safeguard that directly addresses the investor-protection purpose of a Restricted Deposit Requirement.[79]

B. Arguments Related to Improper Inclusion of Events

Spartan Capital argues that the Department's calculation included events that should not have been counted because they "are not consistent with the purpose of the Preliminary Criteria for Identification" and "are not reflective of a firm posing a high degree of risk."[80]

First, the firm argues that the Expelled Firm Association Metric captures technical associations, not actual risk.[81] Although the firm does not dispute the underlying arithmetic, it argues that the individuals driving the numerator overwhelmingly have no Rule 4111 events and no history of investor-harm-based misconduct.[82] The firm argues that FINRA has expressly recognized that the Department may exclude disclosure events that are not sales-practice related, and these disclosures plainly meet that standard.[83]

Second, Spartan Capital argues that the Registered Person Pending Events Metric also includes potentially excludable events.[84] The Department found 12 Registered Representative Pending Events as of June 2025. Spartan Capital identifies three independent bases on which the Department's figure overstates the number of events properly attributable to Spartan.[85]

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[79] Spartan Cap. Hr'g Req., at 9-10.

[80] Spartan Cap. Hr'g Req., at 10.

[81] Spartan Cap. Hr'g Req., at 11-15.

[82] For example, the firm notes that four registered persons have entirely clean regulatory histories but are counted solely from their prior registration with a firm that was subsequently expelled. Spartan Cap. Hr'g Req., at 12-13. It also identifies two additional registered persons who have a single disclosure each and neither is related to investor harm. Spartan Cap. Hr'g Req., at 13-14. One registered person's sole disclosure arises from a 2014 termination by a prior firm based on alleged internal policy issues that he denied; FINRA investigated the matter and closed it without any finding of misconduct, disciplinary action, or customer harm. Spartan Cap. Hr'g Req., at 13. Another's sole disclosure is a personal bankruptcy filed and discharged in 2020, unrelated to any customer, investment activity, or securities transaction. Spartan Cap. Hr'g Req., at 13-14.

[83] Spartan Cap. Hr'g Req., at 13-14.

[84] Spartan Cap. Hr'g Req., at 15-18.

[85] First, it identifies multiple disclosure entries from a single FINRA action. Spartan Cap. Hr'g Req., at 16. Second, it argues that two events were initiated only after the associated person had already been terminated from Spartan Capital. Spartan Cap. Hr'g Req., at 17. Third, Spartan Capital argues that seven of the twelve individuals whose events are counted are no longer registered with Spartan as of the date of the Notice and have been gone for nearly a year, rendering the metric a poor proxy for Spartan Capital's current investor-protection risk profile. Spartan Cap. Hr'g Req., at 17-18. Spartan Capital asserts it has no ongoing supervisory relationship with any of these seven individuals, no ability to monitor or direct their conduct, and no exposure to future investor harm attributable to their presence at the firm. Spartan Cap. Hr'g Req., at 18.

Third, Spartan Capital argues that the Department failed to engage with the merits of Spartan Capital's arguments during the Consultation.[86] The Department should have evaluated whether the events are "consistent with the purpose of the Preliminary Criteria for Identification" and "reflective of a firm posing a high degree of risk" as instructed by Rule 4111. Instead, Spartan Capital argues, the Department's "one-sentence dismissal" fails entirely to engage with these questions.[87]

C. Arguments Related to Demonstrated Compliance Remediation

Spartan Capital argues that the conditions already operative at Spartan Capital—both those imposed by FINRA itself through the firm's Membership Agreement and those implemented by the firm through its comprehensive compliance remediation—collectively address the investor protection concerns that Rule 4111 is designed to mitigate and render any additional deposit obligation unnecessary.[88]

Spartan Capital states that it has already agreed, through its existing Membership Agreement, to four restrictions.[89] The firm further represents that, since June 1, 2025, it has undertaken comprehensive, validated remediation of the compliance and supervisory conditions that contributed to its preliminary identification, including by hiring a new Chief Compliance Officer ("CCO").[90] Furthermore, the registered persons whose historical activities contributed most significantly to Spartan Capital's Rule 4111 metrics are no longer associated with the firm and, under the firm's existing Membership Agreement restrictions, are ineligible for re-association.[91]

V. Findings of Fact and Conclusions of Law

A. Basis for Remand

The Department failed to demonstrate by a preponderance of the evidence that it properly designated Spartan Capital as a Restricted Firm and imposed a maximum Restricted Deposit Requirement of $1,851,000 in accordance with FINRA Rule 4111. While there is some compelling evidence to support these findings, the record in this matter contains inconsistent information in some Rule 4111 metrics and a lack of clarity in others. The record also suggests that the MRDT system at times provided Department staff with inaccurate information that was not subsequently fully validated and corrected. Additionally, a significant segment of the Department's calculations are not addressed in Rule 4111, yet Spartan Capital was expected to

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[86] Spartan Cap. Hr'g Req., at 18-20.

[87] Spartan Cap. Hr'g Req., at 19.

[88] Spartan Cap. Hr'g Req., at 20-23.

[89] Spartan Cap. Hr'g Req., at 20-22.

[90] Spartan Cap. Hr'g Req., at 22-23.

[91] Spartan Cap. Hr'g Req., at 23.

address them in the Consultation without prior notice, thereby limiting its opportunity to defend itself.

As detailed below, based on this record, it is not clear whether Department staff adhered to the requirements of Rule 4111 in every aspect of its computation and assessment. Furthermore, the Department's failure to disclose how it arrived at its conclusions provided Spartan Capital with little opportunity to rebut presumptions during the Consultation. As such, I remand this matter to the Department for additional consideration as directed in this Decision and to provide Spartan Capital with another opportunity to attend a Consultation if the Department determines on remand that Spartan Capital meets the Preliminary Criteria for Identification.

B. Analysis of Spartan Capital's Restricted Firm Designation

1. Quantitative Analysis

Department RMA TB was responsible for the Rule 4111 task for Spartan Capital for the Evaluation Date of June 1, 2025.[92] He learned that the firm met the Preliminary Criteria for Identification as a Restricted Firm when he received a task in the MRDT work queue.[93] TB testified that he reviewed each event identified by the MRDT system and its supporting documentation to determine whether each event should be included in the validation.[94] According to the MRDT system and TB's validation, Spartan Capital qualified in two metrics, the Registered Person Pending Events Metric and the Expelled Firm Association Metric.[95]

TB's supervisor, SBZ, a Risk Monitoring Director in the Department,[96] described his role in the Rule 4111 process as "essentially to review the work on the 4111 task that's done by the [RMA] to, you know, in summary to essentially ensure that I agree with the determination made by the [RMA] in completing that task."[97] SBZ personally reviewed TB's work on MRDT validation and his determination that Spartan Capital met the initial criteria for designation as a

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[92] Tr. 313-14 (TB). TB testified that, in between April and September 2025, he was the RMA for Spartan Capital. Tr. 313 (TB). As Spartan Capital's primary RMA at FINRA, "learning the firm and knowing the firm [was his] main responsibility." Tr. 311. He provided guidance to the firm, answered questions, and reviewed and analyzed all firm filings, including financial filings. Tr. 311 (TB).

[93] Tr. 315 (TB); JX-33. A screenshot of TB's work queue shows the initial stage of the quantitative validation that TB conducted. Tr. 316-17, 322 (TB); JX-33. TB testified that he received the work queue and began his validation in early July 2025. Tr. 398-99 (TB). Because the number of Registered Representatives in Scope for Spartan was 110, the firm was in size category 5. Tr. 317-18; Am. Stip. ¶ 2; JX-33.

[94] Tr. 329-32, 585, 669-88 (TB). TB summarized his validation results in summary exhibit CX-42. Tr. 329-32 (TB); CX-42.

[95] Tr. 321 (TB); JX-33.

[96] Tr. 770, 772, 774-75 (SBZ).

[97] Tr. 774 (SBZ).

Restricted Firm because it exceeded the thresholds in the Registered Person Pending Events and Expelled Firm Association Metrics.[98] SBZ agreed with TB's quantitative findings.[99]

a. Registered Person Pending Events Metric

The Registered Person Pending Events Metric considers pending "civil investigations, criminal investigations and then investigations or regulatory actions taken by a regulator, such as FINRA or like the SEC" going back five years from the Evaluation Date.[100] In his validation, TB reduced the number of events from 14 to 12 because two of the MRDT-captured disclosures fell outside the five-year lookback.[101]

TB testified that Rule 4111 contemplates that Department staff can exercise discretion to exclude certain events and conditions based on internal Department guidance.[102] Regulatory Notice 21-34 states that the RMA may exclude disclosure events that are not sales-practice related, duplicative (involving the same customer and the same matter), or "mostly involved compliance concerns best addressed by a different regulatory response by FINRA."[103] TB testified that this principle is consistent with his approach in validating the Registered Person Pending Events Metric.[104] His validation in this area was representative-based, not event-based, meaning that one matter filed against two representatives may count as two events.[105]

Spartan Capital takes issue with TB's application of this principle and argues that the Department improperly counts as separate events "disclosure entries that are mechanically generated byproducts of a single FINRA action."[106] The firm notes that five individuals are counted under the Registered Person Pending Events Metric for one matter/docket number in a

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[98] Tr. 775-76 (SBZ); JX-33. SBZ stated that TB reported to a different person when he began Spartan Capital's validation process, but that supervisor left FINRA in September 2025, and TB then began reporting to SBZ. Tr. 774-75 (SBZ). SBZ did not review the underlying disclosures initially, but once TB began reporting to him, he did. Tr. 775-76 (SBZ).

[99] Tr. 776 (SBZ).

[100] Tr. 322 (TB).

[101] Tr. 323, 336-37 (TB); CX-42. TB testified that he validated each disclosure event through the Central Registration Depository ("CRD") to ensure that they fell within the five-year lookback period and involved sales-practice-related misconduct. Tr. 328-35. CX-42 accurately depicts disclosure summaries for the 12 identified registered representatives who are the subject of pending events. It inaccurately identifies the exhibit numbers for three representatives' CRD disclosure summaries (SBO's disclosure summaries should be CX-13, WC's should be CX-14, and MD's should be CX-12). This inaccuracy does not prejudice Respondent because all the CRD disclosure summaries are part of the record in this matter, even though CX-42 inaccurately identifies them.

[102] Tr. 369-70 (TB).

[103] Tr. 371-72 (TB); FINRA Regulatory Notice 21-34, at 8.

[104] Tr. 337-43 (TB).

[105] Tr. 337-38, 542-43 (TB).

[106] Spartan Cap. Hr'g Req., at 15.

pending disciplinary action that FINRA filed.[107] Spartan Capital made similar arguments with respect to two other registered representatives each listed twice in relation to the same two matter/docket numbers.[108]

Although Rule 4111 grants the Department discretion in performing its validation of metrics, it does not direct the Department to exclude otherwise properly included data. Rule 4111(i)(4)(B) defines Registered Person Pending Events to mean "any one of the following events associated with the Registered Person," and then it lists events, including a pending regulatory investigation and a pending regulatory action (among others). This language connects the regulatory action or investigation to the person against whom it is filed, regardless of the number of registered individuals named in one action or investigation. Although Rule 4111 allows for the Department to exercise discretion related to potential duplication, this section of Rule 4111 allows the Department to count each representative individually if they are the target of one of the four types of pending actions identified.[109] The fact that Rule 4111 grants the Department discretion to exclude events does not mean that the Department must exclude events.

The firm also argues that the fairness of that determination should be questioned because, as pending matters, there is no telling when and how they will be resolved.[110] In developing Rule 4111, FINRA considered the lack of resolution associated with pending matters. "FINRA recognizes that pending matters include disclosure events that may remain unresolved or that may subsequently be dismissed or concluded with no adverse action."[111] To address this, Rule 4111 states that a member firm will meet the Preliminary Criteria for Identification only if two or more Preliminary Identification Metrics are equal to or exceed the associated thresholds and at least one of the Preliminary Identification Metrics involves adjudicated events.[112] As such, a firm cannot be designated as restricted based solely on pending events.[113]

Spartan Capital also argues several of the Registered Person Pending Events should be excluded because (1) they were initiated after the identified registered representative already left Spartan Capital; (2) seven of the 12 identified registered representatives are no longer associated with the firm ; and (3) five of the identified registered representatives have not been registered with Spartan Capital for nearly one year.[114] The firm argues that, because the Registered Person Pending Events Metric is designed to capture the regulatory risk associated with a firm's current registered population (i.e., individuals over whom the firm currently exercises supervision), the

[107] Tr. 545-49 (Spartan Capital argument); CX-42, at 1-2; Spartan Cap. Hr'g Req., at 15-16.

[108] Tr. 568-74 (Spartan Capital argument); CX-42, at 1-2; Spartan Cap. Hr'g Req., at 15-16.

[109] *See* FINRA Rule 4111(i)(4)(B).

[110] Spartan Cap. Hr'g Req., at 17-18; *see also* Tr. 548-49 (Spartan Capital argument).

[111] FINRA Regulatory Notice 21-34, at 5 n.27.

[112] FINRA Rule 4111(b), (i)(9)(A).

[113] Exchange Act Release No. 90527, 85 Fed. Reg. 78540, 78543 n.28.

[114] Spartan Cap. Hr'g Req., at 17-18.

Department erred in counting towards this metric registered representatives who are no longer associated with Spartan Capital.[115]

Rule 4111 clearly identifies which individuals should be included in the Registered Person Pending Events Metric. There is no evidence that the Department did not follow the specific guidance contained in Rule 4111(i)(4)(B). That said, as TB acknowledged, FINRA Regulatory Notice 21-34 directs the Department to determine if "the Preliminary Identification Metrics included disclosure events or other conditions that are not consistent with . . . and are not reflective of a firm posing a high degree of risk" and to identify and potentially exclude "events that were not sales-practice related, were duplicative (involving the same customer and the same matter), or mostly involved compliance concerns best addressed by a different regulatory response by FINRA."[116] He testified that he also followed "internal guidance that [the Department uses] to evaluate" these metrics.[117] While Rule 4111 provides the Department with discretion to exclude disclosures which, although technically captured by the metrics, do not suggest risk and are otherwise inconsistent with the purpose of the rule, Rule 4111 does not dictate when and how the Department exercises its discretion.

TB also testified that he considered which events were sales-practice related and which demonstrated potential risk.[118] During cross-examination, TB testified that the term "sales-practice related" is not defined in Rule 4111 (or elsewhere) and differs from the definition of "sales practice violations" contained in the Form U4 Explanation of Terms.[119] He testified that the definition that he used in this validation is "anything that can involve the sales practice, firm reps, selling to customers."[120] For example, two disclosures each for two individuals, JL and KM, involve allegations of the willful failure to amend Forms U4 to disclose arbitrations and allegations of failure to timely provide information and documents to FINRA in response to Rule 8210 requests for information.[121] TB explained that, although not sales practice violations per se, violations of FINRA Rule 8210 and violations of FINRA Rule 2010 for failing to update Forms

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[115] Spartan Cap. Hr'g Req., at 17-18.

[116] Tr. 372-73 (TB); FINRA Regulatory Notice 21-34, at 8.

[117] Tr. 370 (TB).

[118] Tr. 641-42, 104 (TB).

[119] Tr. 375, 584 (TB). The Form U4 Explanation of Terms defines "sales practice violations" as "any conduct directed at or involving a customer which would constitute a violation of: any rules for which a person could be disciplined by any self-regulatory organization; any provision of the Securities Exchange Act of 1934; or any state statute prohibiting fraudulent conduct in connection with the offer, sale or purchase of a security or in connection with the rendering of investment advice." Respondent's Exhibit ("RX-") 11, at 3.

[120] Tr. 584 (TB). Spartan Capital argues that the Department did not properly validate information produced by the MRDT system because TB did not use "any public definition—any published definition of a sales practice related event." Tr. 1224 (Spartan Capital argument).

[121] CX-5; CX-6; CX-10; CX-11; CX-42, at 1.

U4 are sales-practice-related because they may result in deception of investors on publicly-available BrokerCheck and are violations of commercial honor.[122]

b. Expelled Firm Association Metric

TB also validated the second metric that Spartan Capital triggered, the Expelled Firm Association Metric, which TB described as "[representatives] that were previously registered at an expelled firm during the [five-year] review period for at least one year and then they were . . . registered with Spartan for one day" during the one year prior to the Evaluation Date.[123] TB noted that 10 of the 11 registered representatives identified as having come from a previously expelled firm came from one firm that had been expelled for sales practice violations.[124] He testified that, because registered representatives previously associated with an expelled firm may take the culture of the expelled firm to the new firm, particularly where, as here, several move to the new firm, they create potential risk for the new firm.[125] It also creates questions around the due diligence of a firm who chooses to hire a large block of registered representatives previously associated with an expelled firm.[126]

TB testified about a summary exhibit (CX-42) that he helped create that summarized his validation results. Although CX-42 identifies "Employment Dates" for Spartan Capital registered representatives from previously expelled firms, TB testified that the dates are in fact registration dates, which is what the Department should consider under Rule 4111.[127] Drilling down to specific numbers on CX-42, however, it appears that listed employment dates for at least some registered representatives are not in fact registration dates. For example, dates listed for DS, one of the Spartan Capital registered representatives identified as having been previously associated with an expelled firm, are in fact employment dates and not registration dates.[128] Given that the procedure under Rule 4111 for counting registered representatives from previously expelled firms is to look back for five years to determine if a registered representative was registered with the expelled firm for at least one year, it is imperative that the Department rely on correct dates. Here, the correct dates on the CRD registration summary show that DS was in fact registered at

[122] Tr. 641-43 (TB).

[123] Tr. 323-24, 343-45 (TB); CX-42, at 3.

[124] Tr. 345-46 (TB); CX-42, at 3.

[125] Tr. 645 (TB).

[126] Tr. 645 (TB).

[127] Tr. 152-53 (PD) (registration, not employment, dates matter), 408-09 (TB) (CX-42 inaccurately reads "Employment Dates" but actually reports registration dates); CX-42, at 3.

[128] Tr. 409-17 (TB); CX-42, at 3 (showing DS's **employment dates** at an expelled firm as March 16, 2022, through May 11, 2023); CX-25 (DS's CRD Registration Summary showing **registration dates** for DS at an expelled firm as May 10, 2022, through May 11, 2023). Thus, CX-42 truly does list employment dates.

an expelled firm for one year and one day, notwithstanding the fact that the Department presented (and possibly relied on) inaccurate dates.[129]

Similarly, CX-42 includes other dates that may be actual employment dates, not registration dates, as TB represented. With respect to registered representatives FOB, JP, RR, and ES, TB testified about each representative's dates of association and registration with two previously expelled firms, as confirmed in each individual's CRD registration summary.[130] Most of the dates he recited during his testimony, while all exceeding one year of registration at the expelled firm, were inconsistent with the dates listed on CX-42. For example, he testified that CX-22, the CRD registration summary, shows JP was registered with one expelled firm from December 10, 2019, through September 14, 2022,[131] but CX-42 shows that he was associated with that firm from October 6, 2021, through May 11, 2023.[132] Similar inconsistencies exist for JP's association with another expelled firm and for FOB's, RR's, and ES's associations at expelled firms.[133] Although all of these individuals were associated with an expelled firm for at least one year,[134] it is troubling that the supporting documentation from the Department contains inconsistent information and raises the question of whether information provided by the MRDT system was in fact properly validated in this case.

Spartan Capital argues that this category is the sole adjudicated-misconduct category in its Restricted Firm calculation and that the Department overcounted events.[135] The firm argues the Department's calculations addressed only arithmetic and associated status rather than adjudicated misconduct and the number of individuals with actual investor-harm based misconduct.[136]

For example, Spartan Capital argues that four individuals counted in this category (DS, RC, ES, and SBR) have clean disciplinary histories notwithstanding their prior association with an expelled firm, two individuals (FOB and DA) each have a single disclosure unrelated to investor harm, and one (PM) has a single unresolved disclosure from a prior firm.[137] SBR, one of the individuals with no disciplinary history, was retained by Spartan Capital (among several other firms) as a Financial and Operations Principal ("FINOP").[138] Spartan Capital criticizes the

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[129] CX-25, at 3.

[130] Tr. 680-85 (TB); CX-21; CX-22; CX-23; CX-24.

[131] Tr. 680-81 (TB).

[132] CX-42, at 3.

[133] Tr. 680-85 (TB); CX-21; CX-23; CX-24; CX-42, at 3.

[134] Tr. 688 (TB).

[135] Spartan Cap. Hr'g Req., at 11.

[136] Spartan Cap. Hr'g Req., at 11-12.

[137] Spartan Cap. Hr'g Req., at 12-14.

[138] Tr. 484-85 (TB).

Department's inclusion of SBR in the list of individuals previously associated with expelled firms because, in addition to having no negative disclosures on his CRD, as a FINOP, he does not engage with customers, and the previously expelled firm with which he was associated was not expelled until after he joined Spartan Capital (so arguably the firm was unaware when it hired him).[139]

Spartan Capital also argues that DA should not be counted because he has no history of sales practice violations and his only disclosure is a five-year-old bankruptcy unrelated to securities customers.[140] Given his clean disciplinary history, Spartan Capital suggests that the Department should have exercised its discretion to exclude him from the count of registered representatives associated with previously expelled firms.[141] Spartan Capital made similar arguments with respect to 8 of the 11 Spartan Capital registered representatives who were previously associated with expelled firms and who may have lengthy careers in the securities industry with few or no sales practice violations.[142] TB testified that the Department chose to count these individuals in this metric because "all of the [representatives] that came from an expelled firm present sales risk. It presents a risk that the culture that they came from is now coming to what is in this case Spartan [Capital]."[143]Although Rule 4111 does bestow discretion on the Department in this area, and individuals with no history of sales practice violations may create less risk, the Department did not necessarily err in choosing not to exercise its discretion in this case.

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On remand, the Department is directed to re-examine its quantitative analysis to ensure that Department staff (1) properly interpret the term "sales-practice related"; (2) rely on accurate dates and numbers when calculating the Registered Person Pending Events and Expelled Firm Association Metrics; (3) properly consider whether to include in the Registered Person Pending Events Metric individuals who left Spartan Capital before the Evaluation Date; and (4) properly exercise discretion to exclude technically captured events where inclusion would not align with Rule 4111's investor-protection purpose. The Department should explain its conclusions to Spartan Capital before providing the firm with the opportunity to attend another Consultation if the Department determines on remand that Spartan Capital meets the Preliminary Criteria for Identification.

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[139] Tr. 485-93 (TB); CX-16; CX-42, at 3; Spartan Cap. Hr'g Req., at 12-13. The firm also takes issue with TB's level of understanding of Spartan Capital's operations. Although TB testified that much of his validation work drew on his understanding of Spartan Capital as its RMA, Tr. 311-13, 484 (TB), TB did not know that SBR was the firm's FINOP. Tr. 484-85 (TB).

[140] Spartan Cap. Hr'g Req., at 13; *see also* Tr. 440-46 (TB).

[141] Spartan Cap. Hr'g Req., at 13-14.

[142] Spartan Cap. Hr'g Req., at 11-15.

[143] Tr. 471 (TB).

2. Qualitative Analysis

After validating the quantitative metrics provided by the MRDT system, TB moved to the qualitative stage, which he described as "for [him] as the RMA to give an analysis on the compliance culture of the firm and procedures."[144] He answered three questions in the MRDT system based on his expertise and knowledge of Spartan Capital.[145] SBZ agreed with TB's qualitative findings.[146] Spartan Capital's hearing request does not address this portion of the Department's work because the three-question analysis is not disclosed in Rule 4111.

For Question One (looking at the past 12 months, has the quality of the firm's roster improved?), TB answered "[t]he number of associated persons, owners, and control persons at the firm with disciplinary history has increased."[147] TB answered this question as he did by comparing the firm's roster from the one-year period preceding the Evaluation Date (June 1, 2024, through June 1, 2025) to the one year before that (June 1, 2023, through June 1, 2024).[148] Between the two years, the firm's roster went, according to his calculations, from 27 high-risk brokers to 28 high-risk brokers.[149] Additionally, he testified, "approximately half the [representative] roster had alleged regulatory activity, alleged fraud."[150]

TB testified that he considered "alleged" regulatory activity, not just final or resolved events when concluding that the number of individuals with disciplinary history at Spartan Capital had increased.[151] TB was aware that Spartan Capital had hired a new Chief Financial Officer ("CFO")[152] and a new CCO and knew of no negative regulatory repercussions from these changes.[153] TB testified that, when he completed Spartan Capital's Rule 4111 three-question qualitative assessment he did not consider the CCO's revamping of the firm's procedures and training because he "didn't think [the firm] was done yet."[154] TB also testified that he had become familiar with Spartan Capital's new CCO, who has a history in compliance and a clean disciplinary record; he agreed that the new CCO is an improvement for the firm.[155] He was aware at the time of his validation that the CCO had developed new procedures which, he

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[144] Tr. 347 (TB).

[145] Tr. 347 (TB); JX-35.

[146] Tr. 776-77 (SBZ); JX-35.

[147] Tr. 348 (TB); JX-35.

[148] Tr. 348 (TB).

[149] Tr. 348 (TB).

[150] Tr. 348 (TB).

[151] Tr. 348, 704-05 (TB).

[152] Spartan Capital's current CFO and FINOP, MDC, testified that he joined the firm in February 2025. Tr. 1106-07 (MDC).

[153] Tr. 712-13 (TB).

[154] Tr. 722 (TB).

[155] Tr. 716-17 (TB).

agreed, would improve Spartan Capital's supervisory procedures for actively traded accounts.[156] But TB had not visited the firm, reviewed the new procedures, or talked with anyone at Spartan Capital about the firm's progress in this area or to confirm his understanding of the state of the firm.[157] TB's concern, he testified, was more related generally to turnover at the firm and that most of these improvements occurred on or after the June 1, 2025, Evaluation Date.[158]

For Question Two (adequacy of the firm's supervisory procedures and controls over the last 18 months), TB answered "[f]irm management has failed to adequately improve their supervisory procedures and controls even when deficiencies are identified by FINRA."[159] TB chose this answer because, in the 18-month lookback period, "89 cause investigations were opened against Spartan and secondly, arbitrations, the flow of arbitrations never slowed down through that 18-month period and lastly . . . there [were] three CCOs and three CFOs, which [he] didn't think" demonstrated adequate improvement.[160] TB testified he did not review the details of each of the 89 cause examinations.[161] Nor did he review the details of any arbitrations.[162]

In answer to Question Three (results of most recent FINRA and SEC examinations over the last four years), TB chose "[t]he firm's recent examinations have resulted in referrals to Enforcement including pending (Wells Notice) or finalized formal regulatory actions."[163] TB testified that he chose that answer "because in the last four years, the firm's FINRA exams have resulted [in an Enforcement referral]. One has resulted in a finalized formal action and the rest are still pending, so [he] chose that answer."[164]

TB presented these findings to the governance committee on September 4, 2025.[165] The governance committee determined to designate Spartan Capital as a Restricted Firm.[166]

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[156] Tr. 717-19 (TB). The new CCO was also conducting quantitative suitability and Regulation Best Interest training at the time of TB's validation, which TB agreed would also improve the firm's processes. Tr. 719 (TB).

[157] Tr. 722 (TB).

[158] Tr. 713, 721-22 (TB). SBZ similarly testified that, given the limited amount of time that the new CCO was at the firm, the Department did not give the changes much weight. Tr. 814-15 (SBZ). PD testified that the governance committee rejected Spartan Capital's argument that the firm had transformed its compliance culture because such transformation, if it indeed occurred, was relatively recent and not fully documented. Tr. 122 (PD).

[159] Tr. 348-49 (TB); JX-35.

[160] Tr. 349 (TB); JX-35.

[161] Tr. 709-10 (TB).

[162] Tr. 711 (TB).

[163] Tr. 350 (TB); JX-35.

[164] Tr. 350 (TB); JX-35. TB testified that Spartan Capital had had three FINRA exams over the prior four years. Tr. 350 (TB).

[165] Tr. 352 (TB).

[166] Tr. 352 (TB).

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On remand, the Department is directed to revisit the three qualitative questions to ensure it fully understands (1) the quality of the firm's roster; (2) the adequacy of its supervisory procedures and controls; and (3) the results of the most recent regulatory examinations. For example, before answering the qualitative questions, Department staff may consider reviewing firm procedures and speaking with firm management to ensure it has an accurate understanding of the firm's supervisory procedures and controls. It also may choose to review the details of the cause examinations and pending arbitrations.

In this regard, Department staff should confirm that, for Question One (looking at the past 12 months, has the quality of the firm's roster improved?) the appropriate comparison is to the 12 months prior to the 12-month lookback rather than within the 12-month lookback or during sometime around or after the Evaluation Date.[167] Additionally, Department staff should confirm that it is appropriate to treat alleged regulatory activity (not just final or resolved events) as "disciplinary history" for purposes of the qualitative review.[168] The three-question analysis is not specified in Rule 4111, so FINRA's Rule 4111 guidance does not address these issues. Finally, the Department should explain its conclusions to Spartan Capital before providing the firm with the opportunity to attend another Consultation if the Department determines on remand that Spartan Capital meets the Preliminary Criteria for Identification.

C. Determination of the Maximum Restricted Deposit Requirement

TB did not conduct the financial trend analysis for Spartan Capital.[169] TB's supervisor, SBZ, a Risk Monitoring Director in the Department, testified about the financial trend analysis as it relates to the maximum Restricted Deposit Requirement.[170]

To determine the maximum Restricted Deposit Requirement, FINRA Rule 4111(i)(15)(A) directs the Department to consider "the nature of the firm's operations and activities, revenues, commissions, assets, liabilities, expenses, net capital, the number of offices and registered persons, the nature of the disclosure events counted in the numeric thresholds, insurance coverage for customer arbitration awards or settlements, concerns raised during

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[167] The rule grants the Department discretion to "consider whether the member firm has addressed the concerns signaled by the disclosure events or conditions or altered its business operations . . . such that the threshold calculation no longer reflects the member firm's *current risk profile*. Essentially . . . determine whether [the Department] is aware of information that would show that the member firm—despite having met the Preliminary Criteria for Identification—does not pose a high degree of risk." Exchange Act Release No. 90527, 85 Fed. Reg. 78540, 78545 (emphasis added).

[168] For example, although not necessarily applicable in this instance, FINRA's Sanction Guidelines define relevant disciplinary history as "any final formal disciplinary action by FINRA or other regulator." FINRA Sanction Guidelines (2024), at 2, https://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

[169] Tr. 762 (TB).

[170] Tr. 770, 772, 774-75 (SBZ).

FINRA exams, and the amount of any of the firm's or its associated persons' Covered Pending Arbitration Claims, unpaid arbitration awards or unpaid settlements related to arbitrations." Based on a review of these factors, the Department should determine a maximum Restricted Deposit Requirement that is consistent with the objectives of the Rule and that would not significantly undermine the continued financial stability and operational capability of the firm as an ongoing enterprise over the following 12 months.[171]

PD testified that the Department has developed a three-step process through the MRDT system to determine the maximum Restricted Deposit Requirement.[172] The MRDT system drew information from Spartan Capital's quarterly Supplemental Statement of Income ("SSOI") filings.[173]

1. Step One

The first step was to develop a range into which the deposit requirement might fall based on the firm's average total compensation and average total revenues over the preceding eight quarters.[174] Based on Spartan Capital's quarterly total compensation expense line item in its SSOI filings for the preceding eight quarters, the tool calculated the firm's average total compensation for the preceding eight quarters ($6,869,388).[175] Based on Spartan Capital's total revenue numbers from all sources as reported in the firm's SSOI filings for the preceding eight quarters, the tool calculated the firm's average revenue for the preceding eight quarters ($9,254,995).[176] SBZ testified that "these are the starting points that set up a range for . . . the ultimate deposit figure" calculated by the MRDT system.[177] To establish a floor for the maximum Restricted Deposit Requirement range, the MRDT system calculates five percent of the average total compensation figure.[178] To establish a ceiling for the maximum Restricted Deposit range, the MRDT system calculates ten percent of the average total revenue figure.[179] In this case, the range was a floor of $343,469 and a ceiling of $925,500.[180]

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[171] FINRA Rule 4111(i)(15)(A).

[172] Tr. 83-84 (PD); JX-37.

[173] Tr. 783 (SBZ); JX-37.

[174] Tr. 84-85 (PD); JX-37.

[175] Tr. 781 (SBZ); JX-37.

[176] Tr. 783 (SBZ); JX-37.

[177] Tr. 783 (SBZ); JX-37.

[178] Tr. 784 (SBZ); JX-37.

[179] Tr. 784 (SBZ); JX-37.

[180] JX-37.

2. Step Two

The second step in the three-step process was to determine where the firm fits within that range based on TB's answers to the MRDT system's three qualitative review questions and the answers' assigned point value in the system, the total of which determines where the firm falls within the range.[181] Because Spartan Capital received the highest score for each of the three questions in the qualitative review, its total score was nine.[182] The significance of the qualitative score is that it determines where, between the floor and the ceiling, the firm's Restricted Deposit Requirement should land.[183] Spartan Capital's score of nine "meant that the starting point for the maximum restricted deposit was the ceiling" of $925,500.[184]

3. Step Three

The third step in this process is to consider any pending or unpaid arbitration claims filed against the firm because total unpaid and pending arbitration claims determine the multiplier for the starting point for the Restricted Deposit Requirement.[185] SBZ testified that the firm's pending and unpaid arbitration claims total just over $11 million, which was "higher than 50% of the total average revenue and higher than the excess net capital of the firm, that meant that . . . there was to be a two times multiplier applied to the ceiling in this calculation."[186] Two times the ceiling of $925,500 resulted in a maximum Restricted Deposit Requirement of $1,851,000.[187] SBZ testified that "the mechanics of the calculation are not public and they are not included in" Rule 4111.[188]

The MRDT system produced a screen titled "Pending and Unpaid Arbitration Data" for use in this part of the calculation.[189] The total indicated by the MRDT screen of pending and

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[181] Tr. 93-98 (PD). TB's qualitative review answers are discussed in section V.B.2 *supra*.

[182] Tr. 785 (SBZ); JX-35; JX-37.

[183] Tr. 785-86 (SBZ).

[184] Tr. 786 (SBZ).

[185] Tr. 84, 102-113 (PD), 786 (SBZ); CX-41; JX-37.

[186] Tr. 787 (SBZ); JX-37.

[187] JX-37; CX-41.

[188] Tr. 788 (SBZ).

[189] Tr. 792, 912 (SBZ); JX-36. Although the screen is titled "Pending and Unpaid Arbitration Data," the pending arbitration claims listed must comply with FINRA Rule 4111(i)(2)'s definition of a "Covered Pending Arbitration Claim," which is "an investment-related, consumer initiated claim filed against the member or its associated persons in any arbitration forum that is unresolved; and whose claim amount (individually or, if there is more than one claim, in the aggregate) exceeds the member's excess net capital. For purposes of this definition, the claim amount includes claimed compensatory loss amounts only, not requests for pain and suffering, punitive damages or attorney's fees, and shall be the maximum amount for which the member or associated person, as applicable, is potentially liable regardless of whether the claim was brought against additional persons or the associated person reasonably expects to be indemnified, share liability or otherwise lawfully avoid being held responsible for all or

unpaid arbitrations is $11,897,519.[190] That total factored into determining the "two times" multiplier because the total unpaid and pending arbitration figure was greater than 50% of the firm's average revenue for the previous eight quarters.[191]

SBZ testified that he validated the arbitration claims that the MRDT system identified to ensure that each met the definition of Covered Pending Arbitration Claim in Rule 4111(i)(2).[192] One of the pending arbitration claims listed by the MRDT system involves customer G&A's claim for $5 million.[193] Upon reviewing the actual Statement of Claim,[194] it appears that the $5 million number includes damages other than compensatory damages and that compensatory damages appear to be closer to $2 million, which means the amount the MRDT system listed does not comply with Rule 4111's definition of Covered Pending Arbitration Claim.[195] SBZ explained that the validation process did not include validating that the MRDT system provided the correct claim amount (which it does not appear to have done here).[196] TB testified that he did not verify the claim amount or whether it remained unpaid on the list of pending and unpaid arbitration claims against Spartan Capital that the MRDT system produced.[197] He testified "[i]t is my understanding that we were told as analysts to trust that tool in the background."[198]

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part of such maximum amount." *See also* Tr. 273-74 (PD) (testifying "[i]f the amount is not a covered pending arbitration claim as defined by the rule, it should not be included").

[190] JX-36, at 4.

[191] Tr. 797 (SBZ). Spartan Capital argues that the language of Rule 4111(i)(2) is unclear and that the definition of a Covered Pending Arbitration Claim could be read to require each claim (or multiple claims from one claimant) to request compensatory damages in excess of the firm's excess net capital to be considered a Covered Pending Arbitration Claim. Tr. 730-37 (Spartan Capital argument). Enforcement argues that the definition calls for all claims to be aggregated. Tr. 733-37 (Enforcement argument). The placement of the parenthetical in the definition and the use of the singular "claim" could raise the question as to what is aggregated—all claims or only claims from the same claimant. However, the language of Rule 4111 in its entirety supports Enforcement's interpretation.

[192] Tr. 912-23 (SBZ).

[193] JX-36, at 2.

[194] JX-19.

[195] Tr. 914-22 (SBZ); JX-19, at 3-4, 29-30.

[196] Tr. 922-24 (SBZ). SBZ testified that "when [he] validated [TB's] work, it was really to look to ensure that these [arbitrations] were naming Spartan and that the -- and they were investment related and consumer -- consumer initiated against the firm." Tr. 926 (SBZ). The Department relied on the MRDT system, he explained, for the amount of damages claimed. Tr. 926 (SBZ).

[197] Tr. 726-27 (TB).

[198] Tr. 727 (TB). TB testified that Department staff presented to the governance committee the arbitration data, as produced by the MRDT system, without verifying it first. Tr. 728-29 (TB). He also testified that this is the same tool that initially erred in calculating Spartan Capital's Restricted Deposit Requirement. Tr. 726 (TB); *see also* section V.D.2 *infra*.

The MRDT system also reported one unpaid arbitration—a 2015 award against Spartan Capital for $42,142.[199] The MRDT system's report was incorrect in this regard. Spartan Capital produced evidence demonstrating that the firm in fact paid the award back in 2017 and that the MRDT system made a mistake in its reporting of the award as unpaid.[200] SBZ testified that, even if the firm had paid the award, it would not change the calculation because deducting $42,142 from the unpaid and pending arbitration total of $11,897,519 would still leave a number that is greater than 50% of the firm's average revenue for the previous eight quarters.[201] SBZ testified that the Department attempted to confirm with FINRA's Dispute Resolution Department that the award was unpaid, but could not because the award was ten years old.[202]

The Department's efforts to confirm or validate did not, however, include asking Spartan Capital because, SBZ testified, Department staff "are not supposed to be running down information that the firm could have and should have provided during the Consultation."[203] Spartan Capital takes issue with this testimony because, it argues, it asked for details about the non-public calculations, but never saw the MRDT system screenshots entered into the record of this matter (despite asking for it) at the time of the Consultation.[204] SBZ explained, "So I'm unfortunately unable to share something that's non-public when my superiors and -- you know, FINRA, we just weren't allowed to share it."[205]

4. Additional Factors

SBZ explained that the Department ensures that a Restricted Deposit Requirement comports with the definition in FINRA Rule 4111 also by looking at various "financial data points in conjunction with the deposit amount."[206] He stated that the Department focuses mainly on total revenues and total compensation expense to determine the financial health of a firm.[207] He explained that the Department rejects excess net capital as a reliable indicator because "net capital and excess net capital are really regulatory measurements."[208] They do not, he explained,

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199 JX-36, at 4.

200 Tr. 931-33 (SBZ); RX-1, at 2-8.

201 Tr. 798 (SBZ).

202 Tr. 927 (SBZ).

203 Tr. 928 (SBZ).

204 Tr. 928-29 (Spartan Capital argument), 930 (SBZ).

205 Tr. 931 (SBZ).

206 Tr. 825-26 (SBZ). SBZ testified, "We obviously take the firm's assertions during the Consultation hearing and, you know, put them all together and try to determine whether the deposit amount would actually threaten the firm's financial stability. Make it, you know, not able to continue doing business and, you know, we'd like to avoid that, so that's the kind of analysis that we would do in these instances and what we did do in this instance." Tr. 825-26 (SBZ).

207 Tr. 839 (SBZ).

208 Tr. 839 (SBZ).

"represent an indication or any kind of result of the firm's ability to generate revenues and doesn't really reflect the firm's business choices in terms of how it makes its money and how it spends its money."[209]

Based on Spartan Capital's quarterly SSOI filings,[210] the Department calculated the firm's compensation to revenue ratios for the eight quarters preceding the June 1, 2025, Evaluation Date.[211] For those eight quarters, the calculations demonstrated compensation to revenue ratios between 41% and 88%, plus one quarter with a ratio of 102%.[212] The Department also determined the firm's total expense ratio, which shows the amount of compensation the firm pays in relation to its total expenses.[213] This calculation demonstrated compensation to total expense ratios of 41% to 67%, with one quarter at 91%.[214] SBZ testified this demonstrated that the firm's largest expense category during the eight quarters preceding the Evaluation Date was compensation.[215]

The Department calculated additional ratios, including the size of the Restricted Deposit Requirement in relation to the firm's total compensation expense and the size of the Restricted Deposit Requirement in relation to the firm's total revenues.[216] For the eight quarters preceding the Evaluation Date, Spartan Capital's Restricted Deposit to total compensation expense ratio ranged from 28% to 52%, with one quarter as low as 10%.[217] Its Restricted Deposit to total revenue ratio ranged from 15% to 45%, with one quarter as low as 10%.[218] SBZ concluded, based on these ratios, that "the [Restricted Deposit] amount was not in an amount large enough to threaten the financial stability of Spartan Capital."[219]

SBZ testified that the Department also factored into its consideration the firm's possible discretionary spending.[220] For example, he noted that, in the quarter ending December 31, 2024,

[209] Tr. 839 (SBZ).

[210] Tr. 843-44 (SBZ); CX-40.

[211] Tr. 844-45 (SBZ); CX-40.

[212] CX-40.

[213] Tr. 846 (SBZ); CX-40.

[214] CX-40.

[215] Tr. 845-46 (SBZ); CX-40.

[216] Tr. 848-49, 857, 866 (SBZ); CX-40.

[217] CX-40.

[218] CX-40.

[219] Tr. 866 (SBZ).

[220] Tr. 868 (SBZ). He testified that the Department looks at "what are the [expenses] that are discretionary that the firm is spending its money on that perhaps if it didn't spend its money on at that same level would make absorbing the . . . deposit amount a little bit easier." Tr. 868 (SBZ). SBZ testified that many of Spartan Capital's expenses were "inherently discretionary." Tr. 938 (SBZ). They were the types of expenses, he testified, "that if they were lowered or, you know, maybe even eliminated in some places that the net income would actually increase or, you know,

the firm's SSOI reported travel and entertainment expenses of $523,000.[221] Furthermore, in that same quarter, the firm listed as unspecified "Other Expenses," "General/Administrative" expenses of $512,636 and "Administrative" expenses of $338,310.[222] Without more specifics, the Department could not determine if those expenses were discretionary.[223] Once again, Department staff did not ask Spartan Capital about the details of these expense line items.[224] SBZ explained that his post-Consultation presentation to the governance committee concluded that considering the "level of expenses that [the firm has] reported and the nature of those expenses and lack of detail in some cases . . . [the Department] concluded that the $1.85 million in relation to over $30 million in revenue . . . for a year would not threaten or be inconsistent with the purpose of the rule" and "would not threaten the firm's financial stability."[225] The governance committee agreed.[226]

5. Spartan Capital's Arguments

Spartan Capital argues that the relevant measure for determining the Restricted Deposit Requirement is not gross revenue or annual net income—it is the firm's actual liquidity and available capital to absorb an immediate, non-operational loss of $1,851,000.[227] It argues that, because Rule 4111 contemplates a deposit of liquid assets into a segregated, inaccessible account from which the firm cannot withdraw funds without FINRA's prior written consent, the financial impact is not an operating expense to be offset by revenue. Rather it is an immediate, material, and structural reduction of the firm's available capital base.[228] The firm argues that the Department's actions contradict Rule 4111's clear directive to consider, among many factors, the firm's excess net capital in setting the maximum Restricted Deposit Requirement and that the Department erred in failing to do so.[229] During the period at issue, the firm's excess net capital

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potentially could change the financial picture of the firm's financial -- like of their earnings or net income lessening a loss, things like that." Tr. 938 (SBZ).

[221] Tr. 867-68 (SBZ); JX-6, at 5.

[222] Tr. 869-70 (SBZ); JX-6, at 5.

[223] Tr. 870 (SBZ).

[224] Tr. 880-82 (SBZ).

[225] Tr. 871 (SBZ).

[226] Tr. 872 (SBZ).

[227] Spartan Cap. Hr'g Req., at 3.

[228] *Id.*

[229] Spartan Cap. Hr'g Req., at 3-5; *see also* Tr. 894-97 (SBZ) (testifying that the Department's determination of the Restricted Deposit Requirement placed less weight on net capital and more weight on the firm's expenses and revenues). Spartan Capital further argues that even the firm's excess net capital does not provide a true picture of the firm's financial base because significant external capital contributions, such as the $2 million contribution it received in May 2025, have inflated it. Spartan Cap. Hr'g Req., at 4. The firm's underlying operational capital, it argues, is therefore substantially lower and there is no guarantee, requirement, or obligation that additional capital infusions will be available in the future. *Id.*

never exceeded the amount of the maximum Restricted Deposit Requirement and in fact was generally less than half.[230] Spartan Capital argues that a close review of the firm's financial reporting demonstrates that it will not continue as a going concern if required to deposit $1,851,000 in a Restricted Deposit Account.[231]

Spartan Capital also argues that the Department erred in failing to consider the nature and sources of the firm's revenues.[232] Indeed, SBZ testified that the Department did not factor into its consideration all of the sources of the firm's revenues to determine, for example, if a large portion of its revenues came from the sales of securities or mark-to-market valuation of non-marketable securities.[233] But, he stated, if any one type of revenue was a "material amount," then the Department would have considered it.[234] Still, Spartan Capital argues, the Department never asked the firm for more information and erred in failing to consider whether, for any given quarter, any portion of the firm's revenues from underwriting included non-marketable securities that the firm could not readily liquidate.[235]

The firm also argues that the Department improperly relied on revenue and compensation inputs drawn from an eight-quarter lookback period that, as applied here, uses data that does not reflect Spartan Capital's current financial profile as it extends back to the third quarter of 2023—nearly two years before the Department's final decision—a period that "predates the [f]irm's comprehensive compliance and supervisory restructuring that began in early 2025, the departure of virtually all legacy personnel associated with the [f]irm's historical disclosure profile, and the material reduction in the [f]irm's registered person headcount."[236] The firm highlighted its SSOI for the third quarter of 2025 (the quarter immediately following the Evaluation Date, when the Department made its determination), which reported total revenue of $5,948,788, total expenses of $7,307,208, and a net loss of $1,358,420.[237]

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230 Tr. 896-97 (SBZ); CX-39.

231 Spartan Cap. Hr'g Req., at 3-5. The firm argues that "the Department's one-sentence dismissal in the Notice of financial hardship, based solely on gross revenue and annual net income figures that do not reflect the Firm's actual liquidity position, is insufficient to discharge the Department's obligation to engage in a meaningful financial analysis." Spartan Cap. Hr'g Req., at 5.

232 Tr. 1229-30 (Spartan Capital argument).

233 Tr. 891 (SBZ).

234 Tr. 892-93 (SBZ). He also testified, "[w]e considered the nature. The majority of the firm's revenue was commission and underwriting." Tr. 890-91 (SBZ).

235 Tr. 893, 1229-30 (Spartan Capital argument).

236 Spartan Cap. Hr'g Req., at 6.

237 Tr. 1067-68 (MDC); JX-9, at 3, 5. Both Enforcement and Spartan Capital offered into evidence financial information that post-dated the June 1, 2025, Evaluation Date. Rule 4111 directs the Department to determine a maximum Restricted Deposit Requirement that "would not significantly undermine the continued financial stability and operational capability of the firm as an ongoing enterprise over the *next 12 months*," which means the 12

In light of the Department's eight-quarter lookback, MDC, Spartan Capital's current CFO and FINOP, testified about the firm's SSOIs during that time. Spartan Capital's SSOI for the second quarter of 2025 (the quarter immediately preceding the Evaluation Date), reported total revenue of $12,619,571, total expenses of $9,107,414, and net income of $3,512,157.[238] MDC testified that it was unusual for Spartan Capital to generate income, and this income figure was generated from a large underwriting deal that generated a combination of cash and non-cash compensation of $8,250,587.[239] MDC testified that the firm often receives non-marketable securities from investment banking deals that must be valued on a monthly mark-to-market basis (and treated as unrealized revenue) and sold securities create either a gain or loss.[240] MDC testified that the number listed as revenue from investment banking may not be all cash; some may be non-marketable securities, but the SSOI does not account for that breakdown, and the Department failed to consider that difference.[241] Spartan Capital's SSOI for the first quarter of 2025 reported total revenue of $7,724,925, total expenses of $9,099,632, and a net loss of $1,374,707.[242] MDC testified that, during that quarter, the firm generated half of its revenue ($4,823,884) from investment banking, and its expenses reflect a large customer settlement of $1,269,000.[243]

Spartan Capital's SSOI for the last quarter of 2024 reported total revenue of $10,177,204, total expenses of $10,580,139, and a net loss of $402,935.[244] MDC testified that, during that quarter, the firm generated just under half of its revenue from investment banking.[245] He noted that, as a result, Spartan Capital had non-marketable securities on its balance sheet.[246] Spartan Capital's SSOI for the third quarter of 2024 reported total revenue of $5,099,383, total expenses of $7,356,543, and a net loss of $2,257,160.[247] Spartan Capital's SSOI for the second quarter of 2024 reported total revenue of $4,079,713 (approximately half of which resulted from

months following the Evaluation Date. The Department, however, did not consider financial information dated after the Evaluation Date. Tr. 288 (PD), 857-58 (SBZ), 959-60 (SBZ).

[238] Tr. 1069-70 (MDC); JX-8, at 3, 5.

[239] Tr. 1069-70 (MDC); JX-8, at 3. Non-cash compensation for underwriting deals may include non-marketable securities, which MDC testified are "securities that are either not traded on a national exchange, so it's not traded on Nasdaq or the New York Stock Exchange, [or] securities that have restrictions on these securities so they can't be traded for a period of time. It could be also warrants that also have restrictions, cannot be traded for or converted or exercised for a particular period of time or they could be just securities that are just not marketable. There's not a readily available market for these securities." Tr. 992 (MDC).

[240] Tr. 989-90, 993 (MDC).

[241] Tr. 998-99, 1002 (MDC).

[242] Tr. 1071-73 (MDC); JX-7, at 2, 3, 5.

[243] Tr. 1071-73 (MDC); JX-7, at 2, 5.

[244] Tr. 1074 (MDC); JX-7, at 3, 5.

[245] Tr. 1074-75 (MDC).

[246] Tr. 989-90, 993 (MDC).

[247] Tr. 1075-76 (MDC); JX-5, at 3, 5.

investment banking), total expenses of $6,700,686, and a net loss of $2,620,973.[248] Spartan Capital's SSOI for the first quarter of 2024 reported total revenue of $17,663,842 ($10,998,453 of which resulted from investment banking), total expenses of $19,792,983, and a net loss of $2,129,141.[249]

Spartan Capital's SSOI for the fourth quarter of 2023 reported total revenue of $9,416,234 ($2,619,992 of which resulted from investment banking), total expenses of $9,351,568, and net income of $64,666.[250] Spartan Capital's SSOI for the third quarter of 2023 reported total revenue of $7,259,085 ($2,037,731 of which resulted from investment banking), total expenses of $7,162,339, and net income of $96,746.[251] MDC testified that the firm's revenue for each quarter was part cash and part non-cash compensation including non-marketable securities and that the Department never asked about the components of the firm's revenue.[252] He noted that those types of securities cannot be used to fund a Restricted Deposit Account.[253]

On cross-examination of Department staff, Spartan Capital took issue with the Department's failure to focus on whether the firm incurred a net gain or net loss for each of the quarters addressed in CX-40,[254] which is a summary exhibit showing the Restricted Deposit Requirement calculation in relation to various data points that the firm presented in its SSOI filings.[255] SBZ testified that the Department advised the governance committee that Spartan Capital had consistently lost money overall during the eight quarters preceding and one quarter after the Evaluation Date.[256] The governance committee was also told that Spartan Capital claimed that the amount of the Restricted Deposit Requirement would impair the firm's ability to resolve pending arbitrations.[257] PD testified that the governance committee was not swayed because "of the amount of the . . . total of the [arbitration] claims that were alleged was rather

[248] Tr. 1076-77 (MDC); JX-4, at 3, 5.

[249] Tr. 1077-78 (MDC); JX-3, at 2, 3, 5.

[250] Tr. 1080-82 (MDC); JX-2, at 2, 3, 5.

[251] Tr. 1082 (MDC); JX-1, at 2, 3, 5.

[252] Tr. 1066, 1069-70, 1072, 1074, 1077, 1079 (MDC).

[253] Tr. 1088-89 (MDC).

[254] Tr. 883 (SBZ). Spartan Capital's September 1, 2023, SSOI showed a net gain of approximately $100,000; December 31, 2023, SSOI showed a net gain of approximately $60,000; March 31, 2024, SSOI showed a net loss of approximately $2 million; June 30, 2024, SSOI showed a net loss of approximately $2.5 million; September 30, 2024, SSOI showed a net loss of approximately $2.2 million; December 31, 2024, SSOI showed a net loss of more than $400,000; March 31, 2025, SSOI showed a net loss of more than $1.3 million; June 30, 2025, SSOI showed a net gain of $3.5 million; and September 30, 2025, SSOI showed a net loss of more than $1.3 million. Tr. 884-87 (SBZ); JX-1, at 5; JX-2, at 5; JX-3, at 5; JX-4, at 5; JX-5, at 5; JX-6, at 5; JX-7, at 5; JX-8, at 5; JX-9, at 5.

[255] Tr. 842 (SBZ).

[256] Tr. 888 (SBZ).

[257] Tr. 120 (PD).

high and the firm had adequate revenues that they had generated over the prior eight quarters. And additionally, if [he] remember[ed] correctly, the firm had also taken out some large profit withdrawals during that review period as well."[258] If, as PD testified, the Department told the governance committee that Spartan Capital had taken several profit distributions during the review period, it was mistaken.[259] TB testified that, during the eight quarters preceding the Evaluation Date, the firm received capital contributions, but there were no capital withdrawals.[260]

Turning to the Department's conclusion that many of the firm's expenses are discretionary, Spartan Capital argues that the Department improperly reached this conclusion without communicating with the firm or fully investigating the firm's financial filings.[261] The firm asked SBZ, "With respect to the other general and administrative expenses, did you ask for any details concerning those expenses?"[262] He answered that he had not, although he acknowledged that he could have and knowing the types of the firm's expenses could have been important.[263]

To address the Department's focus on compensation expenses over other expenses, Spartan Capital asked SBZ if, when the Department concluded that Spartan Capital's compensation expenses were high, he reviewed the independent contractor agreements that the firm had in place with its registered representatives.[264] SBZ said he had not and that, although he is a risk monitoring director in the independent contractor group, he was not able to answer whether, generally, independent contractor registered representatives receive higher payouts than registered representatives in an in-house retail firm.[265] The firm suggests that a recommendation should not have been made to the governance committee about the amount of Spartan Capital's compensation expenses (as a percentage of revenue) without understanding traditional standards for payouts for independent contractor business models like Spartan Capital's.[266]

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[258] Tr. 121 (PD); *see also* Tr. 189-90 (PD) (testifying that there were profit distributions taken out of the firm during the relevant period). PD further testified that the governance committee found that the firm appeared to have sufficient revenues such that it withdrew "multiple profit distributions during the period of review" and appeared to have reduced its excess net capital close to the end of the review period. Tr. 124 (PD).

[259] Tr. 1094, 1096-99, 1100-02 (MDC).

[260] Tr. 761-62 (TB). Notwithstanding PD's testimony, TB testified that he "believed" he informed the governance committee of this. Tr. 763 (TB).

[261] Tr. 1228-29 (Spartan Capital argument).

[262] Tr. 881 (SBZ).

[263] Tr. 881-82 (SBZ).

[264] Tr. 876 (SBZ).

[265] Tr. 877-78 (SBZ).

[266] Tr. 879, 1228-30 (Spartan Capital argument).

Spartan Capital also argues that the firm "maintains comprehensive errors and omissions insurance with an aggregate coverage in the amount of $4,000,000—a meaningful and specific financial safeguard," and that the Department did not adequately consider this, even though it "addresses the investor-protection purpose of a Restricted Deposit Requirement."[267] FINRA Rule 4111(i)(15)(A) specifically identifies "insurance coverage for customer arbitration awards or settlements" as a factor for the Department to consider when determining the maximum Restricted Deposit Requirement. Yet, it is unclear whether the governance committee was aware of the amount of the firm's insurance coverage and whether it considered it.[268] FINRA's own guidance states, "FINRA believes that, if Restricted Firms were able to procure errors and omissions policies, or other kinds of insurance coverage, for some or all of the kinds of arbitration claims that customers typically bring, that could warrant a reduced Restricted Deposit Requirement and would be behavior to encourage."[269] Although insurance is one of many factors for the Department to consider, it is unclear whether and to what extent the Department and the governance committee in fact considered it in this matter.

Spartan Capital also argues that, based on (1) changes imposed by FINRA through the Membership Agreement process, and (2) changes implemented by the firm through its comprehensive compliance remediation, Spartan Capital has already remediated its risk profile

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[267] Spartan Cap. Hr'g Req., at 10; Tr. 1231-32 (Spartan Capital argument).

[268] TB testified as follows:

> Q Were you aware whether or not the firm had insurance for customer claims?
>
> A I know the firm has insurance, yes.

Tr. 747 (TB). He testified further:

> Q Did you ever look at the firm's insurance information?
>
> A No.
>
> Q Are you aware if anyone on the 4111 team . . . looked at any of their insurance information?
>
> A I'm not sure.
>
> Q During your discussions with the [governance] committee, did you ever raise or discuss or mention the firm's insurance when they were calculating the maximum required deposit?
>
> A I did not.

Tr. 748 (TB). TB also testified that he was unaware that Spartan Capital held $4 million in insurance for customer claims. Tr. 747-48 (TB).

SBZ similarly discounted the importance of considering Spartan Capital's insurance. Tr. 816-17 (SBZ) ("[T]hey could use that money to go get more insurance coverage, but the purpose of the rule really is not, you know, the purpose of the rule is really to incentivize changes and behavior. Just using my own example, if I, you know, get more insurance coverage for my car, that doesn't make me a better driver" and "it would largely benefit the firm, as well as people who would receive payouts, but additionally, you know, insurance is pretty complicated. We have no visibility whatsoever into, you know, the proposed insurance improvements."); *see also* Tr. 1213 (Enforcement argument that "insurance doesn't make a bad driver a better driver.").

[269] Exchange Act Release No. 90527, 85 Fed. Reg. 78540, 78545 n.33.

and addressed the concerns that Rule 4111 is designed to tackle.[270] Spartan Capital argues that the Department failed to consider the conditions and restrictions to which Spartan Capital has already agreed in a June 4, 2019, decision approving the firm's Rule 1017 application to expand its business.[271] The firm argues that the hiring restrictions imposed in the June 2019 decision, in particular, directly address Rule 4111-type risk.[272] The firm notes that, in March 2025, it hired a new CCO who has significant regulatory experience and who has overhauled the firm's regulatory and compliance processes.[273] The firm asserts that it also hired an outside consultant to independently validate the CCO's restructuring and that the Department gave inadequate consideration to these factors.[274]

Enforcement argues that any changes that the firm contends will result in reduced risk metrics "will be reflected in the future Rule 4111 process" but do not change the outcome here.[275]

* * * *

On remand, the Department is directed to assess whether the three-step process adequately enables Department staff to consider all factors listed in FINRA Rule 4111(i)(15)(A) for determining the maximum Restricted Deposit Requirement. The Department must also assess whether those factors were in fact considered in this case and whether Spartan Capital had

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[270] Spartan Cap. Hr'g Req., at 20-23.

[271] The firm contends that the membership decision imposes four restrictions on the firm's operations: (1) the firm may employ no more than 150 associated persons with direct customer contact, including supervisors; (2) the firm may not operate more than five offices; (3) from June 2019 forward, the firm may not hire associated persons who, within the preceding three years, have a disciplinary history, affirmative responses to certain questions on the Form U4, or have three or more customer complaints; and (4) individuals designated to supervisor associated persons or manage branch offices must have clean disciplinary histories within the preceding three years. Spartan Cap. Hr'g Req., at 20-21.

[272] Spartan Cap. Hr'g Req., at 21-22.

[273] Spartan Cap. Hr'g Req., at 22. Specifically, Spartan Capital states that the CCO has (1) overhauled its continuing education and training framework, replaced its prior continuing education provider, and developed firm-specific Regulation Best Interest training delivered through both written and live instruction; (2) retained an outside expert to redesign the firm's Written Supervisory Procedures and tailor them to Spartan Capital's actual business lines, risk profile, and supervisory structure; (3) implemented enhanced active-account review procedures featuring monthly reports with objective supervisory criteria, documented analysis, and escalation protocols, and a mandatory documentation requirement for all determinations; (4) expanded the compliance department with dedicated senior compliance personnel and restructured supervisory responsibilities to prevent recurrence of legacy issues; and (5) engaged two outside consultants independent of the Rule 4111 process to review and address issues raised by FINRA. *Id.*

[274] Spartan Cap. Hr'g Req., at 23; *see also* section V.B.2 *supra*; Tr. 719 (TB) ("Q And would you agree with me that the new CCO coming in and conducting a new quantitative suitability and Reg BI training would be an improvement of the firm's procedures and controls. A Right.").

[275] Tr. 1212 (Enforcement argument).

adequate notice of the factors the Department did consider such that it had the opportunity to address them in the Consultation.

On remand, to determine the appropriate Restricted Deposit Requirement in this case, the Department must consider every factor listed in FINRA Rule 4111(i)(15)(A), including the nature of the firm's operations and activities, the components of the firm's revenues, all of the firm's expenses (in addition to compensation expenses), net capital, the nature of the disclosure events counted in the numeric thresholds, insurance coverage for customer arbitration awards or settlements, concerns raised during FINRA exams (which can be discerned only by reviewing some details about those exams), and Covered Pending Arbitration Claims. In this regard, the Department must ensure that the arbitration claims identified by the MRDT system in fact comply with the definition of Covered Pending Arbitration Claim contained in FINRA Rule 4111(i)(2), including as to the amount of the claims identified and whether they remain unpaid.

On remand, the Department must also consider all of Spartan Capital's arguments, including that their compensation figures are consistent with similarly situated firm's with an independent contractor business model, that the firm received several significant capital contributions during the relevant time, and that the firm has enhanced its risk profile by implementing important compliance changes, including the changes related to a Membership Department decision in June 2019. Although these factors may not change the outcome, it is important that the Department consider them.

The record is unclear as to whether the governance committee knew that the firm had not had any profit withdrawals during the relevant period. The record demonstrates that it had not, but that some Department staff believed it had and that may have factored into the Department's recommendation to the governance committee. On remand, the Department must address this discrepancy.

On several data points, Department staff did not have answers (for example, whether the firm had not paid an arbitration award, details about whether expense line items were discretionary, and the various components of the firm's revenues). Department staff suggested that they do not have to ask for information and that the burden is on the firm to produce it. While this may be true, it is also true that the Department goes to great lengths to maintain confidentiality around its calculations, so the firm was not always aware of the subject of the Department's focus. The firm did not have the benefit before the Consultation of seeing the screenshots that are part of the evidence in this case or hearing Department staff's testimony. On remand, the Department should consider asking the firm for information and talking with members of its senior management to ensure that it can fully consider all relevant factors.

Finally, the Department should explain its conclusions related to these issues to Spartan Capital before providing the firm with the opportunity to attend another Consultation if the Department determines on remand that Spartan Capital meets the Preliminary Criteria for Identification.

D. Procedural Issues

1. Appropriate Review Periods

FINRA Rule 4111 provides review periods for different metrics. For example, for Registered Persons in Scope, the rule directs the Department to look back one year from the Evaluation Date, for the Registered Person Pending Events Metric, the rule directs the Department to look at what is pending on the Evaluation Date, and for the Expelled Firm Association Metric, the rule directs the Department to look back five years from the Evaluation Date.[276] Rule 4111 also directs that the Department "will determine a maximum Restricted Deposit Requirement for the member firm that is consistent with the objectives of the rule, but that does not significantly undermine the continued financial stability and operational capability of the member firm as an ongoing enterprise over *the next 12 months*."[277] Although the rule directs the Department to consider the firm's anticipated situation over the 12 months after the Evaluation Date, it does not expressly direct or allow the Department to consider post-Evaluation Date financial information and certainly does not direct or allow consideration of post-Evaluation Date data for other metrics.

Here, Spartan Capital asked the Department and me to consider post-Evaluation Date changes in the firm's structure, governance, and finances.[278] In anticipation of these arguments, Enforcement also offered evidence that included post-Evaluation Date financial information for the firm.[279] SBZ testified that, in preparation for hearing, he helped to create CX-40, which demonstrates the firm's operations, revenues, and expenses for the eight quarters preceding the Evaluation Date and two quarters *after* the Evaluation Date.[280]

SBZ testified that the Department did not ask Spartan Capital for additional details (other than what the firm reported) on the firm's spending and the Department did not focus on the details of line-item expenses in reaching its conclusion.[281] This notwithstanding, in preparation for the hearing, he reviewed detailed information about the firm's 2025 spending, even though it was not something that the Department or governance committee considered.[282] Enforcement argues that it is appropriate for me to consider this evidence because the firm "opened the door" by arguing that the Restricted Deposit Requirement will prevent the firm from continuing as a

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[276] FINRA Rule 4111(i)(4)(B), (i)(4)(F), (i)(5), (i)(6), (i)(13).

[277] FINRA Regulatory Notice 21-34, at 9 (emphasis added); *see also* FINRA Rule 4111(i)(15).

[278] *See* Spartan Cap. Hr'g Req., at 7 (Spartan Capital asserting that, from January through December 2025, the firm's average quarterly revenue was $8,903,272 and average quarterly expenses were $8,350,077).

[279] *See* CX-39; CX-40; Tr. 844 (SBZ) (testifying that Spartan Capital, in the last quarter of 2025, spent 55% of its total revenue on compensation).

[280] Tr. 839-41 (SBZ).

[281] Tr. 880-82, 928, 959-60 (SBZ).

[282] Tr. 937-45 (SBZ).

going concern.[283] It appears that, at some point, the Department considered post-Evaluation Date financial information about the firm and, at the hearing, the firm offered this information. FINRA Rule 4111 and FINRA's written guidance related to Rule 4111, however, are silent on whether I should consider in this proceeding significant facts that the Department may not have considered in its determination because the facts post-dated the Evaluation Date. Similarly, FINRA Rule 4111 and FINRA's written guidance related to Rule 4111 do not address how a Restricted Firm could prove an inability to continue as a going concern without offering post-Evaluation Date financial information.

A somewhat similar issue arose with respect to CRD screenshots. During the Rule 4111 process the MRDT system directs the RMA to review information about registered representatives' current and past registrations and disclosures on CRD. FINRA requires registered representatives and member firms to update CRD regularly. As such, information included in CRD often changes. In this case, TB reviewed CRD when he validated information reported in the MRDT system, but because he did not create reports or screenshots *at the time of his review*, the CRD reports that Enforcement offered into evidence could and sometimes did include information that TB and others in the Department had not actually considered.[284] As a result, the parties and I were forced to spend significant time at the hearing clarifying what, if any, information on the proposed exhibits was not considered by the Department because it post-dated the Evaluation Date or the RMA's validation date.

* * * *

On remand, the Department should provide clarification as to the relevance of post-Evaluation Date information (financial and other types) and whether and to what extent it considered it in reaching its determination. Additionally, the Department should consider preserving the exact documents (or screenshots of CRD pages) the RMA relied upon in reaching its determination.

2. Lack of Notice and Disclosure

Spartan Capital raises a fairness argument related to the Department's alleged lack of notice and disclosure. First, it argues that significant parts of the Department's processes are not included in the rule, such as, for example, the three-question qualitative analysis and the five percent/ten percent floor/ceiling range for a Restricted Deposit Requirement.[285] Spartan Capital argues that such lack of transparency is patently unfair.[286] The firm argues that, with no understanding of the Department's secret analysis, the firm could not propose alternatives at the

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[283] Tr. 944 (Enforcement argument).

[284] *See* Tr. 588-98 (discussion of admissibility of CRD report that included a Form U5 amendment that post-dated TB's validation work).

[285] Spartan Cap. Hr'g Req., at 6-8.

[286] *Id.*

Consultation, as the rule suggests it should.[287] Second, Spartan Capital argues that it was prejudiced by the Department's unexplained $716,000 increase in the Restricted Deposit Requirement.[288]

The circumstances surrounding the increase in Spartan Capital's Restricted Deposit Requirement are as follows. On October 30, 2025, the Department issued a letter to Spartan Capital advising the firm of a Consultation to be held pursuant to Rule 4111(d) and imposing a $1,135,000 maximum Restricted Deposit Requirement.[289] PD testified that Department staff had met with the governance committee, and the governance committee had approved a maximum Restricted Deposit Requirement of $1,135,000.[290] PD also testified that the Department later increased the amount of the maximum Restricted Deposit Requirement because "there was an error in the system that [they] identified shortly after the governance committee meeting took place."[291]

PD testified that the MRDT system relied on the wrong time frame (the wrong eight-quarter lookback) to calculate the maximum Restrict Deposit Requirement of $1,135,000 and that it was a "code issue," not a human error.[292] SBZ similarly testified that the automated MRDT system pulls information from the firm's SSOIs and, in this case, relied on information from "the incorrect preceding eight quarters where the firm had earned lower revenue . . . it essentially stretched back way too far compared to where it should have . . . it used much older quarters than it should have."[293] Once identified, PD and SBZ testified, the error was escalated to a technology team and corrected.[294] SBZ stated "[he] personally went back and ensured that the correct quarters" were used.[295] SBZ also stated that the MRDT system does not "break down what component quarters are used" to generate a Restricted Deposit amount.[296] He also explained that the Department's internal policies for the deposit-related task is "not to bother . . . validating those numbers because the system automatically calculates them."[297]

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[287] Spartan Cap. Hr'g Req., at 7-8.

[288] Spartan Cap. Hr'g Req., at 2.

[289] Tr. 177-78 (PD); JX-26.

[290] Tr. 178 (PD).

[291] Tr. 198 (PD).

[292] Tr. 199, 204 (PD).

[293] Tr. 790 (SBZ).

[294] Tr. 205 (PD), 791 (SBZ).

[295] Tr. 791 (SBZ).

[296] Tr. 908 (SBZ).

[297] Tr. 908 (SBZ). He further clarified, "[T]he amounts that are generated from the calculation amount, like the deposit amount, those are the ones that it just says, you know, you can rely on this information. There's no need to go back and calculate it manually." Tr. 909 (SBZ).

On December 12, 2025, the Department issued a letter that states, without explanation, it "replaces" the October 30 letter.[298] The December 12 letter increases Spartan Capital's maximum Restricted Deposit Requirement to $1,851,000,[299] but does not otherwise provide a reason for the increase. The firm notes that both letters purport to be grounded on the same June 1, 2025, Evaluation Date, yet include a 63% increase in the firm's maximum Restricted Deposit Requirement.[300]

Although Department staff explained the circumstances surrounding the MRDT system's error at the hearing, before Spartan Capital attended its January 23, 2026, Consultation, the Department did not explain to the firm the reason for such a significant increase in the maximum Restricted Deposit Requirement.[301] Furthermore, both letters contain the same typographical error that most likely caused further confusion for the firm.[302] My concern about this lack of explanation is compounded by the overall lack of notice and disclosure associated with this process. Yet, the Department suggests that some of Spartan Capital's arguments should be discounted because the firm failed to raise those arguments at the Consultation.[303]

I reject the premise that Spartan Capital's arguments should be discounted if they were not raised at the Consultation. Spartan Capital was unaware of many of the factors the Department considered, particularly related to the Restricted Deposit Requirement, at the time of the Consultation.[304] For example, during the Consultation, Spartan Capital presented financial

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[298] Tr. 206 (PD); JX-29, at 2.

[299] Tr. 207 (PD); JX-29, at 2.

[300] Spartan Cap. Hr'g Req., at 8.

[301] See JX-30, at 12 (Spartan Capital's post-consultation submission stating "[t]hat lack of transparency is underscored by the Department's determination of two materially different Restricted Deposit Requirement amounts—mere weeks apart—both imposed 'pursuant to Rule 4111(i)(15)(A),' without any explanation of the increase, the inputs used to arrive at either figure, or the treatment of offsets").

[302] The October 30, 2025, letter and subsequent December 12, 2025, letter (which stated that the firm's maximum Restricted Deposit Requirement had increased to $1,851,000 (JX-29, at 2)) both referenced a September 4, 2025, "Evaluation Date." JX-26, at 2; JX-29, at 2. The Evaluation Date, as defined in FINRA Rule 4111, is June 1 for all firms. FINRA Information Notice, at 2. PD testified "I don't remember what the specific September 4 date was. I will tell you that it is odd that it says [e]valuation date because normally the [e]valuation date refers to the annual evaluation date, so it appears like that might be a typo in the letter." Tr. 208 (PD). SBZ testified that September 4, 2025, is the date the governance committee evaluated the Department's Restricted Firm recommendation. Tr. 800 (SBZ). FINRA's Department of Enforcement represented that September 4, 2025, is the date that the governance committee met to determine that Spartan Capital is a Restricted Firm. Tr. 8 (Enforcement argument). It appears that the Department's identification of a September 4, 2025, Evaluation Date in both letters was a typographical error.

[303] Tr. 118-25 (PD) (testifying about Spartan Capital's arguments at the Consultation), 123 (PD) (testifying that Spartan Capital raised arguments in its hearing request that it had not made at the Consultation or in the post-Consultation submission), 807-16 (SBZ) (testifying about Spartan Capital's arguments at the Consultation), 928 (SBZ) ("So the consultation meeting is really the firm's opportunity to provide all of this to us. We are not supposed to be running down information that the firm could have and should have provided during the consultation.").

[304] JX-30, at 11-12 (Spartan Capital's post-consultation submission stating "[y]et neither Rule 4111 nor the accompanying Regulatory Notice—nor any other guidance issued by FINRA—provides a transparent methodology

information for the firm going back 12 months.[305] But PD testified that the Department considered eight quarters (24 months),[306] not 12 months, of financial reporting based on Department procedures that are not specified in Rule 4111[307] (so Spartan Capital would not have been aware). Similarly, Enforcement entered screenshots from the MRDT system into the record to support its arguments.[308] Those screenshots, however, were not available to Spartan Capital when it attended the Consultation.[309]

* * * *

On remand, if the Department determines that Spartan Capital meets the Preliminary Criteria for Identification, Spartan Capital should be given an opportunity to attend another Consultation where it can present its arguments now that, through this process, it has gained some understanding of the Department's reasoning and methods of determining whether it is a Restricted Firm and the amount of the maximum Restricted Deposit Requirement.[310]

VI. Remand Order

For the reasons discussed in detail in this Decision, I remand this matter to the Department for further consideration. On remand, I direct the Department to:

- Re-examine its quantitative analysis to ensure that Department staff (1) properly interpret the term "sales-practice related"; (2) rely on accurate dates and numbers when calculating the Registered Person Pending Events and Expelled Firm Association Metrics; (3) properly consider whether to include in the Registered Person Pending Events Metric individuals who left Spartan Capital before the Evaluation Date; and (4) properly exercise discretion to exclude technically captured events where inclusion would not align with Rule 4111's investor-protection purpose.

- Revisit the three qualitative questions to ensure it fully understands (1) the quality of the Spartan Capital's roster; (2) the adequacy of its supervisory procedures and

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for translating the considerations set forth in [Rule 4111] into a specific dollar amount . . . [or to the] factors . . . applied here, despite the [f]irm's requests during the Consultation").

305 JX-30, at 17.

306 Tr. 85 (PD).

307 Tr. 218 (PD).

308 *See* JX-33; JX-34; JX-35; JX-36; JX-37; Am. Stip. ¶¶ 41-45.

309 Tr. 928 (Spartan Capital argument) (Counsel for Spartan Capital stating, as part of its questioning of Department staff, "[W]e requested the data, all the information as to how you calculated it and there was none of these screenshots provided. There was none of your calculations provided.").

310 The names of individuals referenced by initials in this decision are identified in Appendix A, which is provided only to the parties.

controls; and (3) the results of the most recent regulatory examinations of the firm. Before answering the qualitative questions, Department staff may consider reviewing firm procedures and speaking with firm management, to ensure it has an accurate understanding of its supervisory procedures and controls. It also may choose to review the details of the cause examinations and pending arbitrations.

- Confirm that, for Question One in the Qualitative Assessment (looking at the past 12 months, has the quality of the firm's roster improved?) the appropriate comparison is to the 12 months prior to the 12-month lookback rather than within the 12-month lookback or during sometime around or after the Evaluation Date.

- Confirm, in connection with the Qualitative Assessment, that it is appropriate to treat alleged regulatory activity (not just final or resolved events) as "disciplinary history" for purposes of the qualitative review.

- Assess whether the three-step process for determining the maximum Restricted Deposit Requirement adequately enables Department staff to consider all factors listed in FINRA Rule 4111(i)(15)(A).

- Assess whether the factors listed in FINRA Rule 4111(i)(15)(A) were in fact considered in this case and whether Spartan Capital had adequate notice of the factors the Department did consider such that it had the opportunity to address them. On remand, to determine the appropriate Restricted Deposit Requirement in this case, the Department must consider every factor listed in FINRA Rule 4111(i)(15)(A), including the nature of the firm's operations and activities, the components of the firm's revenues, all of the firm's expenses (in addition to compensation expenses), net capital, the nature of the disclosure events counted in the numeric thresholds, insurance coverage for customer arbitration awards or settlements, concerns raised during FINRA exams (which can be discerned only by reviewing some details about those exams), and Covered Pending Arbitration Claims.

- Ensure, in connection with determining the maximum Restricted Deposit Requirement, that the arbitration claims identified by the MRDT system in fact comply with the definition of Covered Pending Arbitration Claim contained in FINRA Rule 4111(i)(2), including as to the amount of the claims identified and whether they remain unpaid.

- Consider all of Spartan Capital's arguments, including that their compensation figures are consistent with accepted practice for firm's with an independent contractor business model, that the firm received several significant capital contributions during the relevant time, and that the firm has enhanced its risk profile by implementing important compliance changes, including the changes related to a Membership Department decision in June 2019.

- Address the discrepancy as to whether the governance committee knew that the firm had not had any profit withdrawals during the relevant period and ensure the Department and the governance committee proceed with accurate information.

- Ask the firm for information and talk with members of its senior management in connection with the Rule 4111 review and particularly with respect to whether the firm had not paid an arbitration award, details about expense line items to determine if they were discretionary, and the various components of the firm's revenues.

- Provide Spartan Capital with clarification as to the relevance of post-Evaluation Date information and explain whether and to what extent it considered it in reaching its determination.

- Consider preserving the exact documents (or screenshots of CRD pages) relied upon in reaching its determination.

- Provide Spartan Capital with the opportunity to attend another Consultation if the Department determines on remand that Spartan Capital meets the Preliminary Criteria for Identification.[311]

SO ORDERED.

Carla Carloni
Deputy Chief Hearing Officer

Copies to:

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[311] I considered and rejected without discussion all other arguments by the parties.