BDA Bond Dealers of America

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July 14, 2025

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

Comments on Regulatory Notice 25-07

Dear Ms. Mitchell,

The Bond Dealers of America (BDA) is pleased to provide comments on Regulatory Notice 25-07, "FINRA Requests Comment on Modernizing FINRA Rules, Guidance, and Processes for the Organization and Operation of Member Workplaces" (the "Notice"). BDA is the only DC-based group exclusively representing the interests of securities dealers and banks focused on the US fixed income markets.

We commend FINRA for undertaking this timely and important review of its workplace-related rules. As FINRA notes, advances in technology have fundamentally transformed how firms and associated persons operate. We appreciate the opportunity to contribute feedback grounded in the experience of fixed income market participants. BDA's focus is exclusively on the US fixed income markets. So while we recognize that the questions raised in the Notice have implications well beyond bonds, our comments here will be confined to the fixed income business and markets.

FINRA's location-based supervision model is antiquated and obsolete. Principals no longer supervise their employees through physical proximity. They use technology which is not location-dependent whatsoever. The idea that certain activities can only be performed in certain offices with certain designations is not consistent with how modern broker-dealers are managed and operated. We welcome FINRA's openness to fundamentally addressing these issues.

Supervision

FINRA Rule 3110 is FINRA's supervision rule. The Rule requires each FINRA member to have "a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules." Rule 3110 is largely location-based. The Rule specifies generally that the outward-facing activities a securities firm engages in, such as "order execution or market making" or "regularly conducts the business of effecting any transactions in" securities, among others, must be conducted in an office of supervisory jurisdiction (OSJ) or a branch office. Activities including order execution or market making and structuring of public offerings or private placements, among others, must be conducted at an OSJ. OSJs and branch offices must be designated and registered.

In March 2020 FINRA published now withdrawn guidance related to remote work in the context of the COVID-19 pandemic (FINRA Regulatory Notice 20-08). The Notice states "FINRA understands that the use of remote offices or telework arrangements during a pandemic may necessitate a member firm to implement other ways to supervise its associated persons who change their work locations or arrangements for the duration of the pandemic. In such cases, FINRA would expect a member firm to

establish and maintain a supervisory system that is reasonably designed to supervise the activities of each associated person while working from an alternative or remote location during the pandemic." BDA greatly appreciates this relief during such a difficult time. The industry's experience with the pandemic is useful to consider in the context of revising the structure of Rule 3110.

Rule 3110 requires dealers to have "a process for the review of securities transactions that are reasonably designed to identify trades that may violate the provisions of the Exchange Act, the rules thereunder, or FINRA rules." This requirement covers bond trades conducted by traders employed by FINRA-member dealers. The means the vast majority of dealers uses to supervise traders' activity is not location based but technological. Supervisors are able to monitor in real time all the activities of the traders and bankers they oversee using software and connectivity. Supervisors can monitor transactions, risk positions, hedges, communications with customers and trading counterparties, and virtually any element of a trader's activities. And these processes work the same whether the trader is sitting at the next desk or 1000 miles away. Location is no longer relevant to broker-dealer supervision. During the pandemic, most traders were working remotely on a daily basis for months, and there were no systemic lapses in supervision across the industry. Even FINRA examinations of dealers took place remotely and largely still do. The days of a principal supervising a trader by standing over her shoulder watching her work are long past. Supervisory requirements that restrict the location where certain activities can be performed are obsolete.

That obsolescence is even more glaring with respect to "structuring of public offerings or private placements," another activity which under Rule 3110 can only be conducted in an OSJ. The only functions performed by a securities firm that actually require location-based supervision are accepting or maintaining custody of customer funds or securities.

During the pandemic, bond trading continued. New issues were underwritten and sold. The market did not miss a step. That is largely attributable to the ability of traders, underwriters, bankers and others to work and be effectively supervised remotely.

In 2023 the SEC approved amendments to Rule 3110 adding Supplementary Material .19, providing a means for member employees in certain supervisory roles to have their homes designated as Residential Supervisory Locations (RSL) and work there remotely on a consistent basis subject to specified requirements. At the same time the Commission also approved Rule 3110 Supplementary Material .18 establishing a Remote Inspections Pilot Program whereby annual inspections of certain designated offices can be conducted remotely. While we appreciate the additional flexibility provided by Supplementary Material .19 and .18, the 2023 amendments do not go far enough. The industry consensus view of the RSL regime is that if "order execution or market making" or "structuring of public offerings or private placements" takes place at a location, that location is not eligible for designation as a RSL and must be an OSJ. That means bond traders, who execute orders and make markets, are generally not eligible for remote supervision under the RSL model. Instead, firms that want to provide work flexibility to traders have taken to designating their homes as OSJs, subject to all the requirements that go along with it. That also requires the trader to pass a Principal examination, even though they may not supervise anybody, since they are the only employee at their home OSJ. That outcome is not a streamlined remote supervision regime.

In fact we do not need RSLs at all, or any other specific location required to be registered with FINRA (except perhaps OSJs that handle customer funds or securities). FINRA should abandon the registration

of places generally. FINRA's supervision rule should be principles-based and should recognize and be compatible with the fact that location-based supervision is antiquated. The supervision regime should require firms to implement risk-based supervisory policies. The volume and nature of activity at a given office should dictate the type and scope of supervision there. And the regime should permit any employee to work and be supervised remotely without any kind of location designation as long as that is consistent with the firm's broader risk-based policies and proper controls are in place.

Testing and licensing

There are several steps FINRA should take to streamline testing, licensing, and continuing education functions.

- Some FINRA licensing examinations can now be taken remotely. But the majority of examinations must be taken in person at a testing center. FINRA should transition its entire suite of licensing examinations to remote administration. And bulk registration should be available for all examinations.
- Currently, a licensed professional who takes a hiatus from the industry and does not enroll in FINRA's Maintain Qualifications Program (MQP) must retest if they are gone from the industry for just two years. Even if they do enroll in the MQP, they must retest after five years. Seasoned professionals with many years of experience who temporarily leave the industry should not have to be retested when they return.
- FINRA should consider permitting municipal securities sales, trading, and banking professionals licensed with the MSRB to conduct transactions in corporate bonds issued by certain non-profit entities, typically universities and hospitals, who generally issue in the municipal market but may have a limited number of corporate issues outstanding. These issuers' taxable, corporate bonds often are backed by the same or similar credit as their municipal issues. The issuers are well known to municipal bond bankers, traders, and sales people but not to corporate bond bankers, traders, and sales people. MSRB-licensed bankers, traders, and sales people should be able to transact in these issuers' corporate bonds without needing to take a FINRA examination.

Continuing education

FINRA Rule 1240 specifies continuing education (CE) requirements for FINRA licensed professionals. The Rule is prescriptive and inflexible, requiring "any person registered, or registering with FINRA as a representative or principal" to complete two-part CE training at least annually. The issue is the inflexibility of the Rule. An industry veteran with 40 years of experience is subject to the same requirements as a new entrant. FINRA's CE requirements, like many requirements FINRA prescribes, should be risk-based. Employees who need more CE should get it, and employees who need less should be excused from those portions that are not relevant. Firms should be able to adapt their CE policies to the specific needs of their employees.

Moreover, the notion of a two-part CE requirement is out of date. Before 2023, Rule 1240 required the Regulatory Element of CE only every three years. The purpose of the annual firm element was to "fill in" the time between the gaps in the Regulatory Element schedule. Beginning in 2023, the Regulatory Element is now required annually, so the purpose for the annual Firm Element has disappeared.

In this context, FINRA should consider revising the two-part structure of Rule 1240. A more efficient approach would be for FINRA to notify firms of which regulatory content should be the CE focus for a given year, and firms should be able to implement that training based on their own risk-based CE policies, tailoring the content to the firm's business model and other specifics. Regulatory CE could also then serve as functional maintenance training for licensed persons who choose to leave the sponsorship of a firm but desire to preserve their certifications in the interim for future use. This continued training, if utilized constantly and effectively, would eliminate the need to retest upon reentry of the industry for those desiring or requiring a temporarily leave from the industry for an indeterminate duration. This is an issue for licensed professionals who move to a firm that may not sponsor a license they hold. This would allow them to maintain that license with appropriate Regulatory CE.

Record keeping

Between FINRA and SEC rules, requirements for dealer record-keeping are too disjointed. Comparing dealer record-keeping rules to the SEC's record-keeping regime for registered Investment Advisors (IAs) is useful. SEC Rule 204-2 specifies about 18 categories of records that IAs must maintain. The Rule provides a consistent 5-year retention period with flexibility to move records off-site after two years. There is a flexible policy for the format records must be maintained. Records must generally be available and retrievable.

FINRA's approach to record-keeping is different. There are nine different rules dedicated to record-keeping, and dozens of other requirements dispersed throughout the FINRA rulebook. The retention period varies from three to six years. Records must be in immutable "write once-read many" (WORM) format with little flexibility, including audit-trail requirements. Storage vendors sometimes require designated third party (D3P) supervision.

We recognize that some dealer record-keeping requirements stem from SEC Exchange Act Rules 17a-3 and 17a-4 and are not FINRA requirements. However, there is room for lots of efficiencies in FINRA's record-keeping regime. FINRA should consider consolidating record-keeping requirements in a single rule and generally providing more flexibility and consistency in terms of how records are stored, how long they are kept, and how storage is overseen.

Other issues

- FINRA Form BD requires member firms to list every regulatory action they have ever been subject to. This results in Forms BD for some firms that are hundreds of pages long with lists of actions going back many years. FINRA should allow less serious regulatory actions to sunset after a period of time for the purpose of Form BD.
- FINRA Rule 2231 specifies that account statements must be delivered physically unless the customer opts into electronic delivery. The rule should specify the opposite. If a customer provides an email address when they open an account or at any time, the firm should be able to default to electronic delivery. There is no justification for mail being the default delivery means in 2025. We recognize that FINRA relies on an obviously dated 2000 SEC interpretive release on electronic delivery (65 FR 25843) as guidance on this issue. Within that limitation, we ask FINRA to generally consider e-delivery the default for all customers who provide an email address.
- The industry would benefit from a forum for information exchange related to scam and fraud schemes that tend to move like waves from dealer to dealer. However, concerns over customer

information protected by privacy rules have limited the industry's ability to share information about known fraudsters. Recognizing that customer privacy regulation stems primarily from SEC Regulation S-P, we ask FINRA to provide as much flexibility as possible in rulemaking, examinations and elsewhere around sharing customer information for the purpose of preventing fraud.

We commend FINRA for undertaking a review of regulations governing the modern workplace and we are pleased to provide comments. There are steps FINRA could take around supervision and other areas that would provide regulatory efficiency without threatening investor protection. We look forward to working with FINRA as this initiative moves forward. Please call or write with any questions.

Sincerely,

Michael Decker
Senior Vice President, Research and Public Policy

cc: Mark Kim, CEO, Municipal Securities Rulemaking Board