



COMMENT LETTER TO FINRA

Modernizing Best Execution Guidance in a Post-Rule 611 Environment

*Preserve the principle, modernize the evidence
and validate the methods collaboratively.*



THE CONTEXT

Potential rescission of Rule 611 increases routing discretion and reliance on principles-based best execution and informed judgment.



OUR POSITION

Rule 5310 should remain principles-based. The opportunity is to strengthen the analytical foundation through which reasonable diligence is demonstrated and evaluated.



OUR PERSPECTIVE

CalcGuard is a neutral, measurement-oriented firm. We observe how institutional equity orders are formed, routed and evaluated across fragmented markets.

KEY THEMES OF THIS LETTER

1



PRESERVE PRINCIPLES-BASED BEST EXECUTION

Preserve the flexibility of Rule 5310 and avoid replacing it with prescriptive routing rules or uniform metrics.

2



MAKE THE DECISION PATH OBSERVABLE

Evaluate both executed and unexecuted activity within its full context—liquidity, decisions, market conditions and alternatives reasonably available.

3



EVALUATE INSTITUTIONAL EXECUTION IN CONTEXT

Assess execution from child executions and routing decisions through strategies and parent orders to the investor outcome.

4



MODERNIZE REGULAR AND RIGOROUS REVIEW

Use continuous measurement and layered analysis to identify patterns and focus deeper review where warranted.

5



USE A REFERENCE FRAMEWORK, NOT A SCORECARD

Develop common concepts and methods that improve consistency and comparability without prescribing outcomes or weights.

6



VALIDATE METHODS THROUGH EMPIRICAL EVIDENCE

Test and refine measurement methodologies using actual market activity before relying on them as reference points.

7



ENABLE COLLABORATION AND INDUSTRY ENGAGEMENT

Collaborate across market participants and academics to develop, validate and share practical measurement approaches.

ENABLING APPROACH



CalcGuard's Market Structure Transition Initiative (MSTI) brings together investment managers, asset owners, broker-dealers and academics to establish pre-change reference measures and develop and validate analytical methods.



DESIRED OUTCOME



A principles-based framework supported by objective, comparable evidence that enables effective supervision and enhances understanding of execution quality and investor outcomes.

WHAT FINRA CAN DO



Preserve the principles-based character of Rule 5310.



Encourage evaluation within the full decision context.



Recognize the contextual nature of institutional execution.



Modernize review through layered measurement and analysis.



Encourage a non-prescriptive reference framework using existing data.



Support empirical testing and industry collaboration.



**PRESERVE THE PRINCIPLE. MODERNIZE THE EVIDENCE.
VALIDATE THE METHODS COLLABORATIVELY.**





CalcGuard Technologies, Inc.

September 25, 2026

Via Electronic Submission

Financial Industry Regulatory Authority
1700 K Street, NW
Washington, DC 20006

Attn: Jennifer Piorko Mitchell, Office of the Corporate Secretary

Re: Regulatory Notice 26-15 | FINRA Requests Comment on Modernizing FINRA's Best Execution Guidance

I. Introduction

CalcGuard Technologies ("CalcGuard") appreciates the opportunity to comment on FINRA Regulatory Notice 26-15 and FINRA's review of its guidance regarding member firms' best execution obligations under Rule 5310.

CalcGuard provides analytical capabilities focused on reconstructing and evaluating institutional equity order lifecycles and routing decisions across fragmented market environments. Our perspective is informed by observing how execution decisions are formed, routed and evaluated across multiple independent market participants, including investment managers, asset owners, broker-dealers, execution algorithms and trading venues. CalcGuard is not a broker-dealer, trading venue or asset manager, and we offer these observations from a neutral, measurement-oriented perspective.

CalcGuard develops commercial analytical capabilities related to order-lifecycle reconstruction and execution measurement and therefore may have a commercial interest in the development of certain analytical methodologies discussed in this letter. The observations and empirical results presented herein are intended to be independently reproducible from the public sources cited.

FINRA's review comes at an important point in the evolution of U.S. equity market structure. The Commission's proposed rescission of Rule 611 would remove a prescriptive trade-through protection that has influenced routing behavior and execution practices for nearly two decades while placing greater reliance on broker-dealer best execution obligations and informed professional judgment. If that transition occurs, the importance of best execution



does not diminish. Rather, the ability to demonstrate that execution decisions were reasonable under the circumstances becomes increasingly important.

CalcGuard believes Rule 5310 should remain principles-based. The diversity of customer objectives, order characteristics, liquidity sources and market conditions makes informed judgment an essential component of institutional best execution. Modernizing best execution guidance therefore should not seek to replace one prescriptive routing framework with another. The opportunity is to strengthen the analytical foundation through which reasonable diligence can be demonstrated and evaluated while preserving the flexibility necessary to pursue execution quality across diverse market circumstances.

This distinction becomes increasingly important as execution markets grow more fragmented and execution strategies become more sophisticated. Evaluating an execution outcome alone may not reveal whether the decisions that produced it were reasonable. Meaningful evaluation may also require understanding the liquidity alternatives reasonably available, the sequence in which opportunities were pursued, the market conditions that existed when decisions were made, and the relationship between those decisions and the resulting investor outcome. In a principles-based framework, the ability to objectively observe and reconstruct this decision path and its context is crucial evidence in evaluating whether best execution obligations were satisfied.

Much of the information necessary to support this evolution already exists within regulatory, market and operational processes. The challenge is increasingly how to organize and evaluate that information in ways that are objective and comparable without imposing a uniform definition of best execution. Developing and validating those methods empirically can help distinguish measures that are useful and repeatable from those that prove less informative in practice.

Our comments focus primarily on the implications of FINRA's review for institutional order handling, decision path observability, contextual execution-quality measurement, regular and rigorous review, and the collaborative development and validation of practical measurement methodologies. We respectfully offer the following observations to support FINRA's consideration.

II. Executive Summary

The potential rescission of Rule 611 would place greater reliance on principles-based best execution and informed professional judgment. In that environment, the importance of best execution does not diminish; the importance of demonstrating through objective evidence that execution decisions were reasonable under the circumstances increases.



CalcGuard believes Rule 5310 should remain principles-based. Modernization should not replace one prescriptive routing framework with another, nor should best execution be reduced to a fixed set of metrics or a universal scorecard. Rather, FINRA has an opportunity to modernize the analytical framework through which reasonable diligence is evaluated, allowing firms to retain appropriate judgment while improving the ability of regulators, broker-dealers, investment managers and other fiduciaries to understand and evaluate how that judgment is exercised.

The observations below summarize the principal themes of this letter.

A. Preserve Principles-Based Best Execution

- Rule 5310 should continue to provide flexibility for firms to exercise reasonable judgment based on customer objectives, order characteristics, available liquidity and prevailing market conditions.
- Modernized guidance should strengthen the evidence available to demonstrate reasonable diligence rather than prescribe particular routing decisions or outcomes.

B. Decision Path Observability

- Effective best execution review increasingly depends on the ability to reconstruct the decision path, including the alternatives reasonably available and the market conditions that existed when decisions were made.
- Evaluation should extend beyond completed executions to relevant routing attempts, liquidity interactions and unexecuted activity that provide context for understanding how an execution outcome was produced.

C. Contextual Evaluation of Institutional Execution

- Institutional best execution is inherently multidimensional. Price remains fundamental, but available liquidity, order size, urgency, market impact, information leakage, execution certainty and customer objectives may materially affect what constitutes a reasonable execution decision.
- Evaluation should therefore occur within the context of the order and its broader lifecycle, including parent and child relationships, algorithmic strategies and interactions with displayed, non-displayed and bilateral liquidity.

D. Modernizing Regular and Rigorous Review

- Advances in analytics increasingly allow aggregate and order-level review to operate as complementary components of best execution oversight.



- Continuous measurement can identify patterns, changes and exceptions across brokers, algorithms, venues and market conditions, while decision path reconstruction can provide deeper contextual review where appropriate—strengthening supervision without creating transaction-by-transaction prescription.

E. A Reference Framework for Best Execution Measurement

- FINRA should consider encouraging common analytical categories, definitions and methodologies that improve the consistency and comparability of best execution evaluation while preserving appropriate flexibility.
- Such a reference framework should identify relevant categories of evidence rather than prescribe universal metrics, thresholds or weights. The importance of individual measures should remain dependent upon customer objectives, order characteristics and market circumstances.
- Common methods need not produce common answers; they can instead provide a more consistent basis for demonstrating how principles-based judgment was exercised.

F. Industry Collaboration and Empirical Validation

- The evolution of best execution guidance would benefit from empirical analysis and collaboration among regulators, broker-dealers, investment managers, asset owners, academics and other market participants.
- The potential Rule 611 transition provides a particularly useful opportunity to establish reference measurements, test methodologies and evaluate how changes in routing behavior, liquidity access and execution quality affect investor outcomes over time.

Collectively, these observations support a measured evolution of best execution oversight in which principles-based flexibility is accompanied by a stronger ability to observe, reconstruct and evaluate the decisions through which it is exercised. FINRA has an opportunity to strengthen Rule 5310 without making it more prescriptive: preserve the principle, modernize the evidence used to demonstrate it, and encourage development of a practical reference framework for evaluating execution decisions consistently and in context.

Questions Addressed in This Letter

Notice 26-15 poses a long list of specific questions and asks commenters to provide data or other factual support wherever possible. The table below identifies the questions this



letter addresses and where each is treated; the empirical support appears at Section III.C. The left column paraphrases for brevity, and the text of the Notice governs.

Subject of the question	Addressed at	What this letter contributes
Whether the NBBO remains an important benchmark from which to measure price improvement, including when internalizing orders	III.C	Evidence that for 60.9% of NMS-equity ATS notional the NBBO is an input to the execution price rather than an independent reference against which that price can be tested.
What alternative or additional benchmarks are appropriate	III.C, VII.B	Reference-market quality as a category of evidence, evaluated alongside rather than in place of price benchmarks.
How guidance should address decisions to connect to, not connect to, or disconnect from execution venues	IV.C, IV.D	Unexecuted routing activity and the reasonably accessible opportunity set as the evidentiary basis for those decisions.
How order-by-order and aggregate regular and rigorous review should interact	VI.A, VI.B	Layered review: continuous measurement to identify exceptions, decision path reconstruction where deeper review is warranted.
How institutional algorithmic handling and parent and child order relationships should be evaluated	V.A, V.C	Evaluation at the level of the parent objective, retaining the child-level benchmark comparison rather than replacing it.
Whether guidance should clarify the prevailing market conditions bearing on an execution, including reference price reliability for the trading session in which the order is executed	III.C, III.E	A filed-record measure of how far execution prices depend on the NBBO, which is the reference whose reliability is in question.
How firms benchmark and assess execution quality in markets without a consolidated cross-market quote, including in the overnight hours when the SIPs are not operating	III.E	The planned consolidated-data maintenance window and its intersection with the most active hour of the overnight session.
Whether additional guidance would assist firms in applying Supplementary Material .06 to extended hours trading	III.E	Supplementary Material .06's condition, limited quotation or pricing information, arising for every NMS stock for a defined period rather than for a thinly quoted security.

CalcGuard does not comment on the Notice's questions concerning listed options, emerging technologies including artificial intelligence, or the appropriate quantum of access fees.



III. Preserve Principles-Based Best Execution: Preserve the principle; strengthen the evidence used to demonstrate it.

The potential rescission of Rule 611 would place greater analytical weight on the principles-based framework already embodied in Rule 5310. If the prescriptive protection against specified trade-throughs is removed, broker-dealers may exercise greater discretion in determining when, where and how liquidity should be pursued. Best execution remains a fundamental obligation; the question increasingly becomes whether that discretion was exercised reasonably under the circumstances.

A. Preserve Judgment Rather Than Replace One Prescription With Another

CalcGuard does not believe the appropriate response to greater execution discretion is to recreate Rule 611 through a new set of prescriptive best execution requirements. The diversity of institutional orders and execution objectives makes such an approach particularly difficult. Similar orders may reasonably be handled differently depending upon available liquidity, order size, urgency, market impact, information leakage, execution certainty, customer instructions and other relevant circumstances.

Prescriptive thresholds or universally weighted metrics could create unintended incentives to optimize execution practices toward regulatory measures rather than investor objectives. A principles-based framework better accommodates modern execution by preserving informed judgment while requiring firms to demonstrate, through objective evidence, what alternatives were reasonably available, what circumstances influenced the decision, how liquidity was evaluated and pursued, and how those decisions affected the customer's outcome.

B. Reasonable Diligence Should Be Evaluated in Context

FINRA's existing reasonable diligence framework recognizes that execution quality depends upon multiple factors. Displayed price remains important, but institutional execution decisions may also depend on liquidity accessibility, likelihood of execution, market impact, timing, information leakage and the characteristics and objectives of the underlying order.

The relevant question is therefore whether an execution decision was reasonable given the alternatives, objectives and market conditions that existed when it was made. Modernized guidance need not prescribe how firms weigh each factor; it can instead reinforce the expectation that firms maintain sufficient evidence to demonstrate how relevant considerations informed the decision.



C. The Evolving Role of the NBBO in Best Execution Evaluation

The potential rescission of Rule 611 also raises an important question regarding the role of the national best bid and offer in evaluating execution quality. The NBBO has long served as an important reference for price discovery and execution-quality analysis, while Rule 611 has given protected quotations additional significance by generally restricting executions at prices inferior to accessible protected quotations.

If Rule 611 is rescinded, the NBBO should remain an important reference for evaluating execution quality. Its role within that evaluation, however, may require additional context. Without a trade-through prohibition, the existence of a better displayed quotation would no longer carry the same prescriptive significance for routing decisions, and market participants may have greater discretion to pursue execution strategies that appropriately balance displayed price against liquidity accessibility, execution certainty, market impact, information leakage and other relevant considerations.

This evolution also places greater importance on understanding the quality of the NBBO itself. A displayed best price may represent different execution opportunities depending upon the depth available at that price, the stability and duration of the quotation, the likelihood that the displayed liquidity can actually be accessed, the size and characteristics of the order, and the broader liquidity environment. As a result, comparing an execution price with the contemporaneous NBBO remains informative, but may not by itself provide sufficient context to determine whether an execution decision reflected reasonable diligence.

That question has a measurable answer, and CalcGuard offers the following as factual support. Across all 33 NMS-equity alternative trading systems, read from each venue's operative Form ATS-N, venues accounting for 60.9% of ATS notional take the NBBO as the price of at least one component of the match. Sixteen of the 33, carrying 68.3% of notional, file more than one price construct within a single session, so mixed pricing architecture is the norm rather than the exception. Eighteen venues, carrying 69.4% of notional, maintain filed rules keyed to locked or crossed markets. Four, carrying 28.0%, will not execute unless a displayed quotation exists.¹

¹ Census and tape method. Census: the operative Form ATS-N of each of the 33 NMS-equity alternative trading systems, Part III Items 4, 7, 10, 11, 15, 18, 23 and 24, harvested September 15, 2026 by file number, with the sixteen mixed-construct venues re-harvested without character truncation on September 21, 2026. Component rule: where a filing sets different price constructs for different order types in the same session, each is recorded as a component, and a venue is counted above if any non-benchmark component takes its execution price from the NBBO or if a filed precondition gates the match on a displayed quotation. Tape: FINRA Rule 4552 weekly data for the weeks beginning June 22 through August 10, 2026, being the eight most recent weeks complete for both reporting tiers, NMS-equity rows only, \$8.191 trillion of notional across the 32



Where the execution price is derived from the NBBO, a comparison of the resulting fill to the contemporaneous NBBO carries less information about the routing decision than it appears to, because the reference and the price share an origin. The comparison remains worth making and is not empty, but for the majority of off-exchange notional it is closer to a check on the venue's pricing methodology than a test of the decision that sent the order there. That is true today, before any change to Rule 611, and it is the reason the surrounding context matters to the review rather than the reason the benchmark should be discarded.

This consideration is particularly relevant to institutional execution analysis, where individual child-order executions are frequently evaluated relative to the contemporaneous NBBO. That comparison should remain an important component of execution-quality measurement. In a more principles-based environment, however, its interpretation may increasingly benefit from consideration of the quality and accessibility of the displayed quotation, the other liquidity alternatives reasonably available, and the objective of the broader parent-order strategy.

This does not diminish the importance of the NBBO. Rather, it places the NBBO within the broader market context necessary to evaluate execution decisions under a principles-based standard. As quotation protection potentially evolves, best execution review should continue to measure execution performance relative to the NBBO while also considering the quality, accessibility and relevance of the underlying liquidity.

D. Modernize the Evidence Supporting the Principle

The evolution of market structure creates an opportunity to distinguish between the principle governing best execution and the evidence used to evaluate whether that principle has been satisfied.

The principle can remain flexible and facts-and-circumstances based while the analytical methods supporting its application continue to improve. Advances in order-event data, market data and execution analytics increasingly allow firms and reviewers to reconstruct execution decisions with greater context than was historically practical. This can improve accountability without requiring FINRA to specify the appropriate routing decision for a particular order.

MPIDs that reported; all shares are of ATS notional and never of the consolidated tape. Sensitivity: two placements turn on definitional rather than evidential questions, and if both resolved against the placement recorded here the 60.9% share would sit between 57.9% and 63.1%. The filings and the tape data are public. CalcGuard's contribution is the cross-venue reconstruction and classification, and CalcGuard will provide the classification table and the methodology on request.



A principles-based best execution standard should remain principles-based, but the evidence used to demonstrate that the principle has been satisfied should evolve with the market.

E. Extended Hours and Pricing Information in the Overnight Session

The Notice asks how firms benchmark and assess execution quality in markets without a consolidated cross-market quote, including in the overnight hours for NMS stocks when the SIPs are not operating, and separately whether additional guidance would help firms apply the considerations in Supplementary Material .06 to extended hours trading. One near-term case bears on both.

Commission staff reported in September 2026 that during August 2026 the hour from 8:00 p.m. to 9:00 p.m. Eastern accounted for 21.2% of alternative trading system share volume and 19.3% of dollar volume in the overnight session. The consolidated data and trade reporting arrangements planned for the December 6, 2026 expansion of overnight trading contemplate a daily maintenance window over that same hour.

The intersection is the point. Supplementary Material .06 sets out considerations for orders in securities for which there is limited quotation or pricing information. The planned window would create that condition not for a thinly quoted security but for every NMS stock, for a defined period each day, and it would do so in the hour that currently carries roughly a fifth of overnight activity. For some portion of that hour there may be no consolidated quotation to consult and no contemporaneous tape print against which an execution could later be reviewed. CalcGuard does not suggest that FINRA prescribe a substitute reference, and we do not assert how venues will operate in that hour once the expansion takes effect. We suggest that guidance address the case directly, because the absence of pricing information is itself a circumstance a reasonable-diligence review should record rather than pass over.

Source: Commission staff memorandum, File No. 4-913, dated September 10, 2026.

F. Suggested Guidance Language

Recognizing that the drafting is FINRA's, CalcGuard offers the following only as a starting point. It prescribes no routing decision, sets no threshold, assigns no weight and requires no particular measure:

Where an execution price is derived directly from the national best bid and offer, comparison of that execution to the contemporaneous NBBO may primarily reflect the venue's pricing methodology and may provide limited information regarding the quality of the underlying routing decision. In such circumstances,



firms should consider whether additional contextual measures are necessary to evaluate reasonable diligence.

This asks a firm to know what its benchmark is measuring. It does not tell the firm what to measure instead, which is a question the circumstances of the order should answer.

The following sections discuss how greater decision path observability, contextual evaluation of institutional orders, modernized regular and rigorous review, and common reference methodologies can help provide that evidentiary foundation.

IV. Decision Path Observability: Best execution outcomes are better understood when the decisions and alternatives that produced them are observable.

As principles-based judgment assumes greater importance in best execution, effective oversight increasingly depends on the ability to reconstruct the decision path that produced an execution outcome. Traditional execution-quality measures remain essential, but evaluating reasonable diligence may also require understanding why a decision was made and whether it was reasonable given the alternatives and market conditions existing at the time.

We refer to this capability as decision path observability: the ability to objectively reconstruct and evaluate the sequence of execution decisions, liquidity interactions and market circumstances connecting an order objective to its eventual outcome. It does not prescribe the correct routing decision or substitute analytics for professional judgment; it provides the evidentiary context necessary to evaluate how that judgment was exercised.

A. Execution Outcomes and Decision Quality

Execution outcomes remain fundamental to best execution analysis. Price, cost, speed, likelihood of execution and other traditional measures provide important evidence regarding results obtained for customers, but they may not fully reveal the quality of the decisions that produced them.

Similar outcomes can emerge from materially different decision processes, while reasonable decisions can produce different outcomes as liquidity and market conditions evolve. A favorable outcome does not necessarily establish that the underlying process was reasonable, just as an unfavorable outcome does not necessarily establish that it was deficient. Investor outcomes, evaluated in context, remain a central measure of execution effectiveness, but decision path observability provides crucial evidence for understanding the process that produced those outcomes.



Two illustrations may make the distinction concrete. Both are hypothetical, constructed to show the analytical point rather than to describe the conduct of any firm.

In the first, a parent order to buy a mid-cap security over an afternoon produces a child execution at the midpoint. On a transaction-level benchmark that fill is excellent. Reconstruction of the decision path shows that before it the strategy made repeated attempts against displayed size that was not accessible at the moment of the attempt, reached a venue holding resting block liquidity later than it might have, and revealed direction along the way. The child execution is genuinely good. The sequence that produced it is what a review would want to see.

In the second, a child execution prints outside the midpoint and screens poorly. Reconstruction shows an order large relative to available liquidity, a customer instruction prioritizing completion before the close, and a venue that supplied the only meaningful block available at that moment. The execution looks worse, while the decision may nevertheless have been reasonable under the circumstances.

Neither conclusion is available from the execution record alone, and both are available from the decision path. Neither requires a regulator to specify what the firm should have done.

B. Reconstructing the Decision Path

Institutional execution typically occurs through a sequence of decisions rather than a single transaction. An order may be divided, modified and routed across multiple execution strategies and liquidity sources as market conditions change. The resulting execution reflects the cumulative effect of those decisions.

A contextual evaluation may therefore require reconstruction of several related elements:

- the customer or investment objective informing the order
- the characteristics and constraints of the order
- the market and liquidity conditions prevailing when decisions were made
- the liquidity alternatives reasonably available and accessible
- the sequence in which those alternatives were pursued
- interactions that resulted in execution and those that did not
- modifications to the order or execution strategy as conditions evolved
- the relationship between those decisions and the resulting execution and investor outcome

The purpose is not to identify a theoretically optimal route after the fact. Markets are dynamic, and hindsight should not become the standard for reasonable diligence. The



relevant question is whether the decision actually made was reasonable based on the information, alternatives and circumstances that existed when it was made.

C. Unexecuted Activity as Relevant Evidence

A complete decision path includes more than completed transactions. Institutional orders may interact with numerous liquidity sources before an execution occurs, and unsuccessful or incomplete interactions can provide important evidence regarding how liquidity was sought and available opportunities were evaluated.

Unexecuted activity may reveal:

- liquidity sources that were pursued but did not provide an execution
- displayed or non-displayed liquidity that proved inaccessible
- routing attempts that consumed time without producing liquidity
- opportunities that were bypassed or deprioritized
- changes in routing behavior as market conditions evolved
- differences between apparent liquidity and liquidity that could actually be accessed

Viewed in isolation, an execution outcome shows the result obtained; the broader decision path can reveal whether that result followed an effective search for liquidity and whether meaningful alternatives were pursued. Including unexecuted activity does not imply that every liquidity source must be accessed or that every unsuccessful route reflects a deficiency. It provides evidence for evaluating whether the overall pattern of liquidity access was consistent with the order objective and prevailing circumstances.

D. Evaluating the Opportunity Set

Decision path observability also provides a basis for evaluating the relevant opportunity set. That set is not every theoretical venue or quotation in the market, but the liquidity alternatives reasonably available and accessible given the order, execution strategy, customer instructions, technology and prevailing conditions.

Liquidity availability and liquidity accessibility are not synonymous. A visible quotation or liquidity indication may not represent a meaningful execution opportunity at the relevant size or time horizon, while non-displayed or bilateral liquidity may provide meaningful opportunities not reflected directly in the displayed market. The objective is not to construct an idealized alternative execution after the fact, but to evaluate whether the strategy reasonably identified and pursued liquidity consistent with the customer's objectives.



V. Contextual Evaluation of Institutional Execution: Institutional execution should be evaluated from the individual transaction through the broader order objective.

Institutional execution illustrates why best execution should be evaluated within the context of the broader order objective. Orders may be large relative to available liquidity, executed over extended periods, divided among multiple algorithms or brokers, and routed across displayed, non-displayed and bilateral liquidity. These characteristics do not create a different best execution obligation, but they affect the evidence necessary to evaluate whether that obligation was satisfied.

A. Evaluate Execution at the Level of the Relevant Objective

Institutional execution often begins with a parent order reflecting an investment decision or trading objective and proceeds through a series of child orders, routing decisions and liquidity interactions intended collectively to accomplish that objective.

The execution quality of an individual child order can be measured in several useful ways, including comparison with the contemporaneous NBBO and other price benchmarks. Those measurements remain important. However, an individual child execution may provide an incomplete picture when separated from the objective of the parent order and the sequence of decisions through which that objective was pursued.

An execution strategy may accept a different immediate price outcome in pursuit of greater size, lower market impact, reduced information leakage or greater execution certainty. Conversely, individually favorable child executions do not necessarily establish that the overall strategy accessed liquidity effectively or produced a favorable customer outcome.

Best execution analysis should therefore be capable of moving between levels of evaluation: Child execution → routing decision → execution strategy → parent-order objective → investor outcome. Each level provides relevant information. The appropriate analytical emphasis depends upon the question being evaluated.

B. Contextualizing Execution Relative to the NBBO

The relationship between child-order executions and the NBBO illustrates why institutional best execution requires contextual measurement. Comparison with the contemporaneous NBBO should remain an important component of execution-quality analysis, but potential Rule 611 rescission may increase the importance of understanding what the displayed quotation actually represented as an executable opportunity.

Relevant considerations may include depth at the displayed price, child-order size relative to that depth, quote stability, likelihood of access, other liquidity reasonably available and the objective of the broader parent strategy. These factors can help distinguish a



meaningful executable opportunity from a price reference offering useful market information but limited actionable liquidity for the particular order.

An execution outside the contemporaneous NBBO should therefore remain analytically significant and may warrant further evaluation, but the comparison alone may not determine whether the underlying decision satisfied best execution. Evaluating the quality and accessibility of the displayed market, other reasonably available alternatives and the parent-order objective places the NBBO within a more complete evidentiary framework rather than diminishing its importance.

C. Algorithmic Execution and the Parent-Order Lifecycle

Algorithmic execution further reinforces the importance of evaluating institutional activity at the appropriate level. An algorithm may make numerous routing and timing decisions as price, liquidity, volatility and execution progress change; isolated child transactions may therefore reveal individual outcomes without showing whether the strategy effectively pursued the customer's objective.

A contextual review can consider:

- the objective and parameters provided to the algorithm
- how the strategy divided and sequenced the parent order
- the liquidity sources evaluated and accessed
- executed and unexecuted routing activity
- changes in routing behavior as market conditions evolved
- execution progress relative to the stated objective
- the resulting parent-order and investor outcome

The objective is not to require disclosure of proprietary algorithmic logic or prescribe algorithm design. It is to ensure that the execution process can be evaluated sufficiently to determine whether the strategy reasonably pursued the customer's objective under the conditions encountered.

D. Diverse Sources of Institutional Liquidity

Institutional liquidity is distributed across exchanges, alternative trading systems, single-dealer platforms, conditional mechanisms, request-for-quote processes and other displayed and non-displayed channels. A principles-based framework should not assume that venue classification determines execution quality; the relevant considerations are whether liquidity was reasonably available and accessible, appropriate for the order and customer objective, and effectively utilized.



This may become more important if Rule 611 is rescinded. Greater discretion over whether and when displayed quotations are accessed increases the value of understanding how strategies evaluate opportunities across liquidity sources and whether increased routing flexibility expands meaningful liquidity access or simply changes where executions occur.

E. Customer Objectives and the Weighting of Execution Factors

The principles-based character of Rule 5310 is particularly valuable for institutional orders because execution objectives can differ materially among customers and orders. Price remains fundamental, but the relative importance of other factors may vary. An urgent order may place greater value on execution certainty. A large order may require greater attention to market impact and information leakage. An order seeking block liquidity may reasonably evaluate the probability and size of available liquidity differently from an order intended to track a benchmark closely.

For this reason, modernized guidance should not establish universal weights among execution-quality factors. Firms should instead be able to identify the factors relevant to a particular mandate and demonstrate how those factors informed the execution process. Common analytical methods can improve consistency of evaluation without requiring different customers, orders or strategies to produce the same execution choices.

VI. Modernizing Regular and Rigorous Review: Continuous measurement can make periodic review more targeted, contextual and effective.

FINRA's regular and rigorous review requirement provides an important mechanism for translating principles-based best execution into ongoing supervisory practice. As analytical capabilities evolve, the opportunity is not necessarily to require more frequent manual or transaction-by-transaction review, but to improve how firms identify, evaluate and respond to execution-quality issues.

Modern analytics increasingly allow large populations of orders and routing decisions to be measured continuously while preserving the ability to reconstruct individual decision paths when deeper review is warranted. Aggregate and order-level analysis can therefore operate as complementary components of a more scalable and informative review process.

A. Aggregate and Order-Level Review Are Complementary

Aggregate measures can identify patterns and differences among routing arrangements, execution venues, algorithms and market conditions that may not be apparent from individual transactions. Order-level analysis serves a different purpose: reconstructing the circumstances surrounding a particular decision to understand why an observed outcome occurred.



Neither level is sufficient in every circumstance. Aggregate statistics can obscure differences in order characteristics and market context, while transaction-by-transaction review can make it difficult to distinguish isolated outcomes from systematic behavior. A modern review process can use each level for the purpose it serves best.

B. Continuous Measurement and Exception Identification

Regular and rigorous review need not imply that execution quality is observed only at discrete supervisory intervals. Continuous measurement can identify changes in execution quality, routing behavior, liquidity access, benchmark performance and outcomes across market conditions, providing formal review processes with a broader evidence base.

Importantly, an observed difference does not itself establish a best execution concern. A broker, algorithm or routing strategy may appear to underperform a benchmark because of differences in order characteristics, liquidity accessibility, customer objectives or market state. Decision path observability can provide the next level of analysis by reconstructing the relevant activity and examining the circumstances in which the pattern occurred.

The review process can therefore progress from: Continuous Measurement → Pattern or Exception Identification → Contextual Reconstruction → Supervisory Evaluation → Process Improvement. This approach focuses deeper review where the evidence indicates it may be useful without requiring reconstruction of every execution decision.

C. Contextual Comparison Across Execution Arrangements

Regular and rigorous review also depends upon meaningful comparison among execution alternatives. A broker or strategy handling larger, more urgent or less liquid orders may produce different raw statistics from one handling a materially different order population. Comparison without appropriate context can therefore produce misleading conclusions.

Review methodologies can improve comparability by accounting for relevant characteristics such as order size and liquidity profile, urgency, market conditions, execution strategy, liquidity source and customer objective. The purpose is not to prescribe a particular normalization methodology, but to better distinguish differences attributable to execution quality from those attributable to the circumstances surrounding the orders being compared.

Contextualized comparison can strengthen evaluation of brokers, algorithms and routing arrangements while preserving the flexibility inherent in a principles-based framework.

VII. A Reference Framework for Best Execution Measurement: Common methods can improve comparability without requiring common execution decisions.



The principles-based character of Rule 5310 appropriately allows best execution to be evaluated according to the circumstances of individual customers, orders and markets. That flexibility does not preclude greater consistency in the analytical methods used to evaluate execution quality. As execution discretion and the range of relevant evidence expand, common analytical concepts may become increasingly useful in supporting objective and comparable review.

CalcGuard believes FINRA should consider encouraging development of a reference framework for best execution measurement. Such a framework would not define best execution, prescribe routing decisions or assign mandatory weights or thresholds. It could instead identify common categories of evidence, definitions and methodologies for evaluating execution decisions within their appropriate context.

Common methods need not produce common answers. Different customers, orders and market conditions may appropriately lead to different execution decisions even when evaluated using consistent analytical concepts.

A. The Value of a Common Analytical Reference

Principles-based regulation depends upon judgment, but meaningful evaluation of that judgment benefits from a common analytical language. As best execution analysis expands beyond completed transactions to include decision paths, liquidity accessibility, market conditions and broader order objectives, materially different definitions and methodologies can make it difficult to determine whether differences in measured execution quality reflect actual performance or simply differences in how the measures were constructed.

A reference framework could improve consistency around questions such as:

- At what level should related execution activity be aggregated?
- How should parent and child orders and decision paths be associated?
- How should liquidity availability and accessibility be distinguished?
- How should outcomes be compared across different orders and market conditions?

These questions do not require FINRA to determine the appropriate execution decision. They concern the analytical foundation necessary to evaluate those decisions consistently.

B. Categories of Evidence Rather Than a Prescriptive Scorecard

A useful reference framework should organize relevant evidence into broad analytical categories rather than attempt to establish a single best execution score.



Potential categories include:

- Execution Outcomes: Execution price, transaction cost, price improvement, implementation shortfall and other measures describing the results obtained for the customer.
- Liquidity Access: The availability, accessibility and quality of liquidity relevant to the execution decision and the effectiveness with which the strategy identified and accessed that liquidity.
- Routing Behavior: The sequence of routing decisions, liquidity interactions, successful and unsuccessful routes, and changes in execution behavior throughout the order lifecycle.
- Market Context: The conditions surrounding execution decisions, including spread, depth, volatility, quote stability, liquidity state and other factors relevant to the particular order.
- Reference-Market Quality: The quality and accessibility of market references against which execution performance is evaluated, including the NBBO where relevant, and whether a displayed quotation represented a meaningful executable opportunity at the relevant size and time.
- Execution Effectiveness: The degree to which the execution process achieved the customer's objective when considering relevant factors such as price, timing, market impact, information leakage, liquidity access and execution certainty.
- Consistency and Resilience: Whether execution practices produce reasonably consistent results across changing market conditions and whether material changes in performance can be identified and evaluated over time.
- Investor Outcomes: The relationship between the execution process and the broader customer or investment objective the execution was intended to support.

These categories are not intended as an exhaustive or mandatory list. They illustrate how a common analytical framework can organize diverse forms of evidence without reducing best execution to a single metric or formula.

C. Context Should Determine the Weight of the Evidence

A reference framework becomes prescriptive if common measures are accompanied by universal assumptions about their relative importance. The relevance and weight of individual measures may vary materially with customer objectives, order characteristics and market circumstances. An urgent order seeking immediate liquidity may appropriately be evaluated differently from a large order designed to limit market impact over an extended period.



The objective should therefore be consistency in how relevant evidence is identified and measured, while leaving its interpretation appropriately contextual. Common analytical methods can strengthen accountability without requiring uniform execution decisions.

D. Develop the Framework Empirically

A reference framework should be developed empirically rather than codified comprehensively in advance. This is particularly important if Rule 611 is rescinded, since changes in quotation protection could affect displayed liquidity, NBBO quality, routing behavior, execution location, liquidity accessibility and investor outcomes in ways that cannot reliably be predicted beforehand.

Reference measurements established before implementation can provide a basis for evaluating subsequent changes and distinguishing regulatory effects from normal variation in market conditions. Relevant areas may include displayed and accessible liquidity, NBBO quality and stability, route success, executions inside, at and outside the NBBO, execution effectiveness across market states, and parent-order and investor outcomes.

Much of the information necessary to support this work already exists within order management and execution systems, broker routing records, market data and regulatory reporting. The initial objective should therefore be to derive greater analytical value from existing information, develop candidate measurements and test them against actual market activity before considering materially new reporting requirements or codifying supervisory expectations.

Candidate measures should demonstrate that they are:

- objectively definable
- consistently reproducible
- informative across different market environments
- sufficiently robust to support meaningful comparison
- practical to implement using reasonably available information

Measures that satisfy these characteristics may become useful reference points; those that do not can be refined or discarded. The opportunity is not to standardize best execution, but to improve the consistency, transparency and empirical foundation of the methods used to evaluate it.



VIII. Industry Collaboration and Empirical Validation: Measurement methodologies should be tested against actual market behavior before becoming accepted reference points.

The evolution of best execution measurement should be informed by empirical evidence and the practical experience of market participants responsible for applying it. The diversity of institutional orders, execution strategies, liquidity sources and market conditions makes it difficult to determine through regulatory guidance alone which methodologies will prove most informative, reproducible and useful in practice.

Collaboration among broker-dealers, investment managers, asset owners, academics, regulators and other market participants can help identify and validate those methodologies without requiring immediate consensus on a comprehensive set of metrics.

A. The Rule 611 Transition Creates a Natural Measurement Opportunity

The potential rescission of Rule 611 creates an unusual opportunity to evaluate a significant market structure transition prospectively rather than reconstructing its effects after implementation. Changes may occur in routing behavior, displayed liquidity, execution location, NBBO quality, liquidity accessibility and investor outcomes, but their magnitude and direction cannot reliably be known in advance. Nor should subsequent changes automatically be attributed to Rule 611, since technology, competition, market conditions and participant behavior will continue to evolve independently.

Reference measurements established before implementation can provide an empirical basis for determining what changes, whether those changes persist and how they affect execution quality and investor outcomes. This prospective measurement can also inform FINRA's best execution review by providing evidence of whether existing guidance remains effective as the market environment evolves.

B. The Market Structure Transition Initiative

Consistent with these objectives, CalcGuard has begun organizing the Market Structure Transition Initiative ("MSTI"), a collaborative effort focused on establishing objective measurements around the potential Rule 611 transition and the broader evolution toward principles-based best execution.

The initiative brings together perspectives from investment managers, asset owners, broker-dealers and market structure specialists, with academic participation intended to support independent methodological review and validation. These participants provide complementary perspectives across the execution lifecycle—from routing technology and liquidity access to investment objectives, fiduciary oversight and methodological rigor.



MSTI is not intended to establish a proprietary definition of best execution or advocate for a particular regulatory outcome. Its purpose is to create an environment in which market participants can collaboratively develop, test and refine analytical methodologies using actual market activity.

Initial areas of work include:

- establishing pre-change reference measurements
- developing a shared library of candidate market-quality and execution-quality measures
- evaluating decision path and liquidity-access measures
- developing methods for evaluating NBBO and reference-market quality
- testing measures across different orders, participants and market conditions
- incorporating independent methodological review as the framework develops

The initiative is intentionally iterative. Measures that demonstrate robustness and practical value can become candidates for broader evaluation; those that prove unstable, difficult to reproduce or insufficiently informative can be refined or eliminated. MSTI is one example of how collaborative empirical work may contribute practical evidence to the questions FINRA is considering, not a substitute for FINRA's own analysis or a proposed regulatory framework.

C. Empirical Validation and Regulatory Dialogue

The usefulness of any candidate measurement ultimately depends on whether it improves understanding of execution decisions and investor outcomes. Candidate measures should therefore move through a disciplined process of definition, baseline measurement, testing, comparison, validation and refinement before being relied upon as broader reference points. Independent review can help assess statistical robustness, interpretability and methodological limitations.

FINRA's request for comment creates an opportunity not only to reconsider existing guidance, but also to support continued technical dialogue as this evidence develops. Industry roundtables, measurement workshops, technical discussions or similar forums could allow regulators and market participants to examine emerging methodologies and observed market behavior without attempting to resolve every analytical question through a single revision of guidance.

Such engagement could be particularly valuable through a potential Rule 611 transition, when pre-change reference measurements can provide a common empirical foundation



for evaluating subsequent changes in liquidity, routing behavior, execution quality and investor outcomes.

CalcGuard would welcome the opportunity to share observations and methodologies developed through MSTI as that work progresses and to participate in broader discussions regarding the evolution of best execution measurement. The objective should not be to establish a single industry definition of best execution, but to improve the quality of the evidence available to firms, customers, fiduciaries and regulators as they apply and evaluate a principles-based standard.

A principles-based framework benefits from common evidence not because participants should reach the same execution decisions, but because those decisions should be capable of objective and repeatable evaluation.

IX. Recommended FINRA Actions: Preserve the principle, modernize the evidence and validate the methods collaboratively.

CalcGuard respectfully offers the following recommendations for FINRA's consideration. Each is intended to strengthen the evidence available to evaluate reasonable diligence while preserving the flexibility inherent in Rule 5310.

1. Preserve the Principles-Based Character of Rule 5310

Preserve the flexibility inherent in Rule 5310 rather than replacing Rule 611 with new prescriptive routing requirements, mandatory execution thresholds or universally weighted metrics. Modernized guidance should reinforce reasonable diligence while improving firms' ability to demonstrate through objective evidence how judgment was exercised under the circumstances.

2. Encourage Evaluation of Execution Decisions Within Their Full Context

Recognize the decision path, including reasonably available and accessible liquidity, market conditions, customer objectives, routing decisions, and executed and unexecuted interactions, as potentially relevant evidence. The NBBO should remain an important execution-quality reference while its interpretation increasingly considers the quality and accessibility of the liquidity it represents.

3. Recognize the Contextual Nature of Institutional Best Execution

Recognize that institutional execution may require evaluation from individual child executions and routing decisions through algorithmic strategies, parent orders and investor outcomes. Price remains fundamental, but liquidity accessibility, urgency, market impact,



information leakage, execution certainty and customer instructions may appropriately influence execution decisions without requiring universal weighting among those factors.

4. Modernize Regular and Rigorous Review Through Layered Analysis

Recognize the complementary roles of continuous aggregate measurement, contextual comparison and targeted decision path reconstruction. This layered approach can identify patterns and exceptions and support deeper supervisory evaluation where appropriate without requiring a retrospective best execution determination for every order. Suggested language addressing one aspect of this review appears at Section III.F.

5. Encourage Development of a Non-Prescriptive Reference Framework

Encourage common analytical concepts, definitions and methodologies that improve consistency and comparability without prescribing a universal scorecard, thresholds or execution outcomes. Where practical, such a framework should leverage existing regulatory, market and operational information before requiring materially new reporting.

6. Support Collaborative and Empirical Development of Measurement Methodologies

Encourage empirical testing and validation of emerging methodologies across market participants. The potential Rule 611 transition provides a valuable opportunity to establish pre-change reference measurements and evaluate subsequent changes in NBBO quality, liquidity accessibility, routing behavior, execution effectiveness and investor outcomes through technical dialogue, measurement pilots or similar collaborative mechanisms.

Taken together, these recommendations reflect a common objective: preserve the principle, modernize the evidence used to demonstrate it, and encourage collaborative development and validation of the methodologies used to evaluate it.

Conclusion

FINRA's review presents an important opportunity to ensure that Rule 5310 continues to serve investors effectively as U.S. equity market structure evolves. Potential Rule 611 rescission makes that review particularly timely: greater discretion over how and where liquidity is accessed would place greater reliance on principles-based best execution and the ability to demonstrate that such discretion was exercised reasonably. That evolution does not require replacing existing principles with more prescriptive routing requirements or standardized metrics. The opportunity is to modernize the evidence through which reasonable diligence is demonstrated and evaluated.

Effective evaluation increasingly requires visibility beyond the completed execution to the decision path that produced it. Investor outcomes, evaluated in context, remain a central



measure of execution effectiveness, but understanding reasonably available liquidity, routing decisions, market conditions and executed and unexecuted interactions provides crucial evidence for evaluating the process that produced those outcomes. Common analytical methods can make that evidence more comparable without requiring uniform execution decisions.

CalcGuard therefore encourages FINRA to preserve the principles-based character of Rule 5310 while modernizing the analytical framework supporting its application: preserve the principle, modernize the evidence, and encourage collaborative development and validation of the methodologies used to evaluate it.

CalcGuard appreciates FINRA's consideration of these perspectives and would welcome continued engagement with FINRA and its staff, including the opportunity to share empirical observations and measurement methodologies as collaborative industry work progresses.

Respectfully,

/s/ Tim Sargent

CEO

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