Cornell Law School
Lawyers in the Best Sense

WILLIAM A. JACOBSON
Clinical Professor of Law
Director, Cornell Securities Law Clinic

G28J Myron Taylor Hall
Ithaca, New York 14853-4901
T: 607-255-6293
F: 607-255-8887
E: waj24@cornell.edu

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Via Electronic Filing (pubcom@finra.org)

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

Re: Regulatory Notice 25-05 (Proposed Modifications to Rule 3270 and 3280)

Dear Ms. Mitchell:

The Cornell Securities Law Clinic ("Clinic") welcomes the opportunity to submit Comments on the Request for Comment regarding proposed amendments (the "Proposal") to Rule 3270 and 3280 regarding the reporting requirements for Outside Business Activities and Personal Securities Transactions (the "Request for Comment"). The Clinic is a Cornell Law School curricular offering in which law students represent public investors and public education regarding investment fraud in the largely rural "Southern Tier" region of upstate New York. For more information, please see http://securities.lawschool.cornell.edu.

I. The Clinic supports the continuation of Members' reporting obligations for outside IA activities with the following stipulations:

FINRA has proposed to remove the requirement that its members supervise the outside investment adviser (IA) activities of their associated persons when such activities are conducted outside the broker-dealer's operations. Under the Proposal, oversight would no longer be necessary when the IA activities are already regulated under the Investment Advisers Act of 1940 or corresponding state law. We support the Proposal's objectives of reducing duplicative regulatory burdens and better aligning supervisory obligations with operational control. However, we recommend that FINRA develop a template agreement to clarify cost allocation and supervisory responsibilities at the personnel onboarding stage to ensure that neither responsibility nor liability is improperly shifted and to preserve investor protection standards.

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Investment advisers are already subject to regulatory oversight by the SEC or state securities regulators, including requirements for fiduciary duty, disclosure of fees and conflicts, Form ADV filings, and regular examinations. FINRA is not the regulator of IA activities, and requiring broker-dealers (BDs) to supervise conduct fully regulated by separate authorities creates unnecessary redundancy. In particular, dual-hatted personnel—those registered with both a BD and an IA—currently must duplicate compliance reporting and supervision for the same IA activities, significantly increasing compliance costs without materially enhancing investor outcomes.

Moreover, broker-dealers frequently have little or no operational control over the outside IA activities conducted by their associated persons. Many advisory activities take place on separate platforms, involve separate client relationships, and are subject to policies, procedures, and compliance systems outside the BD's authority.

Nonetheless, we recognize that BD supervision of outside IA activities involving selling compensation can provide certain investor protection benefits. These include monitoring potential conflicts of interest associated with product recommendations or referral fees, ensuring consistent client-facing conduct, maintaining comprehensive records for dispute resolution, and preventing unauthorized securities activities, such as selling away. However, the same investor protection objectives can be achieved without duplicative BD oversight when IA activities are fully supervised under SEC or state law and where selling compensation, conflicts, and client risks are properly disclosed and documented.

Accordingly, we recommend that, to prevent potential abuses and safeguard investors FINRA encourage the use of a standard form agreement between BDs and IA firms. This agreement should require mutual confirmation of cost allocation and supervisory responsibilities during the onboarding of associated persons engaged in outside IA activities. Explicit agreement at the outset will ensure that neither firm improperly shifts supervisory burdens and that associated persons are properly monitored within the appropriate regulatory framework.

II. The Clinic believes that the definition of "investment-related activity" is generally appropriate, but suggests that <u>modifications should be made</u> for emerging financial activities

FINRA has proposed a definition of "investment-related activities" intended to capture a broad range of financial activities involving securities, crypto assets, banking, insurance, and real estate. We support the general scope of the current definition, which aligns with FINRA's investor protection objectives by ensuring that activities involving financial assets are appropriately supervised. However, we recommend that FINRA provide additional clarification regarding emerging activities and certain low-risk activities to ensure that the rule remains practical and does not impose unnecessary compliance burdens.

First, the definition should explicitly address new and emerging financial activities that currently fall into regulatory gray areas. For example, associated persons increasingly participate in decentralized autonomous organization (DAO) governance, token advisory services, and NFT

investment consulting. Without clear guidance, firms may face uncertainty regarding whether such activities must be reported, increasing compliance risk and potential underreporting. Explicitly including or addressing these emerging activities would ensure consistent application of the rules and protect investors engaged with novel financial products and services.

Second, we recommend that FINRA clarify the treatment of certain low-risk activities that may not warrant reporting. Examples include passive equity investments where the associated person holds no management or advisory role, or financial content creation (such as blogging or podcasting) where there is no client solicitation or receipt of compensation. Reporting such activities would impose compliance burdens without materially advancing investor protection. To address this, FINRA should consider publishing interpretive guidance or examples that delineate the boundaries of "investment-related activity." In addition, establishing a safe harbor for activities that are non-compensated, non-client-facing, and passive would help firms and associated persons focus reporting efforts on higher-risk activities that more directly implicate investor protection concerns.

In sum, while the current definition appropriately captures core financial activities, further clarification would enhance regulatory certainty, reduce unnecessary reporting, and better align compliance efforts with FINRA's overarching investor protection mission.

III. The Clinic believes that exclusions from reporting obligations for registered persons' personal investments and activities conducted on behalf of an affiliate of a member are generally appropriate and consistent with the amended rule proposal, but notes that caution is warranted, particularly with activities conducted on behalf of an affiliate of a member

The Proposal has several exclusions, including for registered persons' personal investments in non-securities and activities conducted on behalf of an affiliate of a member. Exempting registered persons' personal investments in non-securities from the reporting requirements seems to be consistent with the purpose of the Proposal, which is to streamline the reporting of personal investments and outside activities for registered and associated persons and to allow BDs to focus oversight on matters more directly pertinent to investor protection.

It does not seem likely that a registered person's personal non-securities investments would be particularly relevant to investor protection. As to the exemption from reporting for activities conducted on behalf of an affiliate of a member, it is not clear that the exemption should apply to these activities. The breadth of activities conducted on behalf of an affiliate of a member is wide. For example, a registered representative could act as an investment advisor through an affiliated third-party investment advisor. This could involve recommending securities transactions for the clients of the affiliated investment advisor. While the reporting requirements for outside investment advisor activities remain in effect under this revised proposal, they only seem to go into effect if the person does more than recommend the securities transaction. This limitation seems to give a great deal of leeway to registered representatives to remain involved in outside investment advisor activities without having to report it.

Careful thought should be given to what kind of activities conducted on behalf of an affiliate of a member should be exempted from the reporting requirements of the rule, with focus given on how a customer may perceive the outside activity

Conclusion

The Clinic appreciates the opportunity to provide input on FINRA's Request for Comment. For the foregoing reasons, the Clinic is generally supportive of the proposed modifications with noted potential adjustments so that the modifications better protect investors.

Respectfully Submitted,

William A. Jacobson

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William A. Jacobson, Esq.
Clinical Professor, Cornell Law School
Director, Cornell Securities Law Clinic

Justin Cwiklinski

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Justin Cwiklinski
Cornell Law School, 2026

Jing Huang

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Jing Huang
Cornell Law School, 2027