



July 14, 2025

Sent via email to [pubcom@finra.org](mailto:pubcom@finra.org)

Ms. Jennifer Piorko Mitchell  
Office of the Corporate Secretary  
FINRA  
1735 K Street, NW  
Washington, DC 20006-1506

RE: **Regulatory Notice 25-07** – Supporting Modern Member Workplaces  
Comments from Empower Financial Services, Inc. (CRD 13109)

Dear Ms. Piorko Mitchell:

On April 14, 2025, FINRA requested comments with respect to how FINRA can further evolve its rules, guidance, and processes to reflect modern business practices and markets.

Empower Financial Services, Inc. ("EFSI") offers the following comments in response to the topics applicable to its business model addressed in Regulatory Notice 25-07.

As background, EFSI ("the Firm") is the broker-dealer member firm for Empower with over 4,200 active registered persons. Empower is the second-largest retirement services provider in the United States.<sup>1</sup> Empower's primary business involves the offer of retirement products and services to defined contribution plans distributed primarily, although not exclusively, through third-party intermediaries, and directly in the IRA marketplace.

EFSI is also an introducing broker-dealer for self-directed brokerage accounts cleared through a third-party broker-dealer. These accounts are established and serviced through registered representatives associated with one of several customer call centers. In this respect, the Firm's business model is generally different from a typical "retail" distribution broker-dealer.

Empower customers may also open traditional retail brokerage and taxable investment accounts with trades executed through a third-party broker-dealer.

## Branch Offices and Hybrid Work

In line with the Firm's business model described above and current technologies that permit working virtually from a personal residence, a substantial percentage of EFSI's associated persons are successfully working routinely from remote, personal residence locations. These work arrangements have had a very positive impact by enabling management to recruit and retain qualified associates that needed more flexible work arrangements, including the ability to work from

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geographic location different from the Firm's headquarters or other OSJ/branch office "brick and mortar" locations. The Firm leverages its operational and supervisory practices for conducting business from remote locations.

*1. What are the impacts of modern technologies and compliance tools on the effective supervision of decentralized workplaces and evolving hybrid work arrangements?*

The books and records of the Firm are generally stored electronically, and are rarely maintained in decentralized workplaces, including home offices used in associated persons' work arrangements. As such, supervision of records can be conducted from anywhere. Centralized electronic storage of records minimizes the risk associated with decentralized workplaces. Additionally, such record storage also allows for supervision to be conducted remotely from locations other than the workplace through use of tools that did not previously exist, including workflow platforms, screen sharing, and video conferencing.

*2. Should the Supervision Rule's branch office and OSJ definitions, inspection requirements, and designation and registration of offices be modernized to eliminate unnecessary burdens or ambiguities while maintaining investor protection and market integrity? Should the branch office definition be amended in light of the technological advances that have changed how and where individuals work? Is the OSJ definition still relevant in today's environment?*

FINRA should consider permanently permitting remote, virtual inspections of certain types of offices on a risk-adjusted basis determined by each firm. Home offices, particularly where no customer-facing activity or custody of funds or securities occurs, are lower risk and may be appropriate for virtual inspections. The Pilot program, in its second year, likely has produced sufficient data for FINRA to begin having substantive conversations with SEC and State regulators to make the use of remote inspections permanent.

As FINRA moves toward a permanent remote inspection policy, it should establish and clarify supervisory expectations for virtual inspections.

Additionally, the designation of an office as a branch or non-branch should be based on a risk analysis, rather than its physical location. Locations that do not have customer contact, do not hold any records, do not hold themselves out to the public, and pose lower risk should be subject to separate oversight protocols and should not meet the definition of a branch or non-branch location.

Alternatively, there should be a classification for these offices, which allows firms to make risk-based decisions on supervision. Potential alternatives could include annual meetings specific for such locations, formal attestations, or other oversight methods as determined appropriate by the firm's documented Risk Assessment.

If these types of locations are no longer categorized as offices, they should not count toward a firm's membership agreement office count. These changes would better reflect companies that have adopted a remote work environment.

Also, permissively registered individuals, who work in remote locations and are not acting in any broker-dealer capacity, should not be subject to inspection requirements. Similar to remote non-branch location oversight described above, the firm's Risk Assessment program should address the required oversight of permissively registered individuals.

## Registration Process and Information

*Should the registration process and systems and information collected be changed to address the impacts of modern technologies and the evolution of the workplace? What information about workforce locations should be collected through the registration process?*

The number of EFSI Associated Persons working from home continues to increase, with few locations held out to the public. EFSI's books and records are not stored in these locations (as they are largely digital), there is not a significant need to collect a "business address" for individuals. This could be consolidated to main offices.

## Qualifications and CE

- 1. What technologies or assessment tools are members leveraging to identify appropriate candidates for positions that require registration? Should FINRA adopt, or modify and adopt, some of those practices?*

The Firm currently uses FINRA Pre-Hire Snapshots and BrokerCheck, among other tools like background checks, when reviewing potential candidates. While the FINRA Pre-Hire Snapshot and FinPro show "valid" registrations, or MQP enrollment, BrokerCheck does not. This sometimes causes confusion if an individual views their record on BrokerCheck. Changing BrokerCheck to reflect valid registrations instead of just the registration history, consistent with the Pre-hire Snapshots and FinPro, would provide a more accurate registration status for anyone reviewing registrations.

- 2. Are there more effective or efficient ways for individuals to demonstrate their qualifications?*

FINRA should consider allowing all examinations to be taken remotely. Remote SIE testing has been utilized as a way to have a larger pool of people prepared to enter the financial services industry. At this point remote testing controls and processes should be mature enough to allow at least a pilot program for remote testing for other registration types. Allowing remote testing provides flexibility and efficiencies to the workforce and member firms.

- 3. Are members or individuals facing specific challenges relating to the qualification examinations? For example, should regulators continue to require association with a member before individuals can take qualification examinations (beyond the SIE examination)?*

EFSI would be in favor of allowing individuals to take certain qualification examinations (for example, Series 6 and Series 7, not principal examinations) without being sponsored by a firm. This would allow candidates to obtain registrations needed for future roles, similar to how FINRA made the SIE available to recent college graduates or people interested in the industry.

In the past, the Firm has seen instances of individuals joining the Firm, passing their exams and then immediately leaving, essentially using the Firm to pass exams. Allowing those interested in taking exams independently could potentially make for a more efficient process both for firms and individuals interested in the industry. Conversely, a large number of people fail exams and are subsequently terminated for failure to obtain registrations.

- 4. Should FINRA consider any changes to the MQP to ensure that it is meeting the evolving needs of members, securities professionals, and investors?*

FINRA should consider allowing more people to enroll in MQP or grant more exceptions in enrollment to MQP (for example, people who have remained in the industry but not in registered roles). When MQP was initially rolled out, some people missed early communications or missed a deadline. FINRA has been unwilling to extend deadlines or grant exceptions.

FINRA should consider two improvements to the MQP program. First, eliminate the five-year limit on the program, allowing representatives to continue to meet continuing education requirements to remain in MQP for as long as needed. This approach is used in other industries. Second, automatically enroll all terminating representatives into MQP, rather than requiring the representatives to individually enroll upon receipt of their U5. Representatives would

then receive all necessary information on the requirements for MQP and can determine at which point they opt out of the program.

## Delivery of Information to Customers

EFSI appreciates FINRA's attention to the critical issue of electronic delivery and agree that the current framework is outdated. The foundational SEC guidance on e-delivery — released in 1995 and 1996 — predates the widespread use of mobile devices, secure web portals, and modern communication platforms. Despite rapid technological advancement and digital adoption across the financial industry, the SEC has not updated this guidance in nearly three decades. As a result, firms are left to interpret decades-old principles to assess whether newer methods, such as app-based notifications, dynamic consent capture, or web-based portal delivery, satisfy legal requirements around access, notice, and evidence of delivery. This creates regulatory uncertainty and exposes firms to compliance and litigation risks.

Regulatory Notice 25-07 is an important first step toward modernizing e-delivery standards. EFSI encourages FINRA to formally engage with the SEC to secure updated guidance that reflects current communication technologies. Clear, technology-neutral rules, and safe harbors for commonly used delivery methods would improve compliance clarity, enhance investor access, and align with modern disclosure practices. The securities industry requires coordinated, principles-based modernization of e-delivery to ensure that investor communications are effective, efficient, and legally sound in today's digital environment.

## Recordkeeping and Digital Communications

1. *The phrase business as such under Exchange Act Rule 17a-4(b)(4) is not defined. What questions, concerns, or challenges, if any, does this raise with respect to ensuring compliance with the recordkeeping requirements? Are there categories of records that are especially costly or difficult to capture or retain, and which may provide no appreciable regulatory benefit?*

Rules should be updated to take into account the nature of written communications today — which is significantly different than when the rules were adopted. Capturing and retaining video and visual meetings is difficult and costly as the types of media are generally larger in size and increase storage costs. If a reliably accurate transcript of the meeting can be produced by the meeting software or another product, the transcript should be a reasonable storage alternative for maintaining the communication.

It would be helpful to provide detailed clarification that the definition of “business as such” only refers to communications specific to products and services of the firm and does not include administrative communications that do not pose risk relative to the firm's business. This would avoid unnecessary capture, review, and retention of communications that are not intended to be covered by the Exchange Act.

## Summary

EFSI appreciates FINRA acknowledging the changes in member firm workplaces and providing firms the opportunity to share how FINRA can potentially evolve its rules, guidance, and processes to reflect modern business practices.

Should you have questions or need explanatory information regarding the Firm's comments, please do not hesitate to contact me at 303-737-1739 or by email at [john.christolini@empower.com](mailto:john.christolini@empower.com).

Sincerely,

John Christolini  
Chief Compliance Officer  
Empower Financial Services, Inc.

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<sup>i</sup> Pension & Investments DC Recordkeeper Survey (2024). Ranking measured by total number of participants as of December 2023.