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Subject: Joshua Matthew Preston - Registered Representative - Public Comment
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Public Comment on Proposed FINRA Rule 3290
Joshua Matthew Preston
[REDACTED]

Dear FINRA,

I would like to express both appreciation and **serious** continued concern regarding the proposed FINRA Rule 3290.

FINRA Rule 3270 was a Rule with drastic consequences, creating an environment that resulted in the shut down of my publication, Geopolitical Affairs. I followed all the rules, received two pre-approvals for the activity, and just three weeks before the election, had my publication forcibly shut down by my broker-dealer following a change in role.

Specifically, the ambiguous phrase "where circumstances warrant" provided virtually unlimited discretion to the scope of "prohibiting the activity" in .01 Supplementary Material of Rule 3270, and was particularly damaging. Ultimately, the origination of this language was passed under "Accelerated Approval" in 2010, and thus was not subject to an appropriate review.

In addition, the provision of federal powers regarding the prohibiting of outside activities to private entities in the financial industry, is jarring. While prior written notice is important, specifically to prevent fraudulent activity or inappropriate engagements (SEA 1934 Section 15A(b)(6) provides for this), there is no effective mechanism that FINRA or the SEC has retained to ensure that employees in the financial industry have a right to engage in legitimate activities in the application of this policy. Neither is there any meaningful due process or appeal mechanism, before the consequences of this policy are carried out, such as threat of termination of employment or otherwise.

I am appreciative of the reform in narrowing Rule 3290 to investment-related activities, it's possible that change could have made a difference in my situation, as my publication was part of my legitimate expression and passion for international affairs. Section 15A(b)(6) of the Securities and Exchange Act of 1934 specifically states that it is **"not designed to...regulate by virtue of any authority conferring by this chapter matters not related to the purposes of this chapter or the administration of the association."**

In Rule 3290, there are several problematic passages that remain in light of this language in the Securities and Exchange Act, providing for a continued application of the rule nearly without bounds against employees across the industry:

- For a registered person's outside activity, the member must consider imposing specific conditions or limitations on the outside activity, **including where**

circumstances warrant, prohibiting the activity, but there is no acknowledgement or approval requirement.

When my publication was shut down, I was told in writing by the broker-dealer that any publishing of books **"geopolitical in nature"** would not be approved. My personal expression through my publication was deemed a **"Reputational or legal risk"** and that I might **"post something that blatantly disagrees with the firm's position"**.

After 3.5 years of building my own publication on international affairs, writing over 100 articles, putting together a classical book library, learning to build a complete web platform, working hard to provide unique ideas through a Center perspective, receiving pre-approval before building the publication, receiving pre-approval before launching the publication (both at the same broker-dealer) - **My publication was taken away under threat of termination.**

This behavior is completely avoidable, with key changes that keep in place prior written **notice** to ensure the responsibilities in Section 15A are carried out, but **maintain the rights of employees** to engage in legitimate activities that have no substantive relationship to the business of securities and of regulating securities markets and transactions.

I would strongly suggest the following:

- 1) Rule 3290 must be amended to address this expansion of authorities beyond what is provided for in Section 15A of the Securities and Exchange Act. Particularly, in the overt latitude provided in the above referenced policy language.
- 2) Rule 3290 must be amended to include an effective appeal mechanism to ensure meaningful protection from broker-dealers shutting down outside activities unrelated to securities prior to the broker-dealer carrying out an effective enforcement action against legitimate (and at times protected) engagements.

I believe, changes in the mold of these can make a meaningful difference in protecting the financial industry from bad actors while also upholding the spirit of the Securities and Exchange Act that regulates it. Let us not forget, Section 15A states **"The rules of the association are designed to...remove impediments to and perfect the mechanism of a free and open market and a national market system..."** I would urge FINRA to regulate in this spirit and with this bold challenge in mind.

That it is possible to do the right thing, protect the rights of ordinary people, to uphold the values of free expression and the right to build something for yourself, while also ensuring orderly conduct as it relates to securities and investments business.

Thank you,

Joshua M. Preston
Registered Representative
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