World Equity Group, Inc.

Where Relationships Are the Difference

April 9, 2025
Ms. Jennifer Piorko Mitchell
Office of Corporate Secretary
FINRA 1700 K Street, NW
Washington, DC 20006

Re: Comment on Regulatory Notice 25-05 and Proposed Rule 3290

Dear Ms. Mitchell,

World Equity Group appreciates the opportunity to comment on the recently published Regulatory Notice 25-05 (the Notice). It is our opinion that the proposed rules will not have the effect that the Staff is seeking. The proposed Rule and guidance noted in the Notice will add increased burdens on both member firms and unaffiliated Investment Advisers (RIA).

Firstly, the Notice, contrary to the rhetoric contained therein, creates a new standard of oversight for members firms and is literally a contradiction to previous regulatory notices such as Regulatory Notice 18-08, which sought to "reduce unnecessary burden. The Notice has the effect of a 180 degree turn from Notice 18-08 and does NOT, by any definition, reduce the regulatory burden.

Further, it appears as if FINRA has unilaterally decided to expand its jurisdiction, as if FINRA can suddenly make such decisions, without the Input of other regulators. The Notice clearly increases FINRA's regulatory purview into business lines wholly unrelated to the activities of a member firm. These include real estate, banking and insurance, lines of business that are complex, and already heavily regulated.

WEG respectfully, forcefully disagrees with FINRA's position.

On another note, the Notice claims the guidance issued in prior NTMs would remain in effect. We fail to understand this proposed Notice can coexist with previous NTMs and still be bound by them.

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In summary our position states:

1. FINRA cannot mandate that broker-dealers supervise the advisory activities at an unaffiliated RIA.
2. Existing rules and regulations, as well as current legal precedent, prohibit a broker-dealer from executing such a supervisory mandate.
3. Execution of such a mandate is impracticable if not impossible.
4. FINRA cannot mandate supervision of business lines not provided by a broker-dealer or its affiliate.
5. FINRA cannot require broker-dealer supervision of non-securities activities such as real estate, banking and insurance.

To further explain our position, we took the liberty of responding to FINRA's questions at the end of the Notice:

Guidance FINRA has Requested

What are the alternative approaches, other than the Proposal, that FINRA should consider?

The response to this question is simple: FINRA's proposal should eliminate the oversight of outside RIA activity by FINRA members. The reasons for this are multi-faceted.

- There does not appear to be a "smoking gun" driving the need for additional regulatory oversight of RIA activity. Neither the industry nor a regulator has provided definitive empirical proof that such a "smoking gun" exits. If an industry-wide problem exists, and there is a systemic failure of RIAs to act as a fiduciary that would be solved by an unaffiliated BD approving trades; and investors are at risk; then the burden of proof lies with regulators. To date, no regulator has provided such evidentiary substance, or at minimum, a detailed analysis. Thus, it is difficult to imagine a new rule requirement that

would satisfy additional investor protection when from an industry standpoint, investors appear to already be protected by the current framework.

- No additional benefit would arise. As a fiduciary, an RIA has a higher standard of conduct than even Regulation Best Interest. Adding additional regulatory restrictions on top of the Advisers Act would be regulatory over-kill.
- The standards of fraud are incompatible. Fraud under Federal RIA securities laws does not require scienter, or intent, but under the 34 Act scienter is required. The Federal Register is rife with 206 fraud cases under the Adviser's Act whereby the activity of an RIA simply occurred, either by intent or mistake. This creates a gap in supervision and surveillance activities.
- The commentators who cite a lack of resources by the SEC and the various state regulators may or may not have a point, but it is not the role of FINRA to close the gap without, again, providing some documentation that investors are, in fact, at risk.

In addition, the inclusion of banking, insurance, crypto currencies, real estate, etc. in FINRA jurisdiction/purview can only be described as a regulatory land-grab. Such business lines are regulated by the Comptroller of the Currency and/or State Regulators. There is no role for FINRA.

How would consolidation of the rules governing OBAs and PSTs in the Proposal simplify compliance? What impact would it have on the cost of compliance?

The truth of the matter is there does not appear to be anything wrong or broken with the current framework of the OBA and PST rules. Combining these into one rule is, in essence, just window dressing. The cost of complying with two rules or a combined rule would be similar. That is, if FINRA does not impose the additional supervision requirements on outside RIA activity.

As is true today under existing rules, the Proposal would apply to registered persons for outside activities and to associated persons for outside securities

transactions. Should the Proposal be expanded to apply to all associated persons? If so, why?

This is a hard no and would increase cost for virtually no additional benefit. Non-Registered Fingerprint personnel pose little harm to the investing public and there are already rules limiting their activities.

Is the proposed scope of the notice requirement appropriately tailored to balance the interest of members to receive information regarding their registered persons outside activities and any investor protection concerns?

The prosed scope is NOT tailored to balance but rather to tip the scales, as noted above. As mentioned above there does not appear to be a specific gap in industry activity that warrants additional regulatory oversight of unaffiliated RIA activity by a BD. It appears FINRA is altering definitions at will. For example, redefining selling compensation as a catch-all whereby virtually all sales by an RR fall into the category is in direct contradiction to Federal Securities Laws. The distinction, by statute, between RIA activities and BD activities has always been transaction-based compensation for a BD versus asset-based fees for a RIA.

The other issue(s) with FINRA's scope is the inclusion or proposed inclusion of real estate, crypto currency, banking, and insurance into the supervisory OBA purview. There is no possible enhancement to be reasonably expected by adding FINRA into the mix.

As is true today under existing rules, the Proposal would require prior written approval for outside securities transactions for selling compensation and an acknowledgement for outside securities transactions not for selling compensation. Should the Proposal be expanded to require approval for all outside investment-related activity? If not, should the Proposal's acknowledgment for outside securities transactions not for selling compensation be modified? If so, how and why?

Expanding the regulatory framework for outside business activities is unnecessary and onerous. From a reasonable man standard one must consider this question:

does passing a securities exam mandate that the individual has waived his/her right to have an outside life, or his/her right to privacy under the US Constitution? The regulation should strive for reasonable enforcement, not invasive enforcement.

In addition, the proposal should carve out RIA activity as an exemption. There is no workable solution for a BD to approve trading activity of an outside RIA especially if that outside RIA is large with many customers.

Is the definition of "investment-related activity" appropriate given the regulatory objectives of the Proposal, or should other activities be included in or excluded from the definition? If so, why?

As noted in the theme of this letter, a carve out for RIA activity is imperative. The redefining of investment-related activity to include such broad categories puts an unreasonable burden on a BD. FINRA must understand that many firms, ours included, in addition to their broker-dealer activities, also act as a General Agent for their insurance business and are already subject to state insurance regulations for 50 different states. FINRA supervision will offer no benefit.

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. Are the proposed exclusions appropriate?

This proposal is one of the few items noted In the FINAR notice that makes a modicum of sense.

The Proposal does not alter members' obligations for outside RIA activities. What are the challenges members face regarding supervising and recordkeeping outside RIA activities for selling compensation? Would the removal of the requirement for FINRA member oversight of outside RIA activities by their associated persons impact investor protection considering that RIAs are regulated by either the SEC or the states? What are the benefits of BD supervision and record keeping of outside RIA activities for selling compensation?

The challenges are many;

- Privacy. Protecting customer privacy and PII
- Obtaining customer activity of Outside RIA's
- Surveillance. A member firm has no visibility into money and security movements. or rebalancing conducted by TPAM and other third-party money managers.
- Enforcement of issues. While FINRA may make the claim members have supervisory responsibility, the outside RIA will be bound to the Adviser's Act and not the 34 Act.
- No visibility into the TPAM or custodian

In conclusion, it's obvious to all concerned that the Notice and proposed rule 3290 makes ill-fated attempts to solve one issue while creating a myriad of others. It is our hope that FINRA will consider tabling the entire concept.

Sincerely,

William D Webb Jr

William D Webb Jr
Chief Compliance Officer
World Equity Group, Inc