

To Whom It May Concern:

In the proposed FINRA Rule 4360, there is a similar requirement that is under the current NASD rule concerning an “annual review”.

This portion of the rule is duplicitous and unnecessary. The rule should contain the required minimum coverage for each type of broker-dealer and, that, in and of itself, is enough. If the broker-dealer has the required coverage, who cares how often they review the coverage? It seems to me that the person, typically a Financial Operations licensed employee, who files the FOCUS would know when and if their net capital requirement changes? Any firm, such as ours, would immediately communicate to the Principal(s) of any change in net capital requirements and would then review how that effects the firm. I am unaware of firms that have a change in net capital requirements so often that this annual review would be necessary. Unless there is an alternative method that I have not calculated in my 15 years in practice? And if this is the case, then only those types of firms should have this requirement. Our net capital requirements haven't changed since the net capital rules were changed in the nineties but I have to do an annual review? Why?

Whether or not a firm does an “annual review,” especially for this rule, is beside the point. The point is whether or not they have the minimum coverage in place. If a firm follows the rule but the “annual review” part, have they hurt the investor? No they have not, and that really should be the point in every rule for our industry.

This technicality in the rule, and others like it, promotes a “gotcha” attitude by regulators that does nothing to protect the investor and it continues to take time away from important items that small firms should be doing such as reviewing suitability, investigating proper investments for clients, et c.

I hope we can make compliance more efficient and effective going forward by eliminating these unneeded technical aspects in the regulations, of which this is a prime example, so that both regulators and firms can concentrate on the items that are important in protecting investors.

Thanks for letting me respond.

Sincerely,
Don

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