

Let me start by saying that I feel FINRA provides necessary oversight essential to maintaining the integrity of our capital markets. Absent the public trust, our entire financial system would be in jeopardy.

With that said, I feel FINRA has a reputation for strong arming registered representatives. FINRA enforcement actions are often overblown, over-reaching and over penalizing.

FINRA regulations are often written in such a manner as to bring into question their very meaning and application allowing FINRA to provide its own slant to meet its regulatory need at the time.

During my time as a Registered Representative, I have personally witnessed what I would term “regulatory abuse” where representatives have been treated effectively as criminals for minor infractions that in no way harmed a client.

I have witnessed FINRA snatch the livelihood from representatives in overbearing actions based on a “throw the book at em” attitude without any consideration given to whether or not a client was harmed.

The current OBA review is necessary as FINRA has left the door open to basically anything being construed as an OBA. The OBA rule as written is not even consistent with the required regulatory education being given by FINRA. While FINRA seems to make the rule clear in the manual, you then arbitrarily expand the definition to include virtually ANYTHING a representative may spend time doing in their personal lives. Lets face it, you're engaging in a "gotcha" campaign on the issue of OBA's.

I just looked at recent FINRA enforcement actions and determined that in many cases registered representatives were sanctioned to a greater degree for failing to report an "Outside Business Activity" than those who actually engaged in theft! On that very subject - Did reps who stole report the OBA they used to steal money? When the OBA was reported, did it stop the rep from stealing? NO - Or I wouldn't be reading about reps who stole through an OBA. There should be no wonder why reps are RUNNING from FINRA's overbearing rules to the RIA side.

The massive confusion over OBA rules, a multitude of confusingly crafted FINRA regulations and my witnessing of the heavy handed punitive penalties assessed against registered representatives was the primary driver for me leaving FINRA's jurisdiction.

So now with the fiduciary standard looming, I have spoken to many representatives who plan to leave their FINRA relationship in the rear view mirror as I did. They are doing so with the attitude of “getting back at FINRA.” It seems as if they are finally leaving an abusive relationship. A relationship where they feel they could be blamed for anything at any time and they are always guilty.

FINRA 360 is a necessary step in light of the changing financial services environment. For FINRA's sake, it better be real and not just effectively a marketing campaign trying to convince registered representatives that FINRA will be “kinder and gentler” – Then move on to business

FINRA style with the attitude of just fining the remaining reps more to make up the lost fine revenue from those who flee.

In the new fiduciary world, I think FINRA will live to pay for its past abuses as representatives migrate steadily to the RIA side.

The vast majority of registered representatives are good solid people. I once read that the financial services industry in the US boasts the lowest monetary theft rate of any industry which directly exchanges funds.

My advice to FINRA is: 1) Write the rules so they are clear 2) Look at the infraction and harm to the client in making enforcement decision against registered representatives 3) Be an advocate for the many men and woman who faithfully go above and beyond each day to help the investing public 4) Be more educational in nature as opposed to punitive.

There is so much FINRA does right. I think FINRA should spend more time going after the real bad guys (the ones who actually harm clients) with big guns and stop trying to pretend there's a Bernie Madoff under every rock. You can put in place a regulation for everything, but just remember, you never catch the bank robber on his way to rob the bank. Bad people will do bad things no matter what regulation you have in effect.

As an outsider, I can say what so many want to say this without the fear of FINRA retribution.

FINRA has some fences to mend and needs to get to it or watch the fiduciary wave sweep it to near irrelevance!

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