

Examiners and other staff should confine the analysis of Outside Business Activity to a “business” as commonly defined, and NOT include activities that are social, religious and/or philanthropic in nature. The danger to a Finra BD, is that if the BD is forced to review and approve a non-business activity of an associated person, a perceived liability to third parties may be created on behalf of the BD. It also might appear to third parties that the BD is endorsing the non-business activity.

I have heard that some people might want to merge the concept of the Outside Business Activity Rule with the Private Securities Transaction Rule. That would be a mistake in my opinion, simply because the idea of making the Finra BD responsible for both securities and non-securities activities would greatly enlarge the scope of liability to the BD. We are a BD that allows its staff and Reps to engage in other activities that have no bearing on our “day jobs” as members of the securities industry. It seems common for many securities professionals to have additional professional expertise, including professional designations and licenses in the fields of insurance, real estate, accounting and law, to name just a few. We believe that the additional expertise often makes a better securities professional who can better help his/her clients. For instance, for a BD to be responsible and try to supervise the outside business activity of a professional income tax preparer would seem impossible, as it might necessitate a review of every income tax return that is prepared by that person. As a non-securities, outside business activity, the BD is now required to know about the activity within the contours of Finra Rule 3270, without having to actively review and supervise every aspect of the activity.

We have community property law in California. A married couple, where one is a licensed securities professional, and the other spouse has his/her own business, might unnecessarily “entangle” the Finra BD in the spouse’s business, simply due to the legal ownership rights under community property law. It would be helpful if Finra recognized this potential problem with its “review and approval” regime as applied to an outside business activity in a community property state, and especially where there may be privacy and confidentiality concerns that restrict what the Finra BD can know about the spouse’s business.

The outside securities activity/private securities transaction rule should only apply to registered securities professionals. Finra rule 3280 currently applies to any associated person, which may include people that have not taken and passed any professional securities exam. It seems odd that an unlicensed person might be considered to solicit and offer securities to the public in any manner.

Neal E. Nakagiri  
President, CEO, CCO  
NPB Financial Group, LLC  
3500 W. Olive Avenue, Ste 300  
Burbank, CA 91505  
818-827-7132  
[Neal.nakagiri@npbfg.com](mailto:Neal.nakagiri@npbfg.com)