



August 19, 2022

Securities and Exchange Commission

Rule-comments@sec.gov

Re: File Number SR-FINRA-2022-019

We sincerely appreciate the opportunity to comment on the proposed changes to FINRA Rule 3110 and the issue of branch office inspections. Before commenting, we wish to state that what we have written is a combination of our personal viewpoints and has not been approved by any broker-dealer with which we are currently associated or will be associated in the future. Simply put, this is our product and nobody else's.

Our firm, Integrated Solutions is a leading service provider within the financial industry, with a client base of approximately one hundred small to medium sized broker-dealers that are involved in a myriad of business lines. We are privileged to be able to offer guidance to our clients in a practical manner, which helps them navigate the multitude of rules to which they are subjected.

The two authors of this comment letter, individually, have four and five decades of experience in this industry under their respective belts. We both come from a world which would now be considered "Jurassic Park" We look back nostalgically to a time in which trade orders were written on tickets, time stamped and sent via a pneumatic tube to the trading desk, where computers needed an entire cooled room to function, where trades were posted by hand into a written book, customers deposited checks, cash, and bearer bonds with the Cashier Department, and customers regularly visited with their brokers on-site. Imagine that style of business in this day and age! Onsite Inspections of physical offices in days of yore were an integral part of ensuring, at least to the physical eye, that business was being conducted in accordance with the SEC, Exchange and NASD rules and regulations and being memorialized as such.

Our purpose in commenting on the proposed rule change is two-fold. We want to address the changes that have been made to the rules concerning inspections, including the latest proposed change, as well as to address the manner in which inspections have been, and should be, handled, in our opinion.

Let's take a little stroll back in time to the history of definitions and inspections. The NASD's Notice to Members 86-65 (September 12, 1986) addressed concern about the issue of adequate ongoing supervision for "business at locations that were not subject to regular examination by the member and were operating without direct oversight of qualified supervisory personnel." In response to this concern, the NASD issued proposed amendments to the definitions of "Branch Office" and "Office of Supervisory Jurisdiction" under the NASD By-Laws, Schedule C to the By-Laws, and the Rules of Fair Practice, through issuance of its Notice to Members 87-41 on June 29, 1987. The proposed amendments would define an "Office of Supervisory Jurisdiction as "any office at which certain specified functions take place", branch offices were defined "by the number of individuals therein and whether the location is advertised as an office of the firm" and "offices where three or fewer registered persons are employed and that are not advertised or listed as offices of the member would be defined as 'non-branch business offices'" The inspection schedule would remain as an annual inspection of each OSJ and for each branch office at which

a registered principal was located would be examined annually. If a branch office was where three or fewer registered persons are located, in lieu of employing a resident registered principal, the branch would need to be examined at a six-month interval. Notice to Members 88-11 issued on February 8, 1988 requested comments. The proposed new text for internal inspections stated that an inspection should be conducted at least annually for the businesses in which it engages and review the activities of each office including the examination of customer accounts and “at least an annual inspection of each OSJ. What is interesting is what is stated next: **“Each branch office of the member shall be inspected according to the cycle set forth in the firm’s written supervisory and inspection procedures. In establishing such cycle, the firm shall give consideration to the nature and complexity of the securities activities for which the location is responsible, the volume of business done, and the number of associated persons assigned to the location.”** [emphasis added] On October 13, 1988, the SEC approved the amendments to Article III, Section 27 of the Rules of Fair Practice and conforming amendments to Article I of the By-Laws and Schedule C to the By-Laws, which became effective date on April 13, 1989.

Fast Forward to Notice to Members 98-38 in which the following is stated with regard to supervision as set forth in FINRA Rule 3010 (a) “Thus, the adequacy of a Firm’s supervisory system is evaluated based on its structure and activities” Under Rule 3010(g)(1), an office that is responsible for supervising one or more branch offices must be designated as an OSJ, and each OSJ is subject to an annual inspection under Rule 3010(c). The rule does not address the frequency of inspections of a non-OSJ office that supervises one or more unregistered offices. A non-OSJ office that supervises one or more unregistered offices also should be inspected at least annually. Although the rule did not specify the frequency of inspections for unregistered offices, in order to fulfill the general obligation to supervise, such inspections should be conducted according to a regular schedule. The frequency and scope of inspections should be determined based on factors such as the nature and volume of business conducted at the office and the nature and extent of contact with customers.” A regular schedule for inspecting unregistered offices had to be adopted by September 1, 1998.

The SEC approved Supervisory Control Amendments on June 17, 2004, (effective January 31, 2005) which amended Rule 3010 (c) and, as stated in Notice to Members 04-71 codified the minimum inspection cycles for a member’s offices and that the office inspections include, without limitation, the testing and verification of the member’s policies and procedures, including supervisory policies and procedures in certain specified areas.” Rule 3010(c)(1) requires each member to inspect annually each supervisory branch office. Any location which is responsible for supervising activities of persons associated with a member at one or more of a member’s non-branch office locations is considered to be a branch office. The rule also requires a member to inspect all non-supervisory branch offices at a minimum every three years. “When establishing how often to inspect its non-supervisory branch office, a member should consider the nature and complexity of the securities activity for which the branch office is responsible, as well as the volume of business conducted at the office and number of associated persons assigned to the office and that, after determining the inspection cycle, a member should document the cycle in its written supervisory and inspection procedures” Additionally, the rule requires a member to inspect every non-branch location on a regular periodic schedule. “In establishing the inspection schedule, a member must consider the nature and complexity of the location’s securities activities and the nature and extent of contact with customers and set forth in its written supervisory and inspection procedures an explanation regarding how the member determined the frequency of the examination schedule.” Offices of convenience fall under the category of a non-branch location and should be examined on a regular periodic schedule. These rules became effective on December 1, 2014.

SR-FINRA-2022-019 elucidates proposed rule 3110.19 which establishes a Residential Supervisory Location as a new non-branch location and is defined as a private residence at which supervisory functions occur. The proposed rule change would no longer require that the private residence at which supervisory functions occur be designated as a branch office or OSJ under Rule 3110(a)(3), and inspected at least annually under Rule 3110(c)(1)(A). By treating such location as a non-branch location, the private residence would become subject to inspections on a regular periodic schedule under Rule 3110(c)(1)(C), presumed to be every three years. SR-FINRA-2022-019 proposes an additional condition that would preclude a firm from maintaining any books or records required to be made and preserved by the member under the federal securities laws or FINRA rules at the Residential Supervisory Location. SR 2022-19 states, “As such, firms have developed experience with monitoring and supervising these conditions, and FINRA believes member firms will be able to rely on such experience to reasonably supervise similar conditions for proposed Residential Supervisory Locations.”

About Face

Why do we bring up the evolution of the branch office inspection? We do so to highlight the fact that we have seemed to have progressed backwards in some regards. The fact remains that the earlier versions of the rules regarding inspection took into account the number of individuals located at the office (other than the annual inspection cycle for an OSJ and for each branch office at which a registered principal was located, which would be examined annually), as well as the business that was conducted at the office, the nature of the business, the complexity of the securities activities and the volume of business conducted. The Broker-Dealer was given a pathway through which it could exercise self-determination when examining its offices. For small to mid-size Broker-Dealers, we believe that the individuals in charge of the Broker-Dealer should have the freedom to conduct branch and non-branch visits, as it deems appropriate, taking into account the nature of its business, and the effectiveness of its day-to-day monitoring.

We have witnessed the shifting of a physical Wall Street in the most recent past century to a virtual or hybrid Wall Street currently, which in our opinion, will continue to move in that direction in the future. In the SEC’s request for comments, it was stated “Firms responded that they relied extensively on technology to support their effective transition to the remote work environment and enhanced the supervision of geographically dispersed associated persons, many of whom have been working from home since early 2020 and may continue to do so in some manner in the current environment. These technological tools facilitating their supervisory practices include surveillance systems, electronic tracking programs or applications, and electronic communications, including video conferencing tools.” SEC further stated, “During the almost two decades since the adoption of the uniform branch office definition and its related exclusions, regulators have utilized advancements in technology to support their examinations and otherwise further investor protections, and firms have embraced and adopted numerous technologies to enhance their regulatory and compliance programs. The rapid explosion of new technologies in the last 20 years, and the widespread use such of technology (e.g., computers, email, mobile phones, electronic communication systems with audio and visual capabilities, cloud storage of books and records), and the ability to use risk-based surveillance and compliance tools and systems, have fundamentally altered the landscape of how the broker-dealer business is conducted.” SEC proves our point exactly.

In fact, FINRA and SEC now conduct most examinations of many members using the very technology that the members use to conduct and supervise their business operations. We chuckle when we recognize that based upon a reading of the proposed rule, what SEC and FINRA do to supervise the broker-dealers that they are responsible for is good enough but the broker-dealers themselves are not given the very same leeway to supervise their own activities. The proposed rule is an example of regulatory hypocrisy of significant magnitude.

We are stunned that FINRA has chosen to propose changes to the existing rule and to do so without consultation with those affected by the rule. Page 41 of the release states:

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received. [emphasis added]

Are the FINRA governors or staff fearful of rule changes that are made in the sunshine?

We recognize, and are in agreement with FINRA, that firms have an "ongoing obligation to supervise the activities of each associated person in a manner reasonably designed to achieve compliance with applicable securities laws and regulation, and with applicable FINRA rules." We agree that "member firms have a statutory duty to supervise their associated persons, regardless of their location, compensation or employment arrangement, or registration status, in accordance with the FINRA By-Laws and rules.

What we do not agree with is that all firms are created equal. All firms do not have the same structure, the same resources, whether financial or through support staff, nor do they require the same amount of supervision. What is appropriate for a firm that employs 500 individuals is not appropriate for a firm that employs 5 individuals. The complexity of the business model of each firm must be considered. A small private placement firm is not the same as a firm that executes tens of thousands of actively traded equity securities. We agree that there should be a consistency in what an inspection should entail, but what should be given the biggest consideration in the inspection process is what lines of business is the firm engaged in and whether the business location is an OSJ and would require more intensive inspections. In addition, the mandated 3120 testing is duplicative of the branch office inspection, and in fact, is more comprehensive in its assessing as a member's compliance with rules and regulations.

We have multiple clients that have closed their physical offices and reassigned the OSJ or branch to their apartments and homes due to the pandemic and the economics of doing so.

What we do not agree with is the need for a physical office inspection. The pandemic necessitated the remote inspections of OSJ, Branch Offices and Non-branch locations. We have vocalized previously in our FINRA comment letter addressing "Lessons from the Covid 19 Pandemic" submitted on February 16, 2021, that "Broker-Dealers can function effectively even when their employees are not physical located under one roof, in one state or perhaps one country" We also commented that "FINRA discovered that it can perform examinations remotely and that firms can respond to information requests without ever having to put on formal attire" We note respectfully that even the SEC has successfully performed examinations remotely. What does it prove when an office is physically inspected? What does the examiner or inspector

really ascertain by visiting an office? In the new world of “Zoom” and “TEAMS” the firm can have a “virtual” visit and obtain all the requested information electronically.

The “Temporary Relief to Allow Remote Inspections for Calendar Years 2020 and 2021, and Through June 30 of Calendar Year 2022” under FINRA Rule 3110 (Supervision)” was extremely successful and should be the road map for the continuance of remote inspections. Practical and real-world experience dictates that supervision is integral in the day-to-day operations of a Broker-Dealer. An investor is not being protected any more effectively or cohesively through a physical inspection than a remote one. We need to acknowledge and embrace the new and more efficient technology in which we can the facilitate inspections remotely, on an inspection schedule that makes sense given the individual Broker-Dealer and without any loss of integrity or efficacy. Instead of re-categorizing branch offices, FINRA should abrogate the current rule.

Instead of dictating an inspection schedule, FINRA should institute a rule that allows firms to adopt their own methodology for supervising their activities. It should be principles-based and should be reasonable. It should recognize what firms really do. It should be similar to the language of the old NASD rule, which did not dictate a timetable. Welcome to the real world, FINRA. Kindly, recognize that the members are intelligent and should be treated with respect.

“Now beam me up Scotty!”

Very truly yours,



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