



August 23, 2022

Submitted electronically through <http://www.regulations.gov>

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: **Proposed Rule Change to Adopt Supplementary Material .19 (Residential Supervisory Location) under FINRA Rule 3110: File Number SR-FINRA-2022-019**

Dear Ms. Countryman:

Fidelity Investments (“Fidelity”)¹ appreciates the opportunity to provide comments to the Securities and Exchange Commission (“SEC” or “Commission”) on its approval of the proposed rule change to adopt new Supplemental Material .19 (Residential Supervisory Location) as set forth in SR-FINRA-2022-019 (the “Proposal”).

I. Fidelity strongly supports the Proposal

Fidelity strongly supports the Proposal and has previously advocated for changes to the branch office definition under FINRA Rule 3110. We greatly appreciate FINRA’s willingness to evolve its longstanding branch office definition based on lessons learned during the COVID-19 pandemic and evolving technology and workforce arrangements.

The Proposal will be impactful and will offer substantial relief to firms, notwithstanding the burdens of the “Ineligible Locations” conditions. The Proposal will be notably impactful to inspections of primary residences of supervisory personnel. These types of locations continue to proliferate due to increased preference for and acceptance of flexible work arrangements.

On-site inspections of primary residences with employees conducting limited supervisory functions result in expenses and productivity losses that are disproportionate relative to the supervisory benefits realized. In fact, there is often very little, if anything, to physically review when conducting on-site inspections of these offices. The presence of filing cabinets containing required hardcopy records is becoming a rarity even in traditional corporate offices and is

¹ Fidelity is one of the world’s largest providers of financial services, including investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing and many other financial products and services to more than 30 million individuals and institutions, as well as through 13,500 financial intermediary firms. Fidelity submits this letter on behalf of Fidelity Brokerage Services LLC, National Financial Services LLC, and Fidelity Distributors Company LLC.



virtually nonexistent in a home office location. Business activities are typically conducted, and books and records are maintained, exclusively through a firm's electronic systems, which are subject to ongoing supervisory and surveillance reviews. The resources currently used to conduct on-site inspections of certain locations could be better deployed reviewing higher risk activities.

That said, we hope that the SEC will review and reconsider the applicability of a few of the exclusions. The exclusion in 3110.19(b)(4) requires supervisors to have one year of supervisory experience with the member firm before their home can be treated as a Residential Supervisory Location. Registering these supervisors' homes as OSJs does little in terms of assessing the effectiveness of their supervision. At a firm like Fidelity, where supervisors do not engage in sales, concerns about holding the home out as an office, receiving funds or securities at the home, or engaging customers in an unapproved OBAs are remote. Moreover, Fidelity has several broker-dealers within the enterprise that share supervisory policies, procedures, and systems. It is common for supervisors, as they take new roles, to be asked to either add a new broker-dealer registration or switch the broker-dealer with which they are registered. Each time a supervisor at Fidelity, regardless of tenure with the organization and familiarity with the supervisory expectations and systems, switches broker-dealer registrations, the Proposal would require resetting the one-year clock and re-registering their home as an OSJ. Fidelity instead suggests that firms be allowed to complete a risk assessment and allow non-producing supervisors in their first year of association with an affiliated broker-dealer to take advantage of the Residential Supervisory Location if the firm determines that the supervisory objectives of Rule 3110 can be accomplished without registering the home as an OSJ.

In creating the Residential Supervisory Location definition, 3110.19(a) excludes from eligibility locations from which a representative engages in order execution or market making or structuring of public offerings or private placements. In the release, FINRA is silent on why these specific activities uniquely must be performed from a location registered as an OSJ that is inspected annually. Like most other activities conducted by broker-dealers today, order execution, market making, and structuring offerings are done through the broker-dealers' electronic communications and order handling systems. Fidelity and other firms have, over the past couple of years, demonstrated that we can adequately and securely conduct and supervise this activity remotely and there is no need to single out this activity for exclusion from the definition of a Residential Supervisory Location. We hope that SEC will expand the definition of Residential Supervisory Locations to include private residences from which representatives engage in order execution, market making, or structuring offerings.

II. Conclusion:

We urge the SEC to consider this Proposal in conjunction with FINRA's recently filed proposal concerning Remote Inspections Pilot Program (SR-FINRA-2022-021) and approve both proposals with the same effective date. If the Staff requires additional time to review the proposals, we request an extension of the relief provided under FINRA Rule 3110.17. We appreciate that FINRA and the SEC have always been willing to work with the industry to

evaluate and consider changes to rules, as evidenced by RN 20-08 and the previous Rule Extensions.

Further, given the learnings from COVID-19, we would also support a more comprehensive retrospective rule review of branch office registration and inspection requirements. Advances in communications and other technology, and other firm systems, including those used for remote supervision and surveillance, are substantial enough to warrant an even broader review of the definitions of branch office, office of supervisory jurisdiction, and the inspection requirements that are attached to those designations, many of which we believe are obsolete.

Fidelity is happy to provide further information, participate in any direct outreach efforts the Division undertakes, or respond to questions you may have about our comments.

Sincerely,



Gail Merken
Chief Compliance Officer
Fidelity Brokerage Services LLC



Janet Dyer
Chief Compliance Officer
National Financial Services LLC



John McGinty
Chief Compliance Officer
Fidelity Distributor Company LLC

CC: Robert Cook, FINRA
Bob Colby, FINRA