

August 23, 2022

Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

RE: File No. SR-FINRA-2022-019: Proposed Rule Change to Adopt Supplementary Material .19 (Residential Supervisory Location) under FINRA Rule 3110 (Supervision)

Dear Ms. Countryman,

Commonwealth Financial Network (“Commonwealth”) appreciates the opportunity to comment on the Financial Industry Regulatory Authority’s (“FINRA”) proposal to adopt Supplemental Material .19 under FINRA Rule 3110. The Proposal would classify certain private residences as Residential Supervisory Locations, thereby exempting them from registering as Offices of Supervisory Jurisdiction (“OSJ”). Commonwealth broadly supports the Proposal, and herein offers commentary on certain aspects which we believe should be reconsidered.

Commonwealth’s Business Model and Supervisory Structure

Commonwealth is an independent broker/dealer and an SEC-registered investment adviser with home office locations in Waltham, Massachusetts, and San Diego, California, and more than 2,000 registered representatives who are independent contractors conducting business in all 50 states. The majority of our affiliated advisors are supervised by registered principals who work out of our home office locations. These registered principals do not meet with customers nor do they perform any sales-related activities.

Commonwealth’s Hybrid Work Model

Commonwealth adopted a hybrid workplace model where employees are permitted to work remotely from home up to three days per week. We agree with FINRA’s comments that workplace flexibility, including hybrid models such as Commonwealth’s, “will endure irrespective of the of the state of the pandemic”. Further, we agree that employees and prospective employees hold a “growing expectation for workplace flexibility” and have seen those demands from countless number of prospective employees over the past couple of years. By not adopting flexibility to work from home, Commonwealth would increase the risk of not retaining quality employees and hinder our ability to hire quality new employees.

Residential Supervisory Locations

We strongly support the Proposal to define Residential Supervisory Locations as non-branch offices, subject to reasonable exclusions, and thus create a construct which eliminates the requirement to register private residences as OSJs. We agree with the Proposal’s assertion that these Residential Supervisory Locations represent lower risk than OSJs and therefore should not be subject to OSJ registration and annual inspection requirements. The criteria laid out in the Proposal helps reinforce FINRA’s statement that Residential Supervisory Locations are where “lower risk activities occur”, particularly given certain conditions specified in 3110.19(a).

Comments on Proposal Improvements

While Commonwealth supports the Proposal generally, there are several aspects we believe warrant revision or exclusion.

1) 3110.19(a)(1)

For a residence to be deemed a Residential Supervisory Location, this condition states “only one associated person, or multiple associated persons who reside at that location and are members of the same immediate family, conduct business at the location”. This condition models FINRA’s longstanding primary residence exclusion. We believe this condition is no longer relevant and is not consistent with current employee residential norms. It is a common practice for co-workers to also be roommates, particularly in geographic locations where average rents are substantial, such as greater Boston and greater San Diego where Commonwealth’s home offices are located. Our estimates show that 30% of our staff occupy apartment-like dwellings and more than 5% of all staff live with another employee of Commonwealth. In addition, the term “immediate family members” does not account for domestic partnerships, be they formal or informal.

Employees choosing to live together may include more than one individual who functions as a firm supervisor. Our employees’ residential choices should not be a determining factor in registering their homes as OSJs. That two or more persons reside in the same household does not add any material risk to the location given the other controls in the Proposal, particularly the prohibition against maintaining books and records, and handling customer funds at the location. We do not believe such locations should be registered as OSJ locations and should otherwise qualify as Residential Supervisory Locations. Commonwealth asks FINRA and the Commission to reconsider this condition.

2) 3110.19(b)(4)

Commonwealth highlights the proposed requirement regarding ineligibility of a Residential Supervisory Location: “one or more associated persons at such location is a designated supervisor who has less than one year of direct supervisory experience with the member”. Many of the other conditions within the Proposal support reasonable customer protection measures to forego the requirement to register locations as OSJs. We do not believe this criterion strengthens those measures nor does it reasonably account for evolving work models or labor expectations for work-from-home flexibility. Commonwealth asks FINRA and the Commission to reconsider this condition.

The criterion discounts:

- Supervisors’ residences are already subject to regular inspections;
- Commonwealth’s significant training and oversight of such employees;
- Employees are frequently hired with significant supervisory experience from other firms; and
- The criterion could impose a negative effect on hiring or promoting new, otherwise qualified supervisors.

Commonwealth has well in excess of 100 home office employees who serve as firm supervisors and encourage all our staff to seek and obtain FINRA registration. Our business model and supervisory structure depends on their ongoing development and experience. Supporting the career development of an individual does not create a risk to the firm or its customers that would necessitate registering their residences as OSJs, especially given the larger context in which Commonwealth supervisors operate.

This aspect of the Proposal in effect creates unnecessary administrative burdens on Commonwealth and its employees. Firms will be forced to register the home address of new supervisors as an OSJ for a one-year period before de-registering the location and then designating it as a Residential Supervisory Location.

Commonwealth also has privacy concerns listing our home office supervisors' names, city/town, and state information on the public website BrokerCheck. It is easy for someone to input a name combined with a city/town or state into a search engine and identify a person's residential address. Commonwealth recognizes that FINRA is proposing to limit the amount of information made public, which addresses some privacy concerns, but we believe FINRA should go a step further and limit the information made public to city/town and state alone, or keep all information private. It is important to note that under the Proposal, a supervisor would not meet with clients, hold customer securities or funds, nor would they maintain books and records at a Residential Supervisory Location. We believe the potential risks to industry professionals outweigh the benefit to customers.

Firms would be better served if they could employ a risk-based approach to required inspections of new Residential Supervisory Locations for new supervisory principals as opposed to requiring temporary registration as an OSJ.

SR-FINRA-2022-021 - Proposed Rule Change to Adopt Supplementary Material .18 (Remote Inspections Pilot Program) under FINRA Rule 3110 (Supervision)

Commonwealth believes that FINRA's proposal to designate certain locations as Residential Supervisory Locations should be approved concurrently with FINRA's proposal to adopt a three-year remote inspection pilot program. We largely support both changes to Rule 3110 and would include Residential Supervisory Locations in our remote inspection program should both proposals be adopted. Commonwealth plans to separately comment on SR-FINRA-2022-021 in greater detail.

Concurrence with Other Industry Comments

Commonwealth agrees and supports the comments made by the Securities Industry and Financial Markets Association ("SIFMA") and the Financial Services Institute ("FSI") regarding the Proposal. We wish to share our concurrence with their statements.

Conclusion

Thank you again for the opportunity to comment on this important Proposal. It has a significant impact on Commonwealth and is largely drafted to align with the labor environment and workplace conditions in which our industry operates. Commonwealth appreciates your consideration on its impact on our business.

Sincerely,

Gavin Lucca
Manager, Branch Audit
Commonwealth Financial Network®