



Securities Arbitration Clinic  
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September 6, 2022

Via email to rule-comments@sec.gov  
Vanessa Countryman, Esq.  
Office of the Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: Release No. 34-95452; File No. SR-FINRA-2022-021

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.;  
Notice of Filing a Proposed Rule Change to Adopt Supplementary Material .18  
(Remote Inspections Pilot Program) Under FINRA Rule 3110 (Supervision)

Dear Ms. Countryman:

Thank you for the opportunity to comment on FINRA's proposed rules change to adopt the Remote Inspections Pilot Program. We are writing this comment on behalf of the Securities Arbitration Clinic at St. John's University School of Law (the "Clinic"). The Clinic is part of the St. Vincent De Paul Legal Program, Inc., a not-for-profit legal services organization. The Clinic represents aggrieved investors with small dollar claims and is committed to investor education and protection. Accordingly, the Clinic has a strong interest in the rules governing the supervision of brokerage firms. While the Clinic is supportive of innovating firm supervision, the Clinic has concerns about the proposed Pilot Program in light of issues we have seen in our cases.

Brokerage firms must conduct regular inspections of offices of supervisory jurisdiction and other branch and non-branch locations to satisfy their supervisory obligations. Other branch locations have become more prevalent since the COVID-19 pandemic has led to an increase in flexible work environments. Prior to the pandemic,

FINRA began discussing implementing a remote inspection program for eligible firms. FINRA was able to implement a temporary remote inspection rule, Rule 3110.17, during the pandemic to address challenges faced by firms due to travel and other pandemic related restrictions. FINRA now seeks to expand its program with a view towards making it permanent.

Over the years, the Clinic has represented a number of clients whose brokers engaged in fraudulent conduct at offices with one or a few brokers, who operated away from their supervisors. In some situations, the brokers had established ponzi schemes. Others engaged in selling away and private securities transactions. In most cases, the conduct would have been uncovered with an adequate system of on-site supervision or effective on-site inspections. It seems unlikely that these issues would have been captured by electronic supervision, or a remote inspection.

While the Clinic appreciates that the proposal restricts certain high-risk firms from participating in the pilot, the proposal does not adequately capture high risk conduct. For example, FINRA disqualifies certain brokers who have engaged in certain types of misconduct or who have criminal convictions. However, the proposal does not address brokers who have a history of customer complaints unless they are subject to special supervision. This restriction is overly narrow, as it may take some time for a complaint to evolve into regulatory action. In the interim, investors may continue to be harmed by an unscrupulous broker.

Additionally, while the Clinic appreciates that much business is now done electronically, certain frauds still operate using very traditional means of communication. Brokers still request checks from clients for private securities transactions. Fraudulent statements are still mailed in paper form. This type of misconduct is unlikely to be uncovered by a remote inspection. The pilot should prohibit inclusion of locations where there are brokers who have complaints, internal investigations, or terminations concerning allegations of outside business activities, private securities transactions, forgery, theft, misappropriation or conversion of funds or securities.

The Clinic does appreciate that the proposal would allow member firms to focus on inspections regarding high-risk locations. By streamlining the inspection process for low-risk firms and low-risk locations, more time and money can be invested into protecting investors from high-risk brokers and high-risk locations. However, as discussed above, the Clinic requests that risk be assessed in a broader manner than proposed by the pilot and that the types of inspections that may be conducted remotely be appropriately limited.

Additionally, for any firms that are permitted to participate in the pilot, FINRA should ensure that it conducts on-site examinations itself to determine the effectiveness of the remote inspections conducted by the firms. Further, the Clinic fully expects that such a pilot will need further adaptations as the workforce continues to restructure based on the pandemic and its after-effects.

The Clinic appreciates the ability to comment on this important proposal. Thank you for your consideration in this matter.

Sincerely,

/s/

Mackenzie Connick  
Legal Intern

/s/

Christine Lazaro  
*Director of the Securities Arbitration Clinic  
and Professor of Clinical Legal Education*