

September 6, 2022

**Via E-Mail**

Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington, D.C. 20549-1090

**Re: File No. SR-FINRA-2022-021  
Notice of Filing of a Proposed Rule Change to Adopt Supplementary Material .18  
(Remote Inspections Pilot Program) Under FINRA Rule 3110 (Supervision)**

Dear Secretary:

We are submitting this letter on behalf of our client, the Committee of Annuity Insurers (the "Committee"),<sup>1</sup> in response to the Financial Industry Regulatory Authority's ("FINRA") Notice of Filing of a Proposed Rule Change to Adopt Supplementary Material .18 (Remote Inspections Pilot Program) under FINRA Rule 3110 (Supervision) (the "Notice").<sup>2</sup> The Notice proposes to add new Supplementary Material .18 ("SM.18") to FINRA Rule 3110 (the "Proposed Rule"), which would adopt a voluntary, three-year remote inspections pilot program to allow member firms to elect to fulfill their obligation under Rule 3110(c) (Internal Inspections) by conducting inspections of some or all of branch offices and locations remotely without an on-site visit to such office or location.

**BACKGROUND**

In 2020, in response to the COVID-19 pandemic, FINRA provided temporary relief to broker-dealers from certain regulatory requirements in response to many firms being forced to close their office locations and allow their employees to work from alternative worksites. Among the temporary relief was the adoption of temporary Supplementary Material .17 ("Temporary SM.17") to Rule 3110, which provided member firms the option to conduct inspections of their branch offices and non-branch office locations remotely, subject to certain restrictions. Temporary SM.17 is set to expire on December 31, 2022.

FINRA acknowledges in the Notice that widespread advancements in technology and communications in the financial industry have changed the way FINRA members and their associated persons conduct their business.<sup>3</sup> These advancements have resulted in firms "turning to new and innovative regulatory tools such as artificial intelligence, natural language processing, and robotics process automation, among others, to strengthen their compliance programs" which has served to "enhance the effectiveness of a firm's overall and ongoing supervision and monitoring of the activities occurring at their offices (registered and unregistered)."<sup>4</sup> The

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<sup>1</sup> The Committee is a coalition of life insurance companies formed in 1981 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of federal policy with respect to securities, regulatory and tax issues affecting annuities. A list of the Committee's member companies is available on the Committee's website at [www.annuity-insurers.org/about-the-committee/](http://www.annuity-insurers.org/about-the-committee/).

<sup>2</sup> See Securities Exchange Act Release No. 34-95379 (August 9, 2022) 87 FR 50144 (August 15, 2022) (Notice of Filing of File No. SR-FINRA-2022-019), available at <https://www.federalregister.gov/documents/2022/08/15/2022-17428/self-regulatory-organizations-financial-industry-regulatory-authority-inc-notice-of-filing-of-a>.

<sup>3</sup> 87 FR 50144, 50145.

<sup>4</sup> *Id.*

Committee agrees that these, and other advances, have improved member firm's supervisory systems and expanded the techniques used to oversee office locations.

FINRA further acknowledges in the Notice that, based on feedback from member firms, it understands that many broker-dealers are moving towards a blended workforce model, with employees working both on-site in a conventional office location and remotely in a private residence.<sup>5</sup> This feedback, combined with the December 31, 2022 expiration of Temporary SM.17, has prompted FINRA to "assess possible longer-term rule changes" to provide member firms with flexibility in conducting remote inspections.<sup>6</sup>

To that end, FINRA has proposed to adopt SM.18, which would establish a voluntary, three-year remote inspections pilot program that would allow member firms to elect to fulfill their obligation under Rule 3110(c) (Internal Inspections) by conducting inspections of some or all branch offices and locations remotely without an on-site visit to such office or location.<sup>7</sup> Prior to electing a remote inspection, the firm must develop a reasonable, risk-based approach to using remote inspections and conduct and document a risk assessment for that office or location.<sup>8</sup> The assessment must document the factors considered, including the factors set forth in Supplementary Material .12 under Rule 3110, and must take into account any higher risk activities and/or persons at the location.<sup>9</sup> FINRA expects that the proposed "system of risk-based on-site and remote inspections will allow firms to more efficiently deploy compliance resources and to use an on-site component only when appropriate."<sup>10</sup>

#### **COMMITTEE COMMENTS**

The Committee appreciates the opportunity to comment on the Proposed Rule and is supportive of the proposed changes. The Committee further appreciates FINRA's commitment to modernizing its rules in light of "[t]echnological improvements and developments in regulatory compliance [that] have provided more tools than before to create more effective and efficient compliance programs."<sup>11</sup>

The Committee firmly believes that FINRA's Proposed Rule takes a measured approach with appropriate guardrails and restrictions around the member firms, and the specific offices of member firms, that can participate in the remote inspections pilot program. The Committee supports FINRA's proposed requirement that member firms take a "reasonable, risk-based" approach to using remote inspections. The Committee further supports FINRA's proposal to collect uniform data from member firms on remote inspections, which includes the elements of the risk-based approach that firms implement, the type and frequency of inspections, and the type of office or location inspected.<sup>12</sup> The Committee agrees with FINRA's statement in the Notice that this uniform collection of data would "allow FINRA to assess the benefits and costs of allowing some element of remote inspections of branch offices and non-branch office locations, under specified conditions, in the post-pandemic world."<sup>13</sup>

#### **CONCLUSION**

The Committee appreciates the opportunity to provide these comments on the Notice. Please do not hesitate to contact Clifford Kirsch [REDACTED] or [REDACTED]

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 50148.

<sup>8</sup> *Id.* at 50149.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 50153.

<sup>11</sup> *Id.* at 50145.

<sup>12</sup> *Id.* at 50152.

<sup>13</sup> *Id.*

[REDACTED] ) or Eric Arnold [REDACTED] with any questions or to discuss this comment letter.

Respectfully submitted,  
Eversheds Sutherland (US) LLP

**FOR THE COMMITTEE OF ANNUITY INSURERS**