SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106381; File No. SR-FINRA-2026-001]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change, as Modified by Partial Amendment No. 1, to Adopt FINRA Rule 3290 (Outside Activities Requirements)

September 15, 2026.

I. Introduction

On January 22, 2026, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to adopt FINRA Rule 3290 (Outside Activities Requirements) to replace existing FINRA Rules 3270 (Outside Business Activities of Registered Persons) and 3280 (Private Securities Transactions of an Associated Person).

The proposed rule change was published for comment in the Federal Register on February 3, 2026.[3] The public comment period closed on February 24, 2026. The Commission received comment letters in response to the Notice.[4] On March 13, 2026, FINRA consented to an extension of the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Exchange Act Release No. 104746 (Jan. 29, 2026), 91 FR 5003 (Feb. 3, 2026) (File No. SR-FINRA-2026-001) ("Notice").

4 The comment letters are available at https://www.sec.gov/rules-regulations/public-comments/sr-finra-2026-001.

approve or disapprove the proposed rule change to May 4, 2026.[5] On May 1, 2026, FINRA responded to the comment letters received in response to the Notice and filed a partial amendment to modify the proposed rule change ("Amendment No. 1").[6] On May 1, 2026, the Commission published a notice of the filing of Amendment No. 1 and an order instituting proceedings ("OIP") to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1 (hereinafter referred to as the "proposed rule change" unless otherwise specified).[7] The public comment period closed on May 27, 2026. The Commission received additional comment letters in response to the notice of the filing of the amendment and OIP.[8] On June 11, 2026, FINRA responded to the comment letters received in response to the OIP.[9] On July 24, 2026, FINRA consented to extend until October 1, 2026, the time period in which the Commission must approve or disapprove the proposed rule change.[10] This order approves the proposed rule change, as modified by Amendment No. 1.

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5 See letter from Alicia Goldin, Vice President and Associate General Counsel, Office of General Counsel, FINRA (dated Mar. 13, 2026), https://www.finra.org/sites/default/files/2026-03/SR-FINRA-2026-001-Extension1.pdf.

6 See letter from Matthew E. Vitek, Associate General Counsel, Office of General Counsel, FINRA (dated May 1, 2026) ("FINRA I"), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-765807-2350615.pdf; see also Amendment No. 1.

7 See Exchange Act Release No. 105355 (May 1, 2026), 91 FR 24613 (May 6, 2026) (File No. SR-FINRA-2026-001).

8 See supra note 4.

9 See letter from Matthew E. Vitek, Associate General Counsel, Office of General Counsel, FINRA (dated June 11, 2026) ("FINRA II"), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-814261-2480673.pdf.

10 See letter from Alicia Goldin, Vice President and Associate General Counsel, Office of General Counsel, FINRA (dated July 24, 2026), https://www.finra.org/sites/default/files/2026-07/FINRA-2026-001-Extension-2.pdf.

II. Description of the Proposed Rule Change

A. Background

1. FINRA Rule 3270 (Outside Business Activities of Registered Persons)

Subject to several exemptions, FINRA Rule 3270 prohibits a registered person from being an employee, independent contractor, sole proprietor, officer, director or partner of another person, or being compensated, or having the reasonable expectation of compensation, by any other person as a result of any business activity outside the scope of the relationship with his or her member firm (outside business activities or "OBA"), unless he or she has provided prior written notice to the member, in such form as specified by the member.[11]

Upon receipt of a written notice, FINRA Rule 3270.01 requires the member to consider whether the proposed activity will: (1) interfere with or otherwise compromise the registered person's responsibilities to the member and/or the member's customers; or (2) be viewed by customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered. Based on the member's review of such factors, the member must evaluate whether to condition, limit, or prohibit a registered person's outside activity.[12] FINRA Rule 3270.01 also requires a member to evaluate the registered person's proposed activity to determine whether the activity is properly characterized as an OBA or a private securities transaction ("PST") subject to the requirements of FINRA Rule 3280. Additionally, FINRA Rule 3270.01 requires a member to keep a record of its compliance with these obligations with respect to each written notice received and must

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11 FINRA Rule 3270 exempts from its operative requirements passive investments and private securities transactions subject to the requirements of FINRA Rule 3280.

12 See FINRA Rule 3270.01.

preserve this record in accordance with the time and accessibility requirements of Exchange Act Rule 17a-4(e)(1).

2. FINRA Rule 3280 (Private Securities Transactions of an Associated Person)

FINRA Rule 3280(a) prohibits an associated person of a member from participating in any manner in a PST[13] except in accordance with the following requirements:

- FINRA Rule 3280(b) requires an associated person, prior to participating in any private securities transaction, to provide written notice to the member with which he or she is associated, describing in detail the proposed transaction and the person's proposed role therein and stating whether he or she has received or may receive selling compensation in connection with the transaction;[14]
- FINRA Rule 3280(c)(1) requires a member that has received notice from one of its associated persons regarding a proposed transaction for which the associated person has received or may receive selling compensation to advise the associated person in writing whether it approves or disapproves the person's participation in the proposed transaction;
- FINRA Rule 3280(c)(2) requires a member that approves its associated person's participation in a proposed transaction to record the transaction on its books and records

13 FINRA Rule 3280(e)(1) defines a PST as any securities transaction outside the regular course or scope of an associated person's employment with a member, excluding: (1) transactions subject to the notification requirements of FINRA Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions); (2) transactions among immediate family members (as defined in FINRA Rule 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings)) for which no associated person receives any selling compensation; and (3) personal transactions in investment company and variable annuity securities. FINRA Rule 3280(e)(2) defines "selling compensation" as any compensation paid directly or indirectly from whatever source in connection with, or as a result of, the purchase or sale of a security.

14 In the case of a series of related transactions in which no selling compensation has been or will be received, an associated person may provide a single written notice. FINRA Rule 3280(b).

supervise the associated person's participation in the transaction as if the transaction were executed on behalf of the member;

- FINRA Rule 3280(c)(3) prohibits an associated person from participating in a transaction if the member disapproves its associated person's participation in the proposed transaction; and
- FINRA Rule 3280(d) requires a member that has received notice from one of its associated persons regarding a proposed transaction or series of related transactions for which the associated person has not and will not receive any selling compensation to provide the associated person prompt written acknowledgment of his or her notice.[15]

B. The Proposed Rule Change

The proposed rule change would replace current FINRA Rules 3270 and 3280 with new FINRA Rule 3290. Proposed FINRA Rule 3290 would retain, or be substantially similar to, many of the existing requirements of the current rules under two distinct categories of activities: (1) outside investment-related activities of registered persons and (2) outside securities transactions of associated persons.[16] Similar to the obligations imposed under current Rules 3270 and 3280, associated persons generally would be required to report outside securities transactions, while only registered persons would be required to report outside activities.

As discussed in more detail below, the proposed rule would narrow the scope of reportable activities of registered persons from outside business activities to outside investment-related activities (defined as "outside activities" of registered persons). Under proposed FINRA Rule 3290, "investment-related activity" would cover a range of activities involving financial

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[15] The member may also require the associated person to adhere to specified conditions in connection with his or her participation in the transaction. See FINRA Rule 3280(d).

[16] The term "associated persons" includes "registered persons." See Notice at 5005.

assets beyond securities but would be subject to certain exclusions and exceptions. The proposed rule change would also: (1) recharacterize certain associated person activities (such as those involving an unaffiliated investment adviser) that are currently treated as PSTs under FINRA Rule 3280 as outside activities (rather than as outside securities transactions); (2) codify the treatment of certain activities as outside activities; and (3) exclude from the rule's coverage activity conducted by associated persons (including registered persons) on behalf of an affiliate of a member, certain personal real estate activities, and personal investments in non-securities.

While the proposed rule change would change the scope of activities covered by, or the characterization of certain activities under (i.e., as an outside activity instead of as an outside securities transaction) the proposed rule, many of the obligations imposed on outside activities or outside securities transactions would either be retained or would be substantially similar to the existing requirements for an OBA or a PST, including: (1) requiring that a registered person who intends to participate in certain outside activities and an associated person who intends to participate in outside securities transactions (as defined below) provide prior written notice to the member; (2) requiring members receiving a notice to assess, among other things, whether to permit, prohibit, or limit the person's participation in the identified proposed activity; (3) requiring members' prior written approval or disapproval of certain activities; and (4) requiring member supervision and recordkeeping of certain activities.[17]

FINRA stated that, consistent with existing FINRA Rules 3270 and 3280, both the notice requirements and member obligations upon receiving the notice would differ depending on the type of activity (outside activity, outside securities transaction not for selling compensation, or

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[17] Notice at 5004. The proposed rule change would also retain the definition of "selling compensation" set forth in FINRA Rule 3280(e)(2).

outside securities transaction for selling compensation).[18] The member's obligations after conducting an assessment would also depend on the type of activity, with the greatest member obligations applying to outside securities transactions for selling compensation.[19]

Importantly, the proposed rule change would not limit a member's ability to expand the scope of its assessment for reportable activities beyond the minimum requirements established in the proposed rule change or to exercise discretion to apply stricter criteria and impose conditions or prohibitions based on the member's own assessment of the risk presented by the identified activity.[20] Additionally, nothing in the proposed rule change would alter the well-settled principle that members must investigate "red flags" indicating problematic activities.[21]

FINRA stated that by merging the two existing rules, the proposed rule change would enhance members' regulatory efficiency without compromising protections for investors and members relating to outside activities.[22] FINRA stated that reducing or eliminating the regulatory burden on members for activities that FINRA believes are lower risk would enable members to redirect supervisory and compliance resources away from activities that pose fewer investor protection concerns and toward higher-risk investment-related activities.[23] For example, FINRA stated that the proposed rule would focus on those outside activities that are appropriately within the members' purview that are a potential risk to members and the public.[24] At the same time, FINRA stated that the proposed rule would provide exclusions for certain

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18 Notice at 5005.

19 Id.

20 Id. at 5007.

21 See id. at 5005, note 8.

22 Id. at 5004.

23 Id. at 5007.

24 See id. at 5004.

activities that FINRA has assessed pose lower risk to its members or the public, including activity conducted at an affiliate or activities such as bartending or refereeing sports games.[25] As such, FINRA stated that the proposed rule change would serve the public interest by maintaining the core investor protections of the existing rules and addressing the treatment of business activities and securities transactions that are outside the regular scope of individuals' association with a member, while narrowing the scope of reportable activities to those that present higher risk, particularly the risk that customers or the public would view the activities as part of the member's business.[26] In this way, FINRA stated, the rule would promote more effective risk-based oversight and, as a result, enhance investor protection.[27]

Each of the proposed rule changes is discussed below in turn.

1. Outside Activities

a. Registered Person's Obligations

Proposed FINRA Rule 3290(a) (Obligations of a Registered Person for Outside Activity) would require a registered person who intends to participate in an "outside activity" (that is, an investment-related activity[28] outside the scope of such person's relationship with the member that is not in connection with a securities transaction) to provide prior written notice to the member regarding such outside activity. In addition, proposed FINRA Rule 3290(a) would require a registered person to update any prior written notice to the member if there is a material

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25 Id.

26 Id. at 5007.

27 Id.

28 Proposed FINRA Rule 3290(f)(3) would define the term "investment-related activity." See infra Section II.B.3. (Proposed Definition of Investment-Related Activity). Proposed FINRA Rule 3290 also contains exclusions and exceptions for certain activities that would otherwise fall within the definition of "investment-related activity." See infra Section II.B.5 (Exclusions from Proposed FINRA Rule 3290); Section II.B.6. (Associated Person Activities Subject to a Contractual Arrangement).

change to the outside activity. For any notice provided pursuant to the proposed rule, the registered person would be required to describe in detail the proposed outside activity and the person's proposed role therein.[29]

b. Obligations of a Member for a Registered Person's Outside Activity

Proposed Rule 3290(c) (Obligations of a Member for a Registered Person's Outside Activity) would require a member receiving written notice of a registered person's outside activity to assess, at a minimum, whether the outside activity: (1) is an outside securities transaction;[30] (2) involves a customer of the registered person; (3) will interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers; and (4) will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.[31] FINRA stated that the proposed rule change would add factor (2) (regarding whether the outside activity involves a customer of a registered person) to factors (1), (3), and (4) above, which are consistent with the existing requirements for an OBA under FINRA Rule 3270.[32]

Based on the member's review of such factors, the member would be required to evaluate whether to condition, limit, or prohibit a registered person's outside activity.[33]

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29 Proposed FINRA Rule 3290(a).

30 FINRA stated that a person may, mistakenly or intentionally, mischaracterize an activity. For this reason, among others, a member must analyze whether the activity is properly characterized to determine its obligations, which vary depending on the activity. <u>See</u> Notice at 5005. If the member determines that the activity is an outside securities transaction, the member would be required to comply with the obligations listed in proposed FINRA Rule 3290(d), as discussed below.

31 Proposed FINRA Rule 3290(c)(1).

32 Notice at 5005.

33 <u>See</u> proposed FINRA Rule 3290(c)(2).

If a member imposes conditions or limitations on an associated person's participation in such an outside activity, proposed FINRA Rule 3290.06 would require the member to reasonably supervise the person's compliance with such conditions or limitations.[34] FINRA stated that this obligation is already implicit in existing FINRA Rule 3270, but would be made explicit in proposed FINRA Rule 3290.[35]

2. Outside Securities Transactions

a. Associated Person's Obligations

Proposed FINRA Rule 3290(b) (Obligations of an Associated Person for Outside Securities Transactions) would require an associated person who intends to participate in an "outside securities transaction" (that is, an investment-related activity[36] outside the scope of the associated person's relationship with the member that is in connection with a securities transaction) to provide prior written notice to the member, describing in detail the proposed transaction, the person's proposed role therein, and whether the person will receive selling compensation.[37] In addition, FINRA Rule 3290(b)(2) would require an associated person to update any prior written notice if there is a material change to the outside securities transaction

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34 See Amendment No. 1.

35 See FINRA I at 16; see also Amendment No. 1.

36 See infra Section II.B.3. (Proposed Definition of Investment-Related Activity) for discussion of "investment-related activity."

37 Proposed FINRA Rules 3290(b)(1) and (3). A separate notice would be required for each outside securities transaction unless an exception applies that allows the use of a single notice. See Notice at 5005. Proposed FINRA Rule 3290(b)(1)(A) would permit an associated person who intends to participate in an outside securities transaction that is in connection with a series of related securities transactions not for selling compensation to provide a single prior written notice to the member. Similarly, proposed FINRA Rule 3290(b)(1)(B) would permit an associated person acting as portfolio manager or investment committee member for registered investment companies, unregistered investment companies, business development companies, real estate investment trusts, and entities that are recognized as tax exempt, and who is not selling an entity's shares for selling compensation, to provide a single prior written notice to the member. See proposed FINRA Rule 3290.02; see also infra Section II.B.4.a. (Associated Persons Acting as Portfolio Managers and Investment Committee Members).

described in such notice. Where the associated person intends to participate in an outside securities transaction for selling compensation, the associated person also would need to obtain prior written approval from the member (including approval for any material change to any information provided pursuant to proposed FINRA Rule 3290(b)(1)).[38]

b. Obligations of a Member for an Associated Person's Outside Securities Transactions

Proposed Rule 3290(d)(1) would require a member receiving written notice of an associated person's outside securities transaction to assess, at a minimum, whether the outside securities transaction: (1) is a securities transaction for selling compensation;[39] (2) involves a customer of the associated person;[40] (3) will interfere with or otherwise compromise the associated person's responsibilities to the member or the member's customers;[41] and (4) will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.[42] FINRA stated that while existing FINRA Rule 3280 does not require consideration of the four factors identified in proposed FINRA Rule 3290(d) when assessing a PST, FINRA understands that the proposed rule change is consistent with members' current practices.[43]

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38 See proposed FINRA Rules 3290(b)(1), (2). FINRA Rule 3290(f)(5) would define "selling compensation" as any compensation paid directly or indirectly from whatever source in connection with or as a result of the purchase, sale or exchange of a security. The proposed definition of "selling compensation" is consistent with the definition in FINRA Rule 3280(e)(2).

39 Proposed FINRA Rule 3290(d)(1)(A).

40 Proposed FINRA Rule 3290(d)(1)(B).

41 Proposed FINRA Rule 3290(d)(1)(C).

42 Proposed FINRA Rule 3290(d)(1)(D). Pursuant to proposed FINRA Rule 3290(d)(1), a member would not be required to assess an outside securities transaction for selling compensation when disapproving it under proposed Rule 3290(d)(3)(C).

43 See Notice at 5005.

A member's obligations for an associated person's outside securities transactions would depend, in part, on whether the outside securities transaction is for selling compensation. If the outside securities transaction is not for selling compensation, proposed FINRA Rule 3290(d)(2) would require the member to: (1) provide the associated person prompt written acknowledgement of such notice;[44] and (2) at the member's discretion, require the associated person to adhere to specified conditions[45] in connection with the associated person's participation in the transaction. If, instead, the outside securities transaction is for selling compensation, proposed FINRA Rule 3290(d)(3) would require the member to notify the associated person in writing of the member's decision to: (1) approve the proposed transaction after making a reasonable determination based on the criteria enumerated in proposed FINRA Rule 3290(d)(1); (2) approve the proposed transaction subject to specific conditions or limitations after a reasonable determination based on the criteria enumerated in proposed FINRA Rule 3290(d)(1); or (3) disapprove the proposed transaction.[46]

If a member imposes conditions or limitations on an associated person's participation in such an outside securities transaction, proposed FINRA Rule 3290.06 would require the member to reasonably supervise the person's compliance with such conditions or limitations.[47] FINRA stated that this obligation is already implicit in existing FINRA Rule 3280, but would be made explicit in proposed FINRA Rule 3290.[48]

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44 A single written acknowledgement may be used in the case of a series of related outside securities transactions not for selling compensation. See proposed FINRA Rule 3290(d)(2).

45 See Amendment No.1 (FINRA stated that adding a reference to "limitations" in proposed FINRA Rule 3290(d)(2) would improve consistency with proposed FINRA Rules 3290(c)(2) and (d)(3)).

46 Proposed FINRA Rule 3290(d)(3)(A)-(C).

47 See Amendment No. 1.

48 See FINRA I at 16; see also Amendment No. 1.

Further, proposed FINRA Rule 3290(d)(4) would require a member to record each approved outside securities transaction for selling compensation on the books and records of the member and supervise the person's participation in the transaction as if executed on behalf of the member. However, if a member approves an associated person's participation in an outside securities transaction involving selling compensation and that person is associated with more than one member, proposed FINRA Rule 3290.01 would permit members to develop a written allocation arrangement whereby at least one member agrees to be responsible for compliance with respect to all applicable securities laws and regulations and FINRA rules regarding the proposed activity, including those requiring member supervision and recordkeeping.[49] FINRA stated that the proposed rule change would codify existing guidance in NASD Notice to Members 96-33, allowing for potential efficiency gains for members that may have been unaware of such previous guidance.[50]

3. Proposed Definition of Investment-Related Activity

The obligations of proposed FINRA Rules 3290(a)-(d) are triggered by the participation of a member's associated person in an investment-related activity that is outside the scope of the associated person's or registered person's relationship with the member. Proposed FINRA Rule 3290(f)(3) would define the term "investment-related activity" as pertaining to financial assets including, but not limited to, securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance. The term includes, but is not limited to: (1) acting as or being associated with a broker-dealer, issuer, insurance agent or company, investment company, investment adviser, futures commission merchant, commodity trading

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49 Proposed FINRA Rule 3290.01.

50 See Notice at 5006, 5008.

advisor, commodity pool operator, municipal advisor, futures sponsor, money services business, bank, savings association, or credit union; and (2) an associated person's participation in any manner in a personal investment involving a securities transaction (sometimes referred to as "buying away"), other than transactions indicated in proposed FINRA Rule 3290(g)(3)(A).[51] FINRA stated that by focusing the application of proposed Rule 3290 on activities involving financial assets, the proposed rule change would eliminate the burdens associated with the reporting and assessment of activities that FINRA views as having lower risk (such as refereeing sports games and bartending), allowing members to dedicate resources to activities presenting higher risk to investors, particularly the risk that investors or the public would view the activities as part of the member's business and thus under its supervision.[52]

4. Specific Activities Treated as Outside Activities for Purposes of Proposed FINRA Rule 3290

a. Associated Persons Acting as Portfolio Managers and Investment Committee Members

Proposed FINRA Rule 3290.02 states that an associated person would not be considered to be participating in an outside securities transaction to the extent the associated person's activities are limited to acting as portfolio manager or investment committee member for registered investment companies (e.g., mutual funds, exchange traded funds, unit investment

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51 Proposed FINRA Rule 3290(g)(3)(A) would exclude from the definition of "investment-related activity" an associated person's personal investments involving securities transactions subject to or delineated in FINRA Rule 3210. FINRA Rule 3210 applies to securities transactions effected by the associated person or their related persons, as delineated in FINRA Rule 3210.02, at any financial institution other than the member that employs the associated person. FINRA Rule 3210.03 excludes some transactions and accounts from that rule: transactions in unit investment trusts, municipal fund securities as defined under MSRB Rule D-12, qualified tuition programs pursuant to Section 529 of the Internal Revenue Code, variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940, or accounts that are limited to transactions in such securities, or monthly-investment-plan-type accounts, or accounts pursuant to Section 530A of the Internal Revenue Code. FINRA Rule 3210.03 (Transactions and Accounts not Subject to this Rule).

52 See Notice at 5004.

trusts, or registered closed-end funds), unregistered investment companies, business development companies, real estate investment trusts, and entities that are recognized as tax exempt. Such activity would be treated as an outside activity and not an outside securities transaction.[53]

However, proposed FINRA Rule 3290.02 also states that the proposed exception would not include an associated person's activities related to purchasing or selling such entities' shares. Those activities would instead be considered an outside securities transaction subject to the applicable notice and assessment requirements in proposed FINRA Rule 3290(b) and (d) unless otherwise excluded under proposed FINRA Rule 3290(g) (discussed infra).

FINRA stated that this proposed rule change would codify FINRA staff's position that: (1) an associated person would need to provide prior written notice for activities related to purchasing or selling such entities' shares, and (2) the member would not be required to supervise and maintain records for the activity, unless the associated person is selling such entities' shares for selling compensation and such activity is not otherwise excluded under the proposed rule.[54]

b. Associated Person Activity at an Unaffiliated Registered Investment Adviser ("RIA")

Proposed FINRA Rule 3290.03 states that an associated person's activity at an investment adviser registered either with the Commission under Section 203 of the Investment Advisers Act ("Advisers Act") or with a state securities commission (or any agency or office

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53 As an "outside activity," such activity would be subject to the notice and assessment requirements of proposed FINRA Rules 3290(a) and (c).

54 See Notice at 5006.

performing like functions) would be treated as an outside activity of a registered person (and not an outside securities transaction).[55]

FINRA stated that the proposed rule change would eliminate members' supervision and recordkeeping obligations for investment advisory activities performed by associated persons at unaffiliated investment advisers, which were set forth in FINRA guidance issued in the 1990s.[56] FINRA stated that this prior guidance has caused significant confusion and practical challenges, including privacy challenges to members seeking account information for clients of an unaffiliated investment adviser through which the member's associated person may be acting in an investment advisory capacity.[57] FINRA stated that without access to information necessary to meaningfully supervise outside unaffiliated investment advisory activities, members would unreasonably bear regulatory responsibility and potential liability without adequate means to fulfill their regulatory obligations.[58] In addition, FINRA stated that such investment advisers are generally directly regulated by either the Commission or the states, and subject to fiduciary obligation to their clients.[59]

c. Associated Person Outside Securities Activity Subject to the Gramm-Leach-Bliley Act (GLBA) or Exchange Act Regulation R

Proposed FINRA Rule 3290.05 states that an associated person's securities activity that qualifies under the GLBA or SEC Regulation R's exception to broker or dealer[60] registration

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55 Such activity would be subject to the requirements of proposed FINRA Rules 3290(a) and (c). See supra note 53.

56 See, e.g., Notice at 5006; NASD Notice to Members 94-44 (May 1994) and 96-33 (May 1996).

57 See Notice at 5006.

58 Id. at 5011.

59 Id. at 5006.

60 The GLBA amended the Exchange Act to except specified securities activities conducted by banks from broker or dealer registration. See Exchange Act Section 3(a)(4)(B). See also Definitions of Terms and

requirements and that is not otherwise covered by proposed FINRA Rule 3290.04[61] would be treated as an outside activity (and not an outside securities transaction).[62] FINRA stated that the proposed rule change would codify FINRA staff's position with respect to this outside activity.[63] Specifically, it would clarify that an associated person's securities activity under proposed Rule 3290.05 would have a prior written notice and assessment requirement but would not be subject to member supervision and recordkeeping by the member.[64]

5. Exclusions from Proposed FINRA Rule 3290

a. Associated Person Activity on Behalf of a Member or an Affiliate

Proposed FINRA Rule 3290(g) would exclude from proposed FINRA Rule 3290 an associated person's activity on behalf of a member or its affiliate.[65] Proposed FINRA Rule 3290(f)(1) would define "affiliate" as any entity that controls, is controlled by, or is under common control with a member. According to FINRA, this exclusion would include activity such as investment advisory activity at a member that is registered as both a broker-dealer and an investment adviser, as well as investment advisory, insurance, or banking activity conducted on behalf of an affiliate.[66] FINRA stated that this exclusion for activity conducted on behalf of a

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Exemptions Relating to the "Broker" Exceptions for Banks, Exchange Act Release No. 56501, 72 Fed. Reg. 56514 (Oct. 3, 2007); Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Saving Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, Exchange Act Release No. 47364 (Feb. 14, 2003), 68 Fed. Reg. 8686 (Feb. 24, 2003).

61 See infra Section II.B.6 (Associated Person Activities Subject to a Contractual Arrangement).

62 Such activity would be subject to the requirements of proposed FINRA Rules 3290(a) and (c). See supra note 53.

63 See Notice at 5006.

64 Id.

65 Proposed FINRA Rule 3290(g)(1).

66 See Notice at 5005.

member or its affiliate recognizes members' and their control persons' ability to implement meaningful controls across business lines.[67]

b. Securities Transactions Among Immediate Family Members of an Associated Person

Proposed FINRA Rule 3290(g) would exclude from proposed FINRA Rule 3290 an associated person's securities transactions among immediate family for which the associated person receives no selling compensation.[68] Proposed FINRA Rule 3290(f)(2) would define "immediate family" to have the same meaning as in paragraph (c) of Rule 3240 (Prohibition on Borrowing from or Lending to Customers).[69] FINRA stated that this exclusion recognizes the lower risks to investors and members associated with this activity and the inefficiency of members' having to expend significant resources reviewing it.[70]

c. Certain Personal Investments of an Associated Person

Proposed FINRA Rule 3290(g)(3) would exclude from proposed FINRA Rule 3290 the following personal investments of an associated person: (1) securities transactions subject to or delineated in FINRA Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions);[71] (2) personal investments in non-securities; and (3) the purchase, sale, rental or lease of a main home and up to two secondary homes[72] that are: (a) solely owned by the associated person or the

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67 Id. at 5005-6.

68 Proposed FINRA Rule 3290(g)(2).

69 FINRA Rule 3240 defines the term "immediate family" as "parents, grandparents, mother-in-law or father-in-law, spouse or domestic partner, brother or sister, brother-in-law or sister-in-law, son-in law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person who resides in the same household as the registered person and the registered person financially supports, directly or indirectly, to a material extent. The term includes step and adoptive relationships."

70 Notice at 5006.

71 See supra note 51.

72 Proposed FINRA Rule 3290(f)(4) would define "secondary home" as a property that is used for residential purposes by the associated person for at least part of the year.

associated person and immediate family;[73] (b) owned by the associated person as a sole proprietorship; (c) owned by a corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the associated person or the associated person and immediate family;[74] or (d) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries.[75] FINRA stated that these exclusions recognize the lower risks to investors and members associated with these activities and the inefficiency of members' having to expend significant resources reviewing them.[76]

6. Associated Person Activities Subject to a Contractual Arrangement

Proposed FINRA Rule 3290.04 states that an associated person's activity that is pursuant to a contract between a member and another entity (e.g., banking or insurance networking arrangement) would not be subject to proposed FINRA Rule 3290 if such activity is conducted on behalf of the member as it is within the scope of the associated person's relationship with the member. FINRA stated that the proposed rule change is consistent with current requirements and, as is currently required, such activity already would be subject to broker-dealer supervision under FINRA Rule 3110.[77]

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73 See supra note 69 and accompanying text.

74 Proposed FINRA Rule 3290(g)(3)(C)(3).

75 Proposed FINRA Rule 3290(g)(3)(C)(4).

76 Notice at 5006.

77 Id. at 5006 n.13 (and accompanying text).

7. Recordkeeping

Proposed FINRA Rule 3290(e) would require a member to keep a record of its compliance with the obligations under proposed FINRA Rule 3290 and preserve this record in accordance with the time and accessibility requirements of Exchange Act Rule 17a-4(e)(1).[78]

8. General Exemptive Authority

Proposed FINRA Rule 3290(h) would authorize FINRA staff, for good cause shown after taking into consideration all relevant factors, to conditionally or unconditionally grant an exemption pursuant to the FINRA Rule 9600 Series from any provision of proposed FINRA Rule 3290 to the extent that such exemption is consistent with the purpose of the rule, the protection of investors, and the public interest. FINRA stated that while the proposed rule change is broadly applicable, having the flexibility to provide relief from a particular provision of proposed Rule 3290 where specific factual circumstances justify an exemption would be useful and appropriate.[79] FINRA also proposed a conforming amendment to FINRA Rule 9610 to add proposed FINRA Rule 3290 to the list of FINRA rules for which members may seek exemptive relief.[80]

III. Discussion and Commission Findings

After careful review of the proposed rule change, comment letters received, and FINRA's responses to the comments, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are

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78 Rule 17a-4(e)(1) states that members subject to Exchange Act Rule 17a-3 must maintain and preserve in an easily accessible place all records required under Rule 17a-3(a)(12) until at least three years after the associated person's employment and any other connection with the member has terminated.

79 Notice at 5006.

80 Id. at 5006 n.15.

applicable to a national securities association.[81] Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[82]

The proposed rule change is reasonably designed to focus member supervisory and compliance resources on the types of outside activities—that is, investment-related activities—of a member's registered or associated persons that are appropriately within the member's purview, particularly where the activities are most likely to be viewed by investors or other members of the public as part of the member's business and thus under its supervision. The proposed rule change reasonably imposes on members different obligations depending on the nature of the identified activity and its associated risk to the member, investors, and the public. The member's obligation is greatest for those activities that present heightened potential risk to investors and to the public, namely when the activity is an associated person's outside securities transaction for selling compensation.

Other categories of activity—an associated person's outside securities transaction not for selling compensation and a registered person's outside activity that is outside the scope of their employment with the member (including activity that is subject to another regulatory regime such as activity at an unaffiliated registered investment adviser or a bank)—require the member to assess or restrict the activity as the member determines is necessary but does not require the member to explicitly approve or supervise that activity. For these categories of activity, the risk

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[81] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[82] 15 U.S.C. 78o-3(b)(6).

to investors or the public, including the risk that they will view the activity as part of the member's business and under its supervision, is lower, and reasonably calibrates a member's obligations in accordance with that risk. The proposed rule change also enables a member to impose conditions or limitations, which could include subjecting the activity to the member's supervision, if the member deems it necessary to manage its own risk. Finally, the proposed rule change eliminates reporting obligations for outside activities that are lower risk, either because the activities are inherently unlikely to pose risks to investors or the public (e.g., refereeing sports games), or the member is likely either to be already aware of the activity or to have ready access to information about the activity (e.g., activities on behalf of an affiliate).

The overall process established by the proposed rule, under which the member's obligations vary based on the nature of the activity, will allow individual members to tailor their oversight of outside activities based on the member's business model, supervisory structure, and the member's risk assessment of the outside activity at issue.

Importantly, the proposed rule change would not limit a member's ability to impose more robust supervision of, or to condition, limit, or prohibit, as appropriate, outside activities at the member's discretion. For example, a member may expand the scope of its assessment or implement additional appropriate safeguards, limitations, or prohibitions, beyond the minimum requirements established here.[83] In addition, although the affiliate exclusion in proposed FINRA Rule 3290(g) permits members to exclude activity on behalf of a member or its affiliate, members are free to impose a notice and assessment requirement for this activity if the member has determined additional safeguards are appropriate for its business.[84] Similarly, the proposed

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83 See, e.g., Notice at 5011; FINRA I at 9; FINRA II at 4.

84 See FINRA I at 9.

rule change does not alter members' overarching supervisory responsibilities under the federal securities law and FINRA Rule 3110 to supervise its business and to investigate and act upon red flags indicating potential misconduct. Accordingly, and as explained in more detail below, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act.[85] The Commission addresses the proposed rule change's specific provisions, and any related comments, in turn.

A. Proposed FINRA Rule 3290(a)-(d)

As stated above, the proposed rule change would replace current FINRA Rules 3270 and 3280 with proposed FINRA Rule 3290. Proposed FINRA Rule 3290(a)-(d) would retain many of the existing requirements of the current rules as part of two distinct categories of activities: (1) outside activities of registered persons, and (2) outside securities transactions of associated persons. Specifically, proposed FINRA Rule 3290(a) and (c) would address the obligations of registered persons and members, respectively, with respect to outside activities of registered persons; proposed FINRA Rule 3290(b) and (d) would address the obligations of associated persons and members, respectively, with respect to outside securities transactions of associated persons. The discussion below addresses the obligations triggered by these two categories.

1. Outside Activities of Registered Persons – Obligations of Registered Persons (Proposed FINRA Rule 3290(a)) and Members (Proposed FINRA Rule 3290(c))

As stated above, the proposed rule change would, among other things, require a registered person who intends to participate in an outside activity that is not in connection with a securities transaction to provide prior written notice to the member describing in detail the

85 15 U.S.C. 78o-3(b)(6).

proposed outside activity and the person's proposed role therein.[86] In the event of a material change to the outside activity, a registered person would be required to provide an updated prior written notice.[87]

The proposed rule change would require a member receiving a notice to assess, at a minimum, whether the outside activity: (1) is an outside securities transaction; (2) involves a customer of the registered person; (3) will interfere with or otherwise compromise the registered person's responsibilities to the member or the member's customers; and (4) will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.[88] Based on the member's review of such factors, the member would be required to evaluate whether to condition, limit, or prohibit a registered person's outside activity.[89] If a member imposes conditions or limitations on a registered person's outside activity, proposed FINRA Rule 3290.06 would require the member to reasonably supervise the person's compliance with such conditions or limitations.[90]

2. Outside Securities Transactions of Associated Persons – Obligations of Associated Persons (Proposed FINRA Rule 3290(b)) and Members (Proposed FINRA Rule 3290(d))

As stated above, the proposed rule change would require an associated person of a member who intends to participate in an outside securities transaction to provide prior written notice to the member, describing in detail the proposed transaction, the person's proposed role

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86 Proposed FINRA Rule 3290(a).

87 Id.

88 Proposed FINRA Rule 3290(c)(1).

89 Proposed FINRA Rule 3290(c)(2).

90 Proposed FINRA Rule 3290.06.

therein, and whether the person will receive selling compensation.[91] The associated person must provide prior written notice (and if the transaction is for selling compensation, receive prior written approval) for each separate transaction, with two exceptions: (1) a series of related securities transactions not for selling compensation; and (2) where the associated person is acting as a portfolio manager or investment committee member for an entity as described in proposed FINRA Rule 3290.02 and is not selling the entity's shares for selling compensation.[92] In those two cases, the associated person may provide a single prior written notice.[93] In the event of a material change to the outside securities transaction, an associated person would be required to update any prior written notice and, if the outside securities transaction is for selling compensation, obtain prior written approval from the member for the material change.[94]

Upon receiving the notice, the proposed rule change would require a member to assess, at a minimum, whether the securities transaction: (1) is a securities transaction for selling compensation; (2) involves a customer of the associated person; (3) will interfere with or otherwise compromise the associated person's responsibilities to the member or the member's customers; and (4) will be viewed by the member's customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered.[95]

If the outside securities transaction is not for selling compensation, the proposed rule change would require the member to: (1) provide the associated person prompt written

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[91] Proposed FINRA Rule 3290(b)(1), (3).

[92] Proposed FINRA Rule 3290(b)(1)(A)-(B).

[93] Proposed FINRA Rule 3290(b)(1)(A)-(B).

[94] Proposed FINRA Rule 3290(b)(2).

[95] Proposed FINRA Rule 3290(d)(1).

acknowledgement of such notice, and (2) at the member's discretion, require the associated person to adhere to specified conditions in connection with the associated person's participation in the transaction.[96]

If the outside securities transaction is for selling compensation, proposed FINRA Rule 3290(d)(3) would require the member to notify the associated person in writing of the member's decision to: (1) approve the proposed transaction after making a reasonable determination based on the criteria enumerated in proposed FINRA Rule 3290(d)(1); (2) approve the proposed transaction subject to specific conditions or limitations after a reasonable determination based on the criteria enumerated in proposed FINRA Rule 3290(d)(1); or (3) disapprove the proposed transaction.[97] In addition, proposed FINRA Rule 3290(d)(4) would require a member to record each approved outside securities transaction for selling compensation on its books and records and to supervise the person's participation in the transaction as if executed on behalf of the member.[98] Further, if a member imposes conditions or limitations on an associated person's participation in an outside securities transaction (whether or not for selling compensation), proposed FINRA Rule 3290.06 would require the member to reasonably supervise the person's compliance with such conditions or limitations.[99]

As stated above, proposed FINRA Rule 3290.01 would provide that if a member approves an associated person's participation in an outside securities transaction involving selling compensation and that person is associated with more than one member, the members may develop a written allocation arrangement whereby at least one member agrees to be

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96 Proposed FINRA Rule 3290(d)(2).

97 Proposed FINRA Rule 3290(d)(3).

98 Proposed FINRA Rule 3290(d)(4)

99 Proposed FINRA Rule 3290.06.

responsible for compliance with respect to all applicable securities laws and regulations and FINRA rules regarding the proposed activity, including those requiring member supervision and recordkeeping.

3. Comments on Proposed FINRA Rule 3290(a)-(d) and FINRA's Response, including Amendment

Many commenters supported the proposed consolidation of FINRA Rules 3270 and 3280 into proposed FINRA Rule 3290(a)-(d),[100] stating that consolidating the OBA and PST reporting

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[100] See, e.g., letters from Bernard V. Canepa, Managing Director & Associate General Counsel, Securities Industry and Financial Markets Association ("SIFMA"), at 1 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-715007-2237915.pdf ("SIFMA I"); Alyssa Pompei, Vice President & Assistant General Counsel, SIFMA, at 1 (dated May 27, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-791999-2397527.pdf ("SIFMA II"); Jessica R. Giroux, Chief Legal Officer, American Securities Association, at 1 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-714947-2237677.pdf ("ASA I"); Clifford Kirsch and Eric Arnold, Eversheds Sutherland (US) LLP for the Committee of Annuity Insurers, at 2 (dated Feb. 25, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-715747-2239634.pdf ("CAI"); David T. Bellaire, Executive Vice President & General Counsel, Financial Services Institute, at 1 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-715027-2237882.pdf ("FSI I"); Matthew Morningstar, Group Managing Director, Chief Legal Officer, LPL Financial at 2 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-712287-2235534.pdf ("LPL I"); Mark Quinn, Director of Regulatory Affairs, Cetera Financial Group, at 1 (dated Feb. 23, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-710532-2232937.pdf ("Cetera I"); Matt Billings, President, Robinhood Financial LLC and Robinhood Securities, LLC, at 2 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-714489-2237294.pdf ("Robinhood"); Jennifer Brunner, Alicia Strout, Susan La Fond, and Gordon Taylor, Chief Compliance Officers, ACA Foreside, at 1 (dated Feb 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-715308-2238374.pdf ("ACA"); Seth A. Miller, General Counsel, President, Advocacy & Administration, Cambridge Investment Research, Inc., at 2 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-712247-2235514.pdf ("Cambridge I"); Katherine M. Flouton, CEO, PKS Securities (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-716667-2242714.pdf ("PKS"); Elissa Germaine and Christine Lazaro, Supervising Attorneys, Securities Arbitration Clinic at St. John's University School of Law, at 1 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-715267-2238295.pdf ("St. John's Law"); Frank C. Lawrance, Wealth Advisor, Seacrest Wealth Management, at 1 (dated Feb. 21, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-712989-2236235.pdf ("Lawrance"); Ben Shamberger, Independent Financial Advisor, at 1-2 (dated Feb. 21, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-708847-2231674.pdf ("Shamberger"); Ryan Naugle, Independent Financial Advisor, Advice & Planning Services, at 2 (dated Feb. 22, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-708347-2229754.pdf ("A&P Services"); Jaime Benedetti, Managing Partner, BEAM Wealth Advisors (dated Feb. 23, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-2231114.htm ("Benedetti"); Form Letter A, https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-typea.htm; Form Letter B, https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-typeb_1.htm; Form Letter C, https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-typec_0.htm; and Form Letter D, https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-typed_0.htm.

requirements and member obligations would promote efficiency and allow compliance personnel to focus on higher-risk activities.[101]

Specifically, commenters supported the proposed requirement under FINRA Rule 3290(c)(1) and (d)(1) that a member assess whether a proposed activity involves a customer of the registered person or associated person, respectively, rather than a customer of the member.[102] One of these commenters stated that the more limited assessment would establish an obligation tied to a relationship that members can realistically identify and verify.[103] In contrast, another commenter recommended that FINRA expand the assessment requirements to include consideration of whether the activity or transaction involves a customer of the member or, at a minimum, to specify that the involvement of a member's customer after the initial notice is a "material change" that would require an updated notice and assessment, stating that as proposed, the proposed rule change would increase the risk that members will fail to adequately consider potential risks to their customers, such as the risk presented by the outside securities transactions of an associated person employed in an operational role with access to customer information or member systems.[104]

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101 See, e.g., FSI I at 1, 4 (stating that streamlining two rules into proposed Rule 3290 would make a time-consuming process for broker-dealer compliance departments more efficient and focus the efforts of compliance personnel on activities that are likely to impact investor protection); letter from David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute, at 2 (dated May 27, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-791919-2397389.pdf ("FSI II"); CAI at 2; Cambridge I at 1, 2; ASA I at 1, 2; LPL I at 2; letter from Matthew Morningstar, Group Managing Director, Chief Legal Officer, LPL Financial at 1 (dated May 27, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-790579-2395826.pdf ("LPL II"); Robinhood at 2 (stating that the consolidation of the OBA and PST regimes into a single rule promotes clarity and simplifies supervisory analysis).

102 See, e.g., Cambridge I at 2, FSI I at 4, SIFMA I at 2.

103 See SIFMA I at 2.

104 See letter from Marni Rock Gibson, President and Commissioner, North American Securities Administrators Association, Inc, at 5-6 (Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-713528-2236594.pdf ("NASAA").

FINRA responded that customer confusion and the associated reputational and legal risks to the member are most acute when the customer has a direct relationship with the associated person conducting the outside activity.[105] As such, requiring members to assess whether the activity involves a customer of the associated person is a targeted approach that focuses on situations presenting heightened risk.[106] Additionally, FINRA stated that requiring members to assess whether the proposed activity involves customers of a member (as opposed to customers of a registered person or associated person) would not meaningfully enhance investor protection, as customers who have no relationship with the particular associated person conducting the outside activity face lower risk of confusion about the member's involvement in the proposed activity.[107]

FINRA also stated that the proposed rule change would standardize the minimum assessment that members must conduct upon receiving notice of registered persons' outside activities and associated persons' outside securities transactions to include the assessment required by FINRA Rule 3270, and add a new requirement to assess whether the activity involves the customer of the registered or associated person.[108] FINRA stated, however, that the proposed rule change would not limit a member's ability to expand the scope of its assessment if the member determines a broader scope is appropriate for its business.[109]

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105 See FINRA I at 7.

106 See id. at 8.

107 Id. at 7. Further, FINRA stated that a broader requirement could present practical challenges. For example, some members may face operational challenges cross-referencing outside activity participants against the member's entire customer base. Id. at 7-8 and n.20.

108 Id. at 7.

109 Id. at 8.

Other commenters recommended that FINRA expand or clarify other aspects of the assessment requirement through amendments to the proposed rule change or additional guidance. Specifically, one commenter recommended that FINRA require members to inspect the personal and operating bank accounts of its independent registered representatives.[110] Several commenters also made various requests for further guidance, including whether the rule would limit a member's ability to conduct a more robust assessment or implement safeguards beyond the minimum required by the proposed rule change,[111] and what would constitute a "material change" to an outside activity.[112]

In response, FINRA stated that the proposed rule change would not limit a member's ability to expand the scope of its assessment or to implement safeguards beyond the minimum requirements established in proposed FINRA Rule 3290.[113] That is, under the proposed rule change, members would maintain the flexibility to develop and implement supervisory systems that reflect their respective business models. For these reasons, FINRA declined to amend the proposed rule change to provide the additional guidance requested by commenters.[114] FINRA stated, however, that if the Commission approves the proposed rule change, it will consider providing additional guidance as appropriate.[115]

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110 See letter from Michael Hill, Esq., Menzel & Hill, P.A., (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-713728-2236715.html ("Hill").

111 See ASA I at 3-4; letter from Jessica Giroux, Chief Legal Officer, American Securities Association, at 2 (dated May 27, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-791659-2397067.pdf ("ASA II").

112 See Robinhood at 2-3.

113 See FINRA II at 4.

114 See FINRA I at 9; FINRA II at 4.

115 See FINRA I at 17; FINRA II at 4.

FINRA also declined to modify the proposed rule change to require members to inspect the personal and operating bank accounts of its independent registered representatives, stating that a blanket bank account inspection requirement would raise "significant privacy concerns and be operationally infeasible."[116]

Finally, one commenter recommended that FINRA explicitly require members to supervise any conditions or limitations they impose on approved outside activities.[117] In response, FINRA amended the proposed rule change to include proposed FINRA Rule 3290.06 (Supervision of Imposed Conditions or Limitations) to state if a member imposes conditions or limitations pursuant to paragraphs (c)(2), (d)(2) or (d)(3) of Proposed Rule 3290, the member would be required to reasonably supervise compliance with such conditions or limitations.[118] FINRA stated that, while this obligation has always been implicit in the existing rules, the amendment would provide greater clarity to its members.[119]

Three commenters supported this amendment, stating that although this obligation was already implicit under FINRA Rules 3270 and 3280, explicitly codifying it in proposed FINRA Rule 3290.06 would remove ambiguity and reinforce that a member's imposition of conditions or limitations on an outside activity carries a supervisory obligation to assess compliance with those conditions or limitations.[120]

Another commenter opposed this amendment, stating that the proposed supervisory requirement is "irreconcilable with the legal and ethical obligations that govern law firm outside

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116 See FINRA I at 8.

117 See FSI I at 3-4 (stating that supervision of any conditions or limitations is implied but stating it plainly would provide "regulatory cover" to members that impose them).

118 See FINRA I at 16.

119 See Amendment No. 1 at 5; see also FINRA I at 16.

120 See ASA II at 3; see also SIFMA II at 2-3; FSI II at 2.

business activities" ("professional OBAs").[121] This commenter recommended that FINRA amend proposed Rule 3290.06 to: clarify that members' obligations to supervise conditions or limitations on licensed professionals' outside activities does not require such members to obtain or review privileged material; establish safe harbors from the proposed supervision obligation for members that impose certain good faith limitations or conditions on licensed professionals' outside activities; and, highlight that members may seek an exemption from proposed Rule 3290.06 pursuant to proposed FINRA Rule 3290(h).[122] In addition, the commenter requested that FINRA provide guidance to help members design conditions and limitation on supervising professional activities that would not require access to privileged information.[123]

In response, FINRA stated that proposed FINRA Rule 3290.06 would not require that a member impose conditions or limitations on professional OBAs; rather, it would require that if a member imposes conditions or limitations, it must reasonably supervise for compliance with the conditions or limitations.[124] As such, members would have discretion to determine whether to impose any conditions or limitations, and if they do, what types of conditions or limitations would be appropriate given the nature of the activity.[125] FINRA also noted that proposed Rule 3290(h) would include general exemptive authority to permit FINRA staff to conditionally or unconditionally grant an exemption for good cause shown pursuant to the FINRA Rule 9600 Series.[126] Consequently, FINRA stated that a general safe harbor or exemptive relief for

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121 See letter from Jeffrey Burg, President, AlphaTrust Advisors, at 1 (dated May 15, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-779208-2374616.pdf ("AlphaTrust").

122 Id. at 3-4.

123 See id.

124 See FINRA I at 14; FINRA II at 8.

125 See FINRA II at 8.

126 Id.

professional OBAs is not necessary.[127] For these reasons, FINRA declined to modify the proposed rule change in this respect. FINRA stated, however, that it remains open to considering whether to provide additional guidance or exemptive relief on a case-by-case basis where specific facts and circumstances demonstrate that such guidance or relief is appropriate.[128]

4. Commission Findings on Proposed FINRA Rule 3290(a)-(d), 3290.01, and 3290.06

The proposed rule change is reasonably designed to establish uniform minimum standards by which registered persons report outside activities, associated persons report outside securities transactions, and members assess and supervise such activities. In doing so, the proposed rule change would both maintain and build on many of the existing requirements for the notice and assessment process in existing FINRA Rules 3270 and 3280. This approach would permit associated persons, registered persons, and members to leverage established supervisory practices designed to comply with existing obligations where applicable, enhancing regulatory and compliance efficiency.

The proposed rule change would incorporate existing obligations by requiring that a registered person or associated person provide prior written notice to the member describing in detail the proposed outside activity or outside securities transaction, respectively, and the person's role therein. The proposed rule change would also add a requirement for associated and registered persons to update their notice prior to continuing the activity in case of a material change prior.

By enumerating the information that must be included in such notices the proposed rule will set a minimum information requirement so that members have the information that they

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127 Id.

128 Id.

need to discharge their supervisory obligations. Further, the obligation to provide an updated prior written notice in case of a material change will help ensure that members have current information necessary to fulfill their supervisory obligations. In addition, with respect to the commenter's request for guidance on what constitutes a material change, FINRA will consider providing additional guidance as appropriate if the Commission approves the proposed rule change.

Turning to a member's obligations upon receiving a notice of an outside activity or outside securities transaction, by requiring a member to assess an outside activity or outside securities transaction, the proposed rule change provides a uniform regulatory framework with respect to risk assessment, requiring members to consider the potential risks associated with an outside activity or securities transaction and whether to limit, condition or prohibit the outside activity or outside securities transaction.

Specifically, requiring a member to assess whether an activity is properly characterized as an outside activity, rather than an outside securities transaction, or, if it is an outside securities transaction, whether it is for selling compensation, should help members address any mistaken or intentional mischaracterization by their associated persons, and help ensure the appropriate obligations apply to the proposed activity.

By requiring a member to consider whether the outside activity or outside securities transaction involves a customer of the registered person or an associated person, respectively, rather than a customer of the member as a commenter suggested, the proposed rule change reasonably focuses a member's attention on the relationships where the risk of customer confusion, and the associated reputational and legal risks to the member, are greatest—those where the customer has a direct relationship with the registered person or associated person engaged in the outside activity or outside securities transaction. Further, by requiring the member to assess whether the activity or transaction would be viewed by the member's customers or the public as part of the member's business, a member would be required to more broadly consider the potential for confusion to the member's customers or the public. Moreover, the proposed rule would require a member to assess whether the outside activity or outside securities transaction will interfere with or otherwise compromise the registered person's or associated person's responsibilities to the member or the member's customers, which again imposes a broad obligation on the member to evaluate the risk of the proposed activity to the member and the member's customers. Finally, the obligations imposed by the proposed rule change are a floor, not a ceiling. Accordingly, a member can expand the scope of its assessment if the member determines a broader scope is appropriate for its business.

Also, it was reasonable for FINRA to decline to impose an overarching obligation for members to inspect personal bank accounts of its independent registered representatives, given that such an obligation could create privacy challenges and could be operationally difficult to implement without a commensurate benefit to the supervisory program of the member. Moreover, even without such an explicit requirement, a member would still be subject to its general supervisory obligations under federal law or FINRA Rule 3110, including responsibility to investigate and act in light of "red flags" suggesting possible misconduct such as an undisclosed outside securities transaction.

Requiring a member to evaluate the advisability of imposing specific conditions or limitations on a registered person's outside activity, including where circumstances warrant, prohibiting the activity, will require members to reasonably consider the facts and circumstances associated with the outside activity, to evaluate the nature of the risk associated with the activity, and to determine what conditions and limitations, if any, are appropriate, or whether the activity should be prohibited. In doing so, the proposed rule would impose a uniform minimum assessment process for members, while also providing flexibility to members to determine whether to condition, limit, or prohibit an activity, based on the member's assessment of the risks to customers and the member presented by the activity in light of the member's business model and risk profile.

Further, delineating a member's obligations related to an outside securities transaction based on whether the associated person will receive selling compensation maintains existing requirements under FINRA Rule 3280 and is reasonably calibrated to require the member to focus the most supervisory and compliance resources on those activities that pose greater risks to members and their customers. Specifically, for transactions not involving selling compensation, the proposed rule change would reasonably impose fewer obligations—notably requiring a member to assess the proposed transaction and acknowledge the notice—and would leave to the member's discretion to determine whether to impose any conditions on the transaction based on the member's assessment of the enumerated factors set forth in proposed FINRA Rule 3290(d)(1). For transactions involving selling compensation, however, the proposed rule change would impose more stringent obligations on members, reflecting the increased risks associated with an outside securities transaction involving selling compensation, and the corresponding need for heightened scrutiny. In particular, members would be required to assess the proposed transaction and, based on that assessment, approve (with or without limitations or conditions) or disapprove the transaction. If a member approves a proposed securities transaction for selling compensation, the member would be required to record the transaction on its books and records and supervise the associated person's participation in the transaction as if it was executed on behalf of the member.

As the proposed rule change permits, but does not require, members to limit or condition an outside activity or an outside securities transaction (and gives members flexibility in determining any such limitations or conditions), and enables members to seek an exemption from any provision of the proposed rule change for unique factual scenarios (as discussed further below), it is reasonable for FINRA not to address all unique factual scenarios at the outset, such as those associated with professional licenses.

In addition, as discussed more fully below, the proposed rule change would require a member to supervise any imposed limitations or conditions on an outside activity or outside securities transaction, which will help ensure that any limitations and conditions that a member determines are necessary are observed. Moreover, as noted, the obligations imposed by the proposed rule change are a floor, not a ceiling. Accordingly, the proposed rule change does not restrict a member's ability to limit, condition, or prohibit any outside activities or outside securities transactions where the member has determined such a prohibition is appropriate for its own risk management.

Finally, by permitting members to develop a written allocation agreement regarding regulatory obligations for an associated person's participation in an outside securities transaction involving selling compensation, the proposed rule change promotes regulatory efficiency and minimizes duplicative regulatory oversight, while preserving investor protection.

For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Proposed Definition of Investment-Related Activity

As stated earlier, the obligations of proposed FINRA Rules 3290(a)-(d) are triggered based on the participation of a member's associated person in "investment-related activity." As originally proposed, the term would have been defined as "pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance." The term would have included but not have been limited to, "acting as or being associated with a broker-dealer; issuer; insurance agent or company; investment company; investment adviser; futures commission merchant; commodity trading advisor; commodity pool operator; municipal advisor; futures sponsor; bank; savings association; or credit union."[129] The proposed definition also included "an associated person's participation in any manner in a personal investment involving a securities transaction, sometimes referred to as "buying away," other than transactions indicated in proposed FINRA Rule 3290(g)(3)(A)."[130]

Many commenters supported the proposed definition of "investment-related activity" as originally proposed, stating that it would streamline the process of reporting outside activities by eliminating the obligation to report routine activities (such as volunteer youth sports coaching, serving on a local civic board, and farming) that do not cause harm to members or investors and the reporting of which diverts member resources.[131] In particular, commenters stated that the

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129 See proposed FINRA Rule 3290(f)(3)(A).

130 See supra note 51.

131 See Form Letter A (identifying volunteer youth sports coaching, serving on a local civic board, and farming as examples of such low risk activities); Form Letter B (stating the definition focuses reporting requirements on activities that matter for investor protection and removes obligations to report low-risk activities); FSI I at 4 (noting that narrowing the focus to investment-related activities will benefit investor protection by allowing compliance personnel to spend their time on higher-risk activities); Robinhood at 2 (stating that the focus on investment-related activities will reduce unnecessary burdens while maintaining core investor protections of the existing FINRA Rules 3270 and 3280). See also CAI at 2; LPL II at 1-2;

current reporting requirements require members to expend compliance resources on reviewing disclosures of low-risk, non-financial activities that ultimately result in increased costs for financial advisors and their clients.[132]

Some commenters requested that the proposed definition be broadened, narrowed, or clarified.[133] More specifically, with respect to broadening the definition, some commenters opposed the proposed definition as too narrow, stating that disclosures of OBAs should be robust and not limited to investment-related activity in order to ensure that members can evaluate the OBAs for potential conflicts of interest and the risk of securities fraud.[134] One commenter stated

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ACA at 1-2. Commenters also recommended that FINRA amend Form U4 to align with the proposed rule change because requiring registered representatives to disclose non-investment-related outside activities pursuant to Question 14 of Form U4 would negate the benefits of the proposed rule change. See, e.g., SIFMA I at 2; SIFMA II at 3; see also CAI at 3; FSI I at 5; NASAA at 2, n.5; Robinhood at 2. In response, FINRA declined to amend the proposed rule change, stating that Form U4 disclosures are outside the scope of the proposed rule change; but FINRA also stated that it would endeavor to work with the Commission and state regulators to harmonize the Form U4 disclosure obligations where appropriate. See FINRA I at 16; FINRA II at 8-9. FINRA reasonably declined to amend the proposed rule change in response, as the comment is outside the scope of the proposed rule change.

132 See, e.g., Form Letter B; SIFMA II at 2; see also Robinhood at 2 (stating that narrowing the proposed rule change to investment-related activities reduces the administrative and operational burdens of reporting low-risk activities).

133 See, e.g., CAI at 3; NASAA at 2-3; St. John's Law at 2; ASA I at 1.

134 See, e.g., letters from Michael C. Bixby, President, Public Investors Advocate Bar Association ("PIABA"), at 9 (dated Feb. 18, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-704987-2220895.pdf ("PIABA I"); Michael C. Bixby, President, PIABA, at 2 (dated June 10, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-811619-2471170.pdf ("PIABA II"); Nicholas J. Guiliano, The Guiliano Law Group, at 2-3 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-715187-2238215_0.pdf ("Guiliano"); Courtney M. Werning, Principal, Meyer Wilson Werning, at 1 (dated Feb. 19, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-706827-2225236.pdf ("Werning"); Peter J. Mougey, Levin Papantonio Proctor Buchanan O'Brien Barr Mougey P.A., at 1 (dated Feb. 25, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-716067-2240135.pdf ("Mougey"); Samuel B. Edwards, Shepherd Smith Edwards & Kantas, LLP, at 1-2 (dated Feb. 19, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-706147-2223534.pdf ("Edwards"); Robert Savage, Savage Villoch Law, PLLC, at 1 (dated Feb. 19, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-706367-2223934.pdf ("Savage"); Robert H. Rex, Esq., Rex Securities Law, at 1-2 (dated Feb. 19, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-706188-2223574.pdf ("Rex"); Richard A. Lewins, Lewins Law, PC, at 1-2 (dated Feb. 19, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-706327-2223876.pdf ("Lewins"); Melinda Jane Steuer, at 1 (dated Feb. 19, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-706547-2224354.pdf ("Steuer").

in particular that the boundary between investment-related and non-investment-related activity is rarely clear, so restricting the type of activities that could be reported to, and assessed by, members, would create gaps in supervision that could obscure misconduct.[135] One commenter opposed the definition because it excluded significant categories of agent conduct that may pose risks to investors.[136] One commenter recommended broadening the proposed definition to include, among other things, activities pertaining to money transmission, collectibles, and lending, and to add the phrase "but not limited to" before the list of examples to clarify that the examples are illustrative rather than exhaustive.[137] Another commenter recommended broadening the proposed definition to include, among other things, financial planning, tax advice, and business advice, stating that investors could perceive these activities as part of a member's business.[138]

By contrast, one commenter suggested narrowing the proposed definition to securities transactions in order to exclude transactions with which a member may not have familiarity, such as transactions in non-securities insurance or banking products.[139] Another commenter suggested narrowing the proposed definition to exclude fundraising for non-profit organizations and the receipt of residual insurance commissions.[140]

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135 See Werning at 1.

136 See letter from William Galvin, Secretary of the Commonwealth, Commonwealth of Massachusetts, at 3 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-713987-2236877.pdf ("Massachusetts").

137 See NASAA at 2-3.

138 See St. John's Law at 2 (stating that including these activities within the definition of "investment-related activity" would help avoid confusion and potential conflicts regarding the nature of such services); see also Massachusetts at 3 (stating that the proposed rule change excludes consulting, legal, tax, and marketing functions, as well as accountancy and financial control positions that can be precursors to larger fraudulent activity).

139 See LPL I at 3.

140 See CAI at 3.

With respect to clarifying the proposed definition, one commenter requested guidance regarding the scope of categories such as banking, insurance, and real estate.[141] Another commenter requested guidance regarding whether the proposed definition included real estate, and in particular rental properties.[142]

In response to commenters generally opposed to the proposed definition because they viewed it as too narrow, leading to an unduly limited application of the proposed rule change's operative provisions, FINRA stated that the framework under current FINRA rules, in which all OBAs, including those that are non-investment-related, are reported creates significant compliance burdens without commensurate investor protection benefits.[143] FINRA also stated that by eliminating the notice and assessment requirements for non-investment-related activities, which present minimal investor protection concerns, the proposed rule change would free members to focus resources and attention on activities more likely to involve potential customer confusion or harm.[144] FINRA stated that members would still be required to maintain a system to supervise activities that is reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules.[145] In addition, FINRA stated that the proposed definition expressly encompasses "all activities pertaining to financial assets" even if not individually listed, and clarified that the listed examples in the proposed definition are not exclusive.[146] Further, FINRA stated that members would retain discretion to prohibit or

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141 See Robinhood at 3.

142 See ASA I at 3; ASA II at 3-4.

143 See FINRA I at 3.

144 Id.

145 Id. at 12-13, n.36.

146 Id. at 4.

condition activity based on risk.[147] For these reasons, FINRA stated that the scope of the proposed definition strikes the right balance regarding disclosure of activities that may pose a greater risk to the investing public and members.[148] As such, FINRA declined to amend the proposed rule change. However, FINRA also stated if the Commission approves the proposed rule change, it will consider providing additional guidance regarding the scope of investment-related activity as appropriate.[149]

FINRA also responded to comments about the coverage of specific activities. In response to comments regarding broadening the scope of the definition to include specific activities, such as money transmission and financial planning, FINRA stated that the list of activities in the proposed definition of investment-related activities was not meant to be exhaustive and therefore activities pertaining to financial assets and other related roles or associations would be covered even if not expressly listed among the examples in the proposed definition. As such, FINRA stated the proposed definition already captures money transmission, lending, collectible activity, and financial planning to the extent they pertain to financial assets.[150] Nevertheless, FINRA amended the proposed rule change to add both the broader phrase "money services business" to provide regulatory clarity and the phrase "but not limited to" before the list of examples in proposed Rule 3290(f)(3) to confirm that the listed examples are illustrative rather than exhaustive.[151] FINRA also stated that the proposed definition already

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147 Id. at 12.

148 Id. at 5.

149 Id. at 17; FINRA II at 4.

150 See FINRA I at 4-5.

151 Id. at 2, 4-5; see also Amendment No. 1.

captures tax advice and other similar types of services to the extent that are performed concomitant to investment-related activity.[152]

In response to comments requesting the exclusion of specific activities from the scope of the proposed definition, FINRA stated that narrowing the definition to only securities transactions would inappropriately exclude activities that present risks to investors and members, particularly the risk that investors or the public would view the activities as part of the member's business.[153] With regard to excluding fundraising activities for non-profit organizations, FINRA stated that depending on the specific facts and circumstances, fundraising activity could be investment-related; as such, excluding all fundraising for non-profit organizations from the proposed definition could exclude activities that present risks to investors and members.[154] With respect to comments seeking to exclude residual insurance commissions, FINRA stated that FINRA Rules 2320 and 2341 already address the receipt of residual insurance commissions, because those rules prohibit associated persons of a member from accepting any compensation in connection with the outside sale and distribution of variable contracts or investment company securities.[155] With respect to comments seeking clarity regarding real estate and particularly rental properties, FINRA stated that real estate is expressly included in the definition of investment-related activity and would be subject to the proposed rule change unless such activity met the exclusion in proposed Rule 3290(g)(3)(C) for a main home and up to two secondary homes.[156]

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152 Id. at 5.

153 Id. at 6 (citing the example of a registered representative selling fixed annuities, crypto assets or commodities away from the member as particular risks).

154 Id.

155 Id.

156 See FINRA I at 6; FINRA II at 3.

In response to comments that the proposed definition lacks clarity and would cause registered persons to make subjective determinations, FINRA explained that the proposed definition expressly covers "all activities pertaining to financial assets," including those that are not securities-related, and that the examples cited are not exclusive.

Also in response to comments, FINRA proposed a clarifying amendment to make explicit the breadth of the definition with respect to money services business and to confirm that the listed examples are illustrative rather than exhaustive. In addition, FINRA further stated that the definition captures activities related to capital raising, lending, financial planning, selling private funds, investment partnerships, and crypto-asset development, promotion or market intermediation, and that consulting, marketing, accounting, legal and tax advice services concomitant to investment-related activity would also be covered.[157] With the proposed amendment and statements, FINRA clarified that the proposed definition should be interpreted broadly.

The proposed rule change reasonably focuses members' oversight of outside activities on those that present the greatest potential harm to members or investors. The proposed definition of investment-related activity is designed to scope into the operative provisions of proposed FINRA Rule 3290 associated persons' activities where the risk associated with the activity, such as the potential for customer confusion about the registered person and their broker-dealer's involvement in the activity, is most acute. Although excluding any category of activity from the scope of the proposed rule may result in a member having less visibility into those activities, members have limited compliance resources, and it is thus reasonable for FINRA to adopt a risk-based approach by narrowing the scope of reportable activities to those with greater potential for

157 See FINRA I at 4.

harm to investors and to the member. Moreover, members would still be required to maintain a system to supervise activities that is reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules. In that regard, members could impose reporting requirements on activities that do not fall within the definition of investment-related activity, or prohibit or condition activities, as appropriate. Additionally, nothing in the proposed rule change would alter the well-settled principle that members must investigate "red flags" indicating problematic activities.

The proposed definition would broadly cover activities pertaining to financial assets, subject to certain targeted exclusions, which are more likely to involve potential customer confusion or harm: activities that are either directly securities-related or otherwise associated with common financial services, such as insurance, banking and crypto assets.

The proposed definition of "investment-related activity" as amended is reasonably expansive to capture and focus on activity that has greater potential to cause customer confusion or harm to investors and to members—activities that pertain to financial assets. The proposed definition, coupled with the clarifications and explanations offered, should provide a reasonable compliance roadmap for both members and their associated persons, and help ensure that the proposed rule change will result in members being notified of activities that are more likely to expose members and investors to risk. By enabling members to redirect supervisory and compliance resources toward higher-risk investment-related activities, including investment-related activities that are not securities-related, the proposed rule change should promote more effective risk-based oversight. FINRA also indicated it would consider providing additional guidance on the scope of investment-related activity if the proposed rule changed is approved, where appropriate.

For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

C. Activities Treated as Outside Activities for Purposes of Proposed FINRA Rule 3290

1. Associated Persons Acting as Portfolio Managers and Investment Committee Members

As stated above, proposed FINRA Rule 3290.02 states that an associated person would not be considered to be participating in an outside securities transaction to the extent that the associated person's activities are limited to acting as portfolio manager or investment committee member for registered investment companies (e.g., mutual funds, exchange traded funds, unit investment trusts, or registered closed-end funds), unregistered investment companies, business development companies, real estate investment trusts, and entities that are recognized as tax exempt. Such activity would be considered an outside activity of a registered person. However, the proposed exception would not include an associated person's activities related to purchasing or selling such entities' shares, which would be considered outside securities transactions unless otherwise excluded under proposed FINRA Rule 3290(g). FINRA Rule 3290.02 would codify FINRA's staff positions on member requirements applicable to these activities.[158]

One commenter opposed the proposed rule change as too broad, stating that associated persons engaged in the activities described above are subject to a range of conflicts, including compensation-related conflicts, as well as other risks and thus there should not be a per se exclusion of these activities from treatment as outside securities transactions and the associated

158 See Notice at 5006.

requirements to supervise and maintain records of that activity.[159] In the context of a tax-exempt organization, this commenter stated that there may be risks and conflicts that could harm the organization, particularly since these roles may also pay substantial compensation.[160]

In response, FINRA stated that the activities deemed to be outside activities under proposed Rule 3290.02 typically involve management of third-party capital with associated fiduciary duties and regulatory oversight, and thus do not present the same level of risk as direct participation in securities transactions.[161] As such, requiring the associated person to notify its members of the activity and the member to assess the proposed activity is sufficient to enable members to evaluate any associated risks.[162] Further, FINRA stated that members retain discretion to impose conditions or limitations on the activity based on the member's evaluation of the particular risk, and to the extent a member does impose conditions or limitations on the activity, the member would be required to supervise compliance with the conditions or limitations under proposed FINRA Rule 3290.06.[163] Additionally, if the associated person begins selling fund shares for compensation, shifting from a governance or management role to a sales capacity, then the proposed rule change's approval, member supervision and recordkeeping requirements would apply.[164] FINRA also stated that the proposed rule change is consistent with how FINRA staff has interpreted FINRA Rules 3270 and 3280.[165]

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159 See Massachusetts at 4.

160 Id.

161 See FINRA I at 10.

162 Id.

163 See proposed FINRA Rule 3290.06; FINRA I at 10.

164 See FINRA I at 10.

165 Id.

The proposed rule change, which codifies FINRA's current treatment of these activities under existing FINRA Rules 3270 and 3280, reasonably treats certain limited activities of an associated person who acts as a portfolio manager or investment committee member for specified entities as outside activities of a registered person, subject to the notice and member assessment in proposed FINRA Rule 3290(a) and (c), rather than as outside securities transactions, subject to the notice, assessment, and applicable approval requirements in proposed FINRA Rule 3290(b) and (d). The proposed rule change reasonably tailors the obligations of members and associated persons in light of the risk presented by the activity. For example, portfolio managers and investment committee members of registered investment companies are subject to regulatory oversight under the Advisers Act and the Investment Company Act of 1940 ("Investment Company Act") or oversight by state regulators, as applicable.

Treating this activity as an outside activity is designed to help ensure that the member is aware of the proposed activity, assesses the associated risks, and imposes conditions and limitations (including prohibiting the activity) based on its assessment. Further, proposed FINRA Rule 3290.06 would explicitly impose a new requirement for the member to supervise compliance with any conditions or limitations. Finally, if the activity involves selling shares for compensation, the additional notice, assessment, and approval obligations applicable to outside securities transactions would apply to address the additional risks presented by that activity. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

2. Associated Person Activity at an Unaffiliated RIA

As stated above, proposed FINRA Rule 3290.03 states that an associated person's activity at an unaffiliated RIA registered either with the Commission under Advisers Act Section 203 or with a state securities commission (or any agency or office performing like functions) would be considered an outside activity of a registered person and not an outside securities transaction for purposes of proposed FINRA Rule 3290. As a result, the associated person would be required to provide prior written notice of such activity under proposed FINRA Rule 3290(a), and the member would be required to conduct an assessment pursuant to the criteria set forth in proposed FINRA Rule 3290(c), but the member would not be required to supervise or keep records of that activity.[166] FINRA stated that as a result, the proposed rule change would "revise[] the member obligations imposed via a series of Notices to Members issued in the 1990s."[167]

The majority of commenters supported the proposed rule change,[168] generally stating that activities at unaffiliated RIAs are already effectively regulated by the Commission and state

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166 See Notice at 5006.

167 See supra note 56; Notice at 5006.

168 See Form Letters A, B, C and D; Cetera I at 1-2; letters from Mark Quinn, Director of Regulatory Affairs, Cetera Financial Group, at 1-2 (dated May 26, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-789421-2394167.pdf ("Cetera II"); Mark Quinn, Director of Regulatory Affairs, Cetera Financial Group, at 1-2 (dated June 10, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-815939-2484510.pdf ("Cetera III"); Gail Bernstein and Monique Botkin, General Counsel and Head of Public Policy and Associate General Counsel, Investment Adviser Association, at 1 (dated Feb. 24. 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-715090-2238074.pdf ("IAA"); CAI at 2; LPL I at 2; SIFMA I at 1-2; letters from Doug Baxley, Chief Compliance Officer, Merit Financial Advisors, at 1 (Dated Feb. 22, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-708947-2231755.pdf ("Baxley"); John Ramirez, Financial Advisor, Woodlands Portfolio Management, at 1 (dated Feb. 22, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-708307-2229695.pdf ("Ramirez"); Cline E. Reasor, Managing Partner, Gratus Wealth Advisors, LLC, at 2 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-713067-2236294.pdf ("Reasor"); David Gutierrez, Gutierrez Wealth Advisory, at 1 (dated Feb. 24, 2026) https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-714427-2237214.pdf ("Gutierrez"); Scott R. Solod, Chief Compliance Officer, Hammond Iles Wealth Advisors, at 1 (dated Feb. 24, 2026) https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-712567-2235796_0.pdf ("Solod"); Timothy E. Flatley, President & CEO, Sterling Investment Advisors, Ltd., at 1 (dated Feb. 23, 2026) https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-712951-

regulators, making the existing requirements duplicative.[169] As such, commenters stated that the existing framework creates a situation in which compliance resources are spent on redundant review rather than investor protection.[170] Commenters also stated that the existing requirements create an uneven regulatory landscape between broker-dealers and investment advisers because registered investment adviser firms without FINRA-registered personnel are not subject to the additional layer of FINRA regulation.[171] Other commenters stated that the existing obligation to supervise unaffiliated RIA activity of their associated persons exposes members to an unreasonable liability risk in the event of investor losses stemming from advice provided by the unaffiliated RIA firm.[172] Finally, several supportive commenters stated that the proposed rule

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2236161.pdf ("Flatley"); Brian Nguyen, Twin Peaks Wealth Advisors, at 1 (dated Feb. 22, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-711028-2233350.pdf ("Nguyen"); Michael McLane, Owner, Redwood Financial Planning at 2 (dated Feb. 22, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-708427-2229934.pdf ("Redwood"); Shamberger at 1; A&P Services at 1; Benedetti at 1; Lawrance at 1.

169 See Form Letter A; SIFMA II at 2-3; Gutierrez at 1; Lawrance at 1; Solod at 1; Flatley at 1; Baxley at 1; Ramirez at 1.

170 See Form Letter B. See also Shamberger at 1; Naugle at 1; Benedetti at 1; Cetera III at 3-4 (stating recently adopted requirements, under Regulation Best Interest and Form CRS, require disclosure to investors of information that should eliminate any potential customer confusion regarding the role and capacity of a representative, which FINRA Rule 3280 was adopted to prevent); letter from Jamal Mahmood, Certified Financial Planner, Main Street Financial Solutions (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-2238614.htm ("J. Mahmood ").

171 See Form Letters C and D; Reasor at 2; Nguyen at 1; Redwood at 2; IAA at 1-3; Baxley at 1; Ramirez at 1.

172 See Form Letter A, see also IAA at 3 (stating that members' inability to obtain such information subjects them to potential regulatory responsibility and liability without providing adequate means to protect themselves); CAI at 2.

change would help eliminate privacy concerns[173] and other barriers to regulatory compliance caused by the current rules.[174]

Commenters opposed to the proposed rule change stated that investment adviser oversight by the Commission or state regulators is an inadequate substitute for broker-dealer supervision,[175] with some noting in particular the length of time that may pass between Commission or state examinations of advisers.[176] One commenter also expressed concern about possible rule changes by the Commission that could lead to further reduced frequency of examinations and other regulatory obligations of some investment advisers, which the commenter believes would result in differing regulatory regimes based on adviser size.[177]

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173 See Reasor at 1 (stating that the current rules require associated persons registered with broker-dealers and with investment advisers to share their advisory clients' non-public personal information with unaffiliated broker-dealers that have no advisory relationship with those clients). See also Form Letter D; letter from Scott Wallschlaeger, MPPL Financial, at 1-2 (dated Feb. 22, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-710028-2232575.pdf ("MPPL Financial") (stating that trust is fundamental to the fiduciary relationship between an advisor and client and that the confidentiality of the advisor-client relationship is protected under federal law, including Regulation S-P); CAI at 2; PKS at 1; Gutierrez at 1; Redwood at 1.

174 See ACA at 2 (stating that the proposed rule change would eliminate the difficulty of registering prospective registered representatives who work for unaffiliated investment advisers that are unwilling to provide a broker-dealer with the information necessary for the member to supervise such activity as required under FINRA Rule 3280); IAA at 3 (acknowledging that members may have challenges fulfilling their regulatory obligations under the current rules because they lack access to information necessary to meaningfully supervise outside unaffiliated investment adviser activities); see also Gutierrez at 1-2; J. Mahmood.

175 See letter from Scott Eichhorn and Melanie Cherdack, Director and Associate Director, University of Miami Investor Rights Clinic, at 2-3 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-714428-2237215.pdf ("Miami Clinic"); Cambridge I at 3; letter from Jeffrey R. Sonn, Esq., Sonn Law Group P.A., at 2-3 (dated Feb. 20, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-706987-2225454.pdf ("Sonn I"). See also letter from Seth A. Miller, General Counsel, President, Advocacy & Administration, Cambridge Investment Research, Inc., at 3 (dated May 27, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-792039-2397586.pdf ("Cambridge II") (stating that if the existence of regulatory oversight by the SEC or states and RIAs being subject to fiduciary duty was sufficient to ensure effective supervision of this activity then there would not be enforcement actions showing that misconduct "persists for years before detection").

176 See Cambridge I at 3; see also letter from John S. Burke, Esq., JSB Law, at 2-3 (dated Feb. 20, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-707867-2226717.pdf ("Burke"); Miami Clinic at 2-3; Cambridge II at 3.

177 See Cambridge I at 4; Cambridge II at 6-7 (raising concerns that approval of the proposed FINRA rule change, combined with the potential adoption of Commission rules that would increase the thresholds for

Commenters also stated that broker-dealers have unique insights into the day-to-day activities of their associated persons and thus eliminating the member supervision and recordkeeping requirements associated with unaffiliated investment adviser activities would fundamentally weaken investor protections.[178] More specifically, commenters stated that the proposed rule change would remove one of the most effective mechanisms for detecting fraud, conflicts of interest, and undisclosed securities activity by associated persons,[179] and that reducing the reporting requirements would make it more likely that illicit conduct would go unreported and unsupervised.[180] One commenter stated that the proposed rule change is

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RIAs being classified as a "small entity" under Commission rules and/or increase the asset threshold for investment advisers being required to register with the Commission, would further fragment oversight of RIAs and weaken consistency in investor protection).

178 See NASAA at 6; see also PIABA I at 4-5, 8; PIABA II at 2; Cambridge I at 6; Sonn I at 2-3; Massachusetts at 2; letters from David Meyer, Founder and Managing Principal, Meyer Wilson Werning, at 2 (dated Feb. 22, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-708147-2229414.pdf ("Meyer"); Alex Rogers, Attorney at Law, (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-714647-2237394.html ("Rogers"). See also Cambridge I at 5; Cambridge II at 4-5 (stating that removing supervisory obligations over unaffiliated RIA activity fails to reduce a member's litigation or arbitration risk and creates incentives for associated persons to affiliate with the member who imposes only the minimum requirements of the proposed rule change).

179 See Sonn I at 2; see also letter from Glenn Mazer, Mazer Law Firm PC (dated Feb. 20, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-707567-2226334.html ("Mazer"); Burke at 3; letter from Nico Banks, co-chair of the PIABA Arbitration Committee, Banks Law Office (dated Feb. 19, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-706447-2224014.pdf ("Banks")

180 See Mougey at 1; Cornish at 1; Bingham at 1; Pearce at 1-2; Vannoy at 1; Schwartz at 2; Wojciechowski at 1; Muzaurieta at 1; Ciaccio at 1; Rosenfield at 1; Iorio at 1; Spray at 1; Brewer at 1; Saxon at 1; Evans at 1; Peiffer at 1; Simms at 1; Varnavides at 1-2; Rapaport at 1; letter from Thomas D. Mauriello, Esq., Mauriello Law Firm, at 1 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-714467-2237275.pdf ("Mauriello"); Kane at 1; Cosgrove Letter at 1; and letter from Adolfo Anzola, Esq., Sonn Law Group P.A., at 1 (dated Feb. 24, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-714047-2236935.pdf ("Sonn II"). See also letters from Mark Pugsley, The Anti-Fraud Coalition (dated Feb. 20, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-707627-2226454.html ("Pugsley"); Reema Mahmood, Individual (dated Jun. 12, 2026), https://www.sec.gov/comments/SR-FINRA-2026-001/srfinra2026001-2488330.htm ("R. Mahmood"). A commenter also stated that FINRA did not adequately quantify in its economic analysis the costs of unsupervised outside activity on investors, both in terms of existing gaps in supervision and the additional gaps the proposed rule would create. See Burke at 5. In response, FINRA stated that unaffiliated RIA activity is subject to supervision by the unaffiliated RIA and overseen by other regulators, and that any additional investor protections arising from member supervision of these activities may be limited because of the difficulty the member may have in obtaining complete information from the

inconsistent with the Commission's authority under Exchange Act Section 15(b)(4)(E) to impose sanctions on a firm for failing to reasonably supervise a person subject to the firm's supervision who commits a violation of the federal securities laws, including the Advisers Act.[181] This commenter stated that there is no authority in the Exchange Act that permits a broker-dealer to delegate this supervisory responsibility to another body or that allows FINRA to exempt members from these requirements because another securities statute or regulatory body covers the same activity.[182]

Other commenters opposing the proposed rule change stated that members do not lack sufficient information to meaningfully supervise unaffiliated RIA activities, contending that the securities regulatory framework has never required members to have complete visibility or direct control to meet their supervisory obligations; rather, it requires broker-dealers to maintain reasonably designed risk-based supervisory systems.[183] Similarly, commenters stated that the privacy rationale underlying the proposed rule change are unjustified.[184] Specifically, one

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unaffiliated RIA. See FINRA I at 14. Additionally, FINRA believes that the assessment it conducted was appropriate to capture the economic impact associated with the proposed rule change and in order to directly address any potential loss in investor protections would require more granular data to quantify the effectiveness of other regulatory regimes and then the marginal impact of additional supervision by broker-dealer firms. See FINRA I at 14. FINRA's assessment appropriately captures the economic impacts associated with the proposed rule change.

181 See PIABA I at 1-3, 10. See also Robert Scott Dreher, Dreher Law Firm, at 2 (dated Feb. 20, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-707727-2226594.pdf ("Dreher"); Adam J. Gana, Esq. and Adam J. Weinstein, Gana Weinstein LLP, at 2 (dated Feb. 20, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-706927-2225375.pdf ("Gana Weinstein"); William Paul Nolan, Esq., The Nolan Law Firm, at 2 (dated Feb. 21, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-719187-2251614.pdf ("Nolan"); Sonn II.

182 See PIABA I at 2-3.

183 See Cambridge I at 6; see also PIABA I at 8-9.

184 See, e.g., PIABA I at 8-9; Cambridge I at 7; Cambridge II at 5-6; Form Letter D.

commenter stated that broker-dealers already handle extensive non-public personal information and are subject to robust safeguarding requirements.[185]

Some commenters (including those who supported and those who opposed the proposed rule change) recommended modifications to the proposed rule change.[186] Similarly, one commenter recommended that, if the proposed rule change is approved by the Commission, FINRA provide guidance or supplementary material stating that a member may not ignore or discount evidence of suspicious activities or red flags arising from activities that they do not supervise and emphasizing that members must consider any red flags related to their associated persons' unaffiliated investment advisory activities as part of their core supervisory obligations.[187] Another commenter stated that practical and privacy challenges to having members supervise the unaffiliated RIA activity of their associated persons can be addressed through targeted safeguards, such as requiring written agreements providing the member access to necessary records, coupled with obtaining applicable client consents.[188]

Additionally, a commenter stated that FINRA should tailor rather than eliminate broker-dealer responsibilities for these activities, stating that a reasonable alternative would be requiring notice and member approval of outside advisory activities, while limiting supervisory obligations under proposed FINRA Rule 3290 to activity involving the adviser's clients who are also

185 See Cambridge I at 7 (stating that Federal privacy regimes applicable to RIAs (including Regulation S-P) are expressly designed to permit information sharing with service providers and affiliated parties where there is a legitimate business purpose, subject to notice, consent, and safeguards); Cambridge II at 5-6.

186 See FSI I at 3-4; ASA II at 6; NASAA at 7; St. John's Law at 2; Miami Clinic at 3; letter from Jason Albin, Chapman Albin, at 2 (dated Feb. 20, 2026), https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-707507-2226238.pdf ("Albin").

187 See NASAA at 7 n.24.

188 See Albin at 2.

customers of the member as well as advisory accounts for which the member is the custodian.[189] The commenter stated that such an approach would align supervision with the interests of the member and responsibilities to investors, while helping to mitigate concerns about access to information, privacy, jurisdiction, and overall compliance burden.[190] In the alternative, the commenter suggested the proposed rule change should be revised to "more directly encourage [members] to impose conditions or limitations on outside investment advisory activities when the [member] makes certain findings in the required assessment."[191]

In contrast, a supportive commenter recommended that FINRA clarify that a member approving an associated person's activities at an unaffiliated investment adviser is not required to oversee compliance with any conditions or limitations imposed on those activities, unlike as required by proposed FINRA Rule 3290.06 for conditions and limitations imposed pursuant to proposed Rule FINRA 3290.[192] Lastly, one commenter, expressing concern that the proposed rule change would disadvantage members that exercise prudent supervision and incentivize members to "offload supervisory risk," suggested that if the Commission approved proposed FINRA Rule 3290.03, the Commission should provide a safe harbor to members from regulatory enforcement and civil liability if an unaffiliated investment adviser violates regulatory or legal standards or harms clients.[193]

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189 See NASAA at 7. See also St. John's Law at 2 (stating that because unaffiliated RIA activity frequently involves an outside securities transaction and may involve the customer of the registered person, that such activity should either be treated as a subcategory of outside securities transactions or as a separate third category with additional obligations closer to those proposed for outside securities transactions to ensure adequate supervision and investor protection); Miami Clinic at 3 (recommending that FINRA consider retaining risk-based obligations (e.g., reasonable supervision) where associated persons provide any type of investment advice, including through a registered investment adviser).

190 See NASAA at 7.

191 Id.

192 See ASA II at 6.

193 See Cambridge II at 4-5.

In response, FINRA stated that activities at unaffiliated RIAs are fundamentally different from other situations involving private securities transactions because activities at registered investment advisers are already subject to established regulatory structures, and the proposed rule change respects this allocation of regulatory responsibility.[194] The proposed rule change would thus eliminate duplicative obligations (e.g., broker-dealer supervision) without diminishing the comprehensive oversight framework already in place.[195] FINRA further stated that the effectiveness of investment adviser regulation cannot be judged solely by examination frequency but rather by "the full spectrum of regulatory requirements, ongoing oversight mechanisms, internal compliance obligations, and the fiduciary duty framework applicable to [investment advisers]," and that the Commission and state regulators are in the best position to determine proper supervision of investment advisers based on market conditions, risk assessments, and available resources.[196]

In addition, FINRA stated that members would continue to receive notice of any outside activities at unaffiliated RIAs and retain discretion to prohibit or condition or limit such activities based on the member's evaluation of the associated risk.[197] FINRA further stated that pursuant to FINRA Rule 3110, members are required to investigate any red flags that suggest that misconduct may be occurring and to act upon the results of such investigation; this would include "red flags suggesting that an associated person is involved in an undisclosed outside activity or that a disclosed outside activity involves undisclosed securities transactions,

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194 See FINRA I at 14 (noting that unaffiliated RIAs are subject to a fiduciary duty as well as oversight from the Commission or state regulators, as applicable).

195 Id.

196 Id.

197 Id. at 12; FINRA II at 6.

compensation not previously disclosed, or other misconduct."[198] Finally, FINRA also stated that although it is not aware of any interpretation of Section 15(b)(4)(E) of the Exchange Act that imposes a general obligation on broker-dealers to supervise investment advisory activity, members are free to impose supervisory obligations on their associated persons as a condition to participating in unaffiliated investment advisory activity.[199]

FINRA also declined to modify the proposed rule change to create a tailored approach for unaffiliated RIA activities, such as creating a subcategory of outside securities transaction for unaffiliated RIA activity, or limiting supervision to only the approved activity involving advisory clients who are also customers of the member and to advisory accounts custodied by the member.[200] FINRA stated that the suggested approaches disregard the comprehensive regulatory regime for RIAs.[201] Further, FINRA stated that creating a tailored regime for customers who have an advisory account custodied by the member, as suggested by commenters, would be inconsistent with FINRA's longstanding policy of creating rules that are business-model neutral where possible, and could create unintended consequences depending on whether or not a particular member requires its associated persons to execute and custody their outside securities transactions at the member.[202]

With respect to the comments regarding privacy concerns and suggestions for targeted safeguards, such as requiring written agreements between members and associated persons engaging in unaffiliated RIA activity, FINRA stated that based on its examination experience it

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198 FINRA I at 13; see also In re Ronald Pellegrino, Exchange Act Release No. 59125, 2008 SEC LEXIS 2843 (Dec. 19, 2008); FINRA II at 6.

199 See FINRA I at 14.

200 See supra discussions and note 189.

201 See FINRA I at 16.

202 Id. at 16; FINRA II at 5-6.

has found that privacy protection is a legitimate concern that raises practical hurdles for members to obtain information regarding unaffiliated RIA activities that cannot be dismissed as a mere "operational inconvenience" and thus managed through disclosure, information-sharing and/or consent agreements.[203] Additionally, FINRA stated that it has observed in examinations that members have faced practical hurdles to obtaining information regarding unaffiliated RIA activity.[204] For these reasons, FINRA declined to modify the proposed rule change.

The proposed rule change reasonably treats activity performed by associated persons at an unaffiliated RIA as an outside activity subject to the notice and member assessment requirements in proposed FINRA Rule 3290(a) and (c), rather than an outside securities transaction subject to the notice, assessment, and applicable approval, supervision, and recordkeeping requirements in proposed FINRA Rule 3290(b) and (d). The proposed rule change reasonably tailors the applicable framework to address the level of risk presented by the activity, by recognizing existing oversight of the activity by the Commission or state regulators, and in so doing, addresses privacy and practical challenges noted by commenters and observed by FINRA regarding members' ability to obtain data necessary to discharge their obligations under existing Rules 3270 and 3280, while also providing important investor protections.

With respect to the commenter's concern that proposed or potential future rule changes by the Commission could further reduce the frequency of investment adviser examinations or reduce investment advisers' regulatory obligations, FINRA's proposed rule change must be assessed on whether it meets the standards set forth in the Exchange Act, including whether it is designed to protect investors and the public interest;[205] any concerns about the impacts of a

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203 See FINRA I at 15; FINRA II at 7.

204 Id.

205 See Exchange Act Section 15A(b)(6).

Commission rulemaking on investor protection would be appropriately addressed in the context of any proposed Commission rulemaking.[206]

Requiring members to supervise and maintain records of unaffiliated investment adviser activities impose additional compliance costs and liability and causes significant operational and practical challenges for members, which are more appropriately borne by the entity with responsibility for the activity. The proposed rule change eliminates these costs and challenges while preserving reasonable investor protection measures through the obligations imposed by treating these activities as an outside activity.[207] Specifically, the proposed rule change would still require an associated person to provide prior written notice to his or her member detailing the activity so that a member can make an informed decision about whether to limit, condition, or prohibit the activity. For example, members could impose restrictions on their associated persons as a condition to participation in the unaffiliated RIA activity, and proposed FINRA Rule 3290.06 would require the member to supervise compliance with such conditions or limitations.

Similarly, while the proposed rule change forgoes imposing the per se supervisory obligations attendant with treating unaffiliated RIA activity as an outside securities transaction, in favor of a risk-based approach, the proposed rule change does not allow members to turn a blind eye to the risk presented by permitting such activity. Members cannot ignore evidence of

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206 Further, the commenter appears to misunderstand the proposal identified, which, if adopted, would not alter the direct obligations of investment advisers registered with the Commission or create any regulatory gap that would weaken investor protection. See "Small Business" and "Small Organization" Definitions for Investment Companies and Investment Advisers for Purposes of the Regulatory Flexibility Act, Release Nos. IA-6935 and IC-35864, 91 Fed. Reg. 1107 (Jan. 12, 2026).

207 This approach is consistent with the way outside securities transactions that qualify under the GLBA or Regulation R exceptions to broker or dealer registration are treated as an outside activity of a registered person. See infra Section III.C.3 (Associated Person Outside Securities Activity Subject to GLBA or Exchange Act Regulation R).

suspicious activities, as the proposed rule does not alter members' overarching supervisory responsibilities under applicable federal laws and FINRA rules to investigate and act upon red flags indicating potential misconduct. Furthermore, the proposed rule change establishes a minimum standard under FINRA rules for reasonable supervision of associated persons, including registered persons, for compliance with relevant obligations; the proposed rule change does not alter or supersede a member's obligation to comply with other applicable statutory or regulatory requirements.[208] In recognition of the regulatory framework that governs activity at registered investment advisers, the proposed rule change imposes targeted, risk-based regulatory safeguards reasonably designed to protect investors and the public interest. In doing so, the proposed rule change should reduce compliance burdens while facilitating investor protection. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

3. Associated Person Outside Securities Activity Subject to GLBA or Exchange Act Regulation R

As stated above, proposed FINRA Rule 3290.05 states that an associated person's securities activity that is not subject to a contractual arrangement under proposed FINRA Rule 3290.04 but that qualifies under the GLBA or Regulation R exceptions to broker or dealer[209] registration requirements would be considered an outside activity of a registered person and not an outside securities transaction for purposes of the proposed rule. This activity would be subject to the notice and assessment requirements in proposed FINRA Rule 3290(a) and (c), but

208 See, e.g., Exchange Act Sections 15(b)(4)(E) and 15(b)(6)(A).

209 See supra note 60.

the member would not be required to supervise or keep records on this activity. The Commission received no comment on this aspect of the proposed rule change.

The proposed rule change is reasonably designed to treat an associated person's outside securities transactions that qualify under the GLBA or Regulation R exceptions to broker or dealer registration as an outside activity. The proposed rule change tailors the outside activity framework to address the level of risk presented by the activity by recognizing existing oversight of the activity by the banking regulators.[210]

Under the proposed rule change, the member would continue to receive prior written notice of the associated person's activity, be required to conduct an upfront assessment, and retain discretion to condition or limit proposed activity (or prohibit the activity) based on its assessment. Moreover, proposed FINRA Rule 3290.06 would require the member to supervise compliance with any conditions or limitations a member elects to impose. In this way, the proposed rule change reasonably imposes targeted, risk-based regulatory safeguards designed to protect investors and the public interest. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

D. Exclusions from Proposed FINRA Rule 3290

1. Associated Person Activity on Behalf of a Member or an Affiliate

As stated above, proposed FINRA Rule 3290(g)(1) would exclude from proposed FINRA Rule 3290 an associated person's activity on behalf of a member or its affiliate.[211] Proposed

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[210] FINRA also stated that the proposed rule change codifies FINRA staff's existing position with respect to this activity. See Notice at 5006.

[211] Proposed FINRA Rule 3290(g)(1). FINRA stated that the exclusion would include activity such as investment advisory activity at a member that is registered as both a broker-dealer and an investment adviser, as well as investment advisory, insurance, or banking activity conducted at an affiliate. See Notice at 5005.

FINRA Rule 3290(f)(1) would define "affiliate" as any entity that controls, is controlled by, or is under common control with a member. FINRA stated that the exclusion for activity conducted on behalf of an affiliate recognizes members' and their control persons' ability to implement meaningful controls across business lines.[212] According to FINRA, activity conducted on behalf of an affiliate occurs within the scope of the person's relationship with the broader corporate organization and therefore does not pose the same risks as other outside activities targeted by the proposed rule change.[213] Specifically, FINRA stated that the rule's notice process is designed to bring external activities to the member's attention so that risks that may not otherwise be apparent can be evaluated by the member.[214] FINRA stated that this process is unnecessary where the activity is conducted within the corporate family, where the member can access information about such activities through corporate governance structures, shared compliance systems, or other internal coordination mechanisms.[215]

Many commenters supported the proposed rule change, generally stating that the affiliate exclusion would create a "more targeted framework" that helps members focus their compliance resources on outside activities that are "more likely to intersect with their supervisory responsibilities and customer facing business."[216] More specifically, one of these commenters stated that excluding activities at affiliated entities, where shared compliance systems already provide oversight, would eliminate a layer of regulatory duplication that adds cost without adding protection.[217] Other commenters stated that the Advisers Act already requires investment

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212 See Notice at 5006.

213 See FINRA I at 9.

214 Id.

215 Id.

216 ASA I at 2; CAI at 2; Benedetti; Shamberger at 2; A&P Services at 2; Form Letter B.

217 See Benedetti.

advisers to establish a "robust" compliance program; thus, by excluding an associated person's advisory activity on behalf of a member or its affiliate from proposed FINRA Rule 3290, the proposed rule change would relieve dual registrants from "regulatory overlap" that added complexity without improving investor protection.[218]

Other commenters opposed the proposed rule change.[219] For example, one commenter stated that reducing a member's regulatory oversight of the activity of their registered and associated persons at affiliated advisers would be a "dramatic step backward" and may eliminate recourse for investors seeking redress for harm caused by an affiliated adviser.[220] Another commenter stated that the Exchange Act requires members to supervise all investment-related activities of their registered representatives regardless of where those activities occur, and does not exempt members based on their affiliates' ability to effectively control activities across business lines.[221]

One commenter who supported the proposed rule change recommended that FINRA provide guidance on when the affiliate exclusion would apply in specific scenarios involving an associated person's work on behalf of a bank, credit union, or insurance company that controls, is controlled by, or is under common control with the member.[222] The commenter also requested

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[218] See, e.g., Form Letter B; A&P Services at 2.

[219] See, e.g., Banks at 1; letter from John E. Sutherland, Brickley/Sears, P.A. at 1-2, (Feb. 25, 2026) https://www.sec.gov/comments/sr-finra-2026-001/srfinra2026001-715687-2239515.pdf ("Brickley/Sears"); Massachusetts at 2; PIABA I at 10.

[220] Brickley/Sears at 1-2 (stating that the way to prevent this is to have the members responsible for supervision over the activity). See also Massachusetts at 2 (stating that eliminating the supervisory requirements over both unaffiliated and affiliated investment advisers is contrary to investor protection).

[221] See PIABA I at 10; see also Banks at 1.

[222] See ASA I at 5; ASA II at 5-6. Another commenter recommended that the proposed definition include contractual networking relationships between independent broker-dealers and third-party institutions, including banks, credit unions and insurance companies. See LPL I at 3. FINRA responded that proposed Supplementary Material .04 already excludes an associated person's activity that is pursuant to a contract between a member and another entity if such activity is conducted on behalf of the member as it is within the scope of the associated person's relationship with the member. See FINRA I at 9-10.

that FINRA provide concrete examples of how the exclusion applies in common fact patterns, including when a registered person's day-to-day activity at an affiliate is covered by the exclusion and how the exclusion applies when the affiliate is the primary employer and association with the member is "part time or limited in scope."[223]

In response, FINRA stated that the exclusion is appropriate because activity conducted on behalf of an affiliate occurs within the scope of the person's relationship with the broader corporate organization and does not present the same risks that the rule is designed to address.[224] Specifically, FINRA stated that the notice and assessment process, which is designed to bring external activities to the member's attention so that risks that may not otherwise be apparent can be evaluated, is not necessary for activity conducted within a corporate family, where the member can access information about such activities through corporate governance structures, shared compliance systems, or other internal coordination mechanisms.[225] In addition, FINRA stated that rather than imposing a one-size-fits-all notice and assessment process, the exclusion would provide a member with flexibility to determine how to manage affiliate activities and whether any controls are appropriate, based on its business model, organizational structure, and the specific activities involved.[226] FINRA also stated that, while this exclusion is consistent with regulatory efficiency principles, it in no way lessens a member's general supervisory obligations under federal law or FINRA Rule 3110 nor does it limit a member's ability to implement additional safeguards it determines are appropriate.[227]

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223 ASA I at 5; ASA II at 5-6.

224 See FINRA I at 9.

225 Id.

226 Id.

227 Id. at 9-10.

With respect to the commenter's request for additional guidance on the scope and application of the affiliate exclusion in particular factual scenarios, FINRA confirmed that the affiliate exclusion does not turn on whether the member or an affiliate is a registered person's primary employer.[228] The proposed rule change would exclude from proposed FINRA Rule 3290 an associated person's activities either on behalf of a member (e.g., investment adviser activity conducted for a dually-registered broker-dealer/investment adviser) or its affiliate (investment adviser, insurance or banking activity conducted at an affiliate of the member).[229] Finally, FINRA stated that if the Commission approves the proposed rule change, it will consider providing additional guidance on this and other topics as appropriate.[230]

The proposed rule change excluding from proposed FINRA Rule 3290 an associated person's activities on behalf of a member or its affiliates is reasonable given the purpose of the rule: bringing to a member's attention external activities of which the member may not otherwise be aware. With respect to the associated person's activity on behalf of the member, the proposed rule change is reasonably designed to enhance regulatory efficiency by excluding from duplicative obligations activity that already falls within the member's supervisory and compliance responsibilities under other FINRA rules (e.g., FINRA Rule 3110). With respect to activity performed on behalf of an affiliate, it is appropriate to exclude the activity from the proposed rule's mandatory notice and assessment process, as it is conducted within a corporate family, where the member should have visibility into the associated person's conduct through the corporate governance structure, shared compliance systems, or other internal coordination.

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228 See FINRA II at 4.

229 Id.

230 Id.

As such, the proposed rule change reasonably focuses a member's compliance function on activities where member oversight provides the greatest investor protection benefit. In addition, members retain the ability to impose additional measures on any such activity, including notice requirements and placing conditions or limitations on the activity, while also retaining their overarching supervisory obligations. Further, as noted above, the proposed rule change does not alter or supersede a member's obligation to comply with other applicable statutory or regulatory requirements, nor does it address an investor's ability to seek redress for harm.[231] As such, the exclusion reflects a reasonable approach that is designed to channel oversight resources toward activities where the member is less likely to have visibility or information, by permitting members to leverage internal structures to avoid unnecessarily duplicative requirements, and providing flexibility to determine how to manage affiliate activities in the context of those structures. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

2. Securities Transactions Among Immediate Family Members of an Associated Person

As stated above, proposed FINRA Rule 3290(g)(2) would exclude from proposed FINRA Rule 3290 an associated person's securities transactions among immediate family for which the associated person receives no selling compensation.[232] These transactions are also excluded from the current definition of PST, and therefore not subject to the notice and assessment

231 See supra note 208.

232 Proposed FINRA Rule 3290(g)(2). Proposed FINRA Rule 3290(f)(2) would define "immediate family" to have the same meaning as in FINRA Rule 3240(c).

requirements in existing FINRA Rule 3280.[233] The Commission received no comment on this aspect of the proposed rule change.

The proposed rule change excluding uncompensated securities transactions among immediate family members from the obligations of proposed FINRA Rule 3290 is reasonably designed to focus members' supervisory and compliance resources on activities that are more likely to raise investor protection concerns. Additionally, the exclusion from proposed FINRA Rule 3290 does not lessen a member's general supervisory obligations under federal law or FINRA Rule 3110 nor limit a member's ability to implement additional safeguards it determines are appropriate. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

3. Certain Personal Investments of an Associated Person

As stated above, proposed FINRA Rule 3290(g)(3) would exclude from proposed FINRA Rule 3290 the following personal investments of an associated person: (1) securities transactions subject to or delineated in FINRA Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions); (2) personal investments in non-securities; and (3) the purchase, sale, rental or lease of a main home and up to two secondary homes that are: (a) solely owned by the associated person or the associated person and immediate family; (b) owned by the associated person as a sole proprietorship; (c) owned by a corporation, LLC, partnership, limited partnership, or other entity that is solely owned by the associated person or the associated person and immediate

233 See FINRA Rule 3280(e)(1) (excluding from the definition of "private securities transaction" transactions among immediate family members as defined in FINRA Rule 5130).

family; or (d) owned by a trust with the associated person or the associated person and immediate family as the sole beneficiaries.[234]

Commenters supported the proposed rule change,[235] stating that the treatment of these categories of personal investments is appropriately tailored, reflects a calibrated risk-based approach,[236] and will help members concentrate on outside activities that are more likely to intersect with their supervisory responsibilities and customer-facing business.[237] In particular, commenters supported the real estate exclusion, stating that such activities do not raise investor protection concerns and therefore should not be subject to reporting.[238] No commenters objected to this proposed exclusion.

The proposed rule change to exclude certain personal investments from the obligations of proposed FINRA Rule 3290 is reasonably designed to help focus members' compliance oversight on activities that are more likely to raise investor protection concerns. Specifically, some of these transactions are covered by FINRA Rule 3210, which already requires a member to consent to an associated person's opening an account with another member or financial institution in which securities transactions can be effected and in which the associated person has a beneficial interest; in addition, the associated person's member can request data for any transaction in an account subject to the rule. Therefore, these transactions are already subject to existing controls under FINRA Rule 3210.[239] In addition, an associated person's personal investments in non-securities, or, subject to specified conditions, the purchase, sale, rental or lease of a main

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234 Proposed FINRA Rule 3290(g)(3)(A)-(C).

235 See ASA I at 2; Robinhood at 2.

236 See Robinhood at 2.

237 See ASA I at 2.

238 See Cambridge I at 2; see also CAI at 2; ASA I at 2; Robinhood at 2; FSI I at 1.

239 See supra note 51.

home and up to two secondary homes is a targeted exclusion for real estate activities and non-securities that are otherwise included in the definition of investment-related activity in proposed Rule 3290(f). This limited exclusion reasonably recognizes the lower risks to investors and members presented by these activities by reducing the regulatory burdens associated with such activities. Moreover, the exclusion from proposed FINRA Rule 3290 does not lessen a member's general supervisory obligations under federal law or FINRA Rule 3110, nor limit a member's ability to implement additional safeguards it determines are appropriate. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

4. Treatment of Activity Subject to a Contractual Arrangement

As stated above, proposed FINRA Rule 3290.04 would exclude from proposed FINRA Rule 3290 an associated person's activity conducted on behalf of the member pursuant to a contract between the member and another entity (e.g., a banking or insurance networking arrangement) because the activity would be considered within the scope of the associated person's relationship with the member and therefore subject to the member's supervisory obligations under FINRA Rule 3110. The Commission received no comment on this aspect of the proposed rule change.

The proposed rule change to exclude an associated person's activity conducted on behalf of a member pursuant to a contractual arrangement between the member and another entity is reasonably designed to enhance regulatory efficiency by excluding from duplicative obligations activity that already falls within the member's supervisory and compliance responsibilities under other FINRA rules (e.g., FINRA Rule 3110). For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

E. Recordkeeping

As stated above, proposed FINRA Rule 3290(e) would require a member to keep a record of its compliance with the obligations under proposed FINRA Rule 3290 and preserve this record in accordance with the time and accessibility requirements of Exchange Act Rule 17a-4(e)(1). The Commission received no comments on this aspect of the proposed rule change.

The proposed rule change requiring members to keep and preserve a record of its compliance with the obligations under proposed FINRA Rule 3290 is reasonably designed to facilitate oversight of a member's compliance with the proposed rule change. A key component of regulatory oversight is a member's retention of its business records. By expressly requiring compliance with applicable Commission recordkeeping rules, the proposed rule change makes clear members' obligation to maintain and make available records related to proposed FINRA Rule 3290. As such, the proposed rule change will help ensure that regulators can properly oversee members' compliance with proposed FINRA Rule 3290. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

F. General Exemptive Authority

As stated above, proposed FINRA Rule 3290(h) would authorize FINRA staff, for good cause shown after taking into consideration all relevant factors, to conditionally or unconditionally grant an exemption pursuant to the FINRA Rule 9600 Series from any provision of proposed FINRA Rule 3290 to the extent that such exemption is consistent with the purpose of the rule, the protection of investors, and the public interest. The proposal would also amend FINRA Rule 9610 to add Rule 3290 to the list of rules for which a member may seek exemptive relief. The Commission received no comment on this aspect of the proposed rule change.

The proposed rule change authorizing FINRA to grant exemptive relief from any provision of proposed FINRA Rule 3290 is reasonably designed to allow FINRA members to avail themselves of an existing procedural vehicle—FINRA's Rule 9600 Series—to apply for exemptive relief from any provision of the rule, on a case-by-case basis, to address unanticipated factual circumstances that may arise under the rule. Prior to granting an exemption, FINRA staff would be required to consider all relevant factors to determine if good cause is shown for the exemption, and that the exemption is consistent with the protection of investors and the public interest. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[240]

IV. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, protect investors and the public interest.[241]

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240 A commenter recommended that FINRA establish an effective date for the proposed rule change that is at least 12 months after Commission approval, in order to provide members sufficient time to update their compliance systems that are currently designed for FINRA Rules 3270 and 3280. See ASA I at 6; ASA II at 6-7. In response, FINRA stated that if the proposed rule change is approved it would determine an effective date balancing sufficient time for implementation with its objective of reducing unnecessary burdens in a timely manner. See FINRA I at 17; FINRA II at 9. FINRA reasonably declined to establish an effective date for the proposed rule change at this time.

241 15 U.S.C. 78o-3(b)(6).

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Exchange Act[242] that the proposed rule change (SR-FINRA-2026-001) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[243]

Sherry R. Haywood,

Assistant Secretary.

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242 15 U.S.C. 78s(b)(2).

243 17 CFR 200.30-3(a)(12).