

Proposed FINRA Rule 3290—A Regulatory Breakthrough or a Halfhearted Attempt at Real Reform?

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In an era of rapid innovation and expanding financial services, the lines between professional roles and personal ventures are blurrier than ever. Against this evolving backdrop, FINRA has introduced Proposed Rule 3290—its most significant attempt in decades to overhaul how it regulates the outside business activities (OBAs) and private securities transactions (PSTs) of registered representatives. This proposed rule seeks to replace two longstanding, often-criticized rules—Rules 3270 and 3280—with a unified framework intended to simplify compliance, reduce ambiguity, and reflect the realities of today’s financial marketplace. But is this truly a modernization of outdated regulations or merely a cosmetic update that fails to address the core concerns of broker-dealers and their registered representatives?

FINRA Rules 3270 and 3280

Rule 3270 was established in response to growing concerns about the potential conflicts of interest that could arise when registered representatives engage in activities

away from their firm without proper oversight. The primary objective was to protect investors by ensuring that registered persons remain focused on their primary duties to their clients and firms. Under Rule 3270, registered persons are prohibited from being employees, independent contractors, sole proprietors, officers, directors, or partners of another entity, or from receiving compensation, or having a reasonable expectation of compensation, from any OBA, unless they provide prior written notice to their member firm. The rule requires firms to evaluate whether the proposed activity would interfere with the registered representative’s duties to the firm and its customers.

Similarly, the primary objective of Rule 3280 is to regulate the activities of registered representatives who engage in PSTs, which are defined as any securities transaction outside the regular course of a registered representative’s employment with a member firm. The rule requires brokers to notify their firms of PSTs and obtain approval before engaging in such activities in order to

protect investors from potential conflicts of interest and fraudulent activities since PSTs may appear to be offered through member firms when they are not. If approved, the member firm must supervise the person's participation in the transaction as if the transaction were executed on behalf of the member.

Calls for Reform

The impact of technological advances combined with the increasing sophistication of financial products and the growing number of registered representatives engaging in outside activities, including those becoming dually registered investment advisors, have all contributed to a more complex regulatory environment. In light of these shifts, FINRA member firms and registered representatives began pushing back on the regulatory burden imposed by Rules 3270 and 3280 and sought a more streamlined approach that would still protect investors.

In 2018, FINRA first proposed the consolidation of the regulations governing OBAs and PSTs. That proposal, in part, sought to eliminate firms' supervision of outside investment adviser activities, which resulted in strong differences in views across the industry. Ultimately, the 2018 proposal never came to fruition and changes to these rules appeared to have stalled until recently.

Proposed Rule 3290

In March 2025, FINRA announced its new proposal to replace both Rules 3270 and 3280 with a consolidated rule known as Proposed Rule 3290. The key feature of Proposed Rule 3290 is its focus on investment-related activities, which aims to alleviate the regulatory burden on firms imposed by reviewing non-investment-related activities

and instead focusing efforts on issues that pose the greatest risk to investors. An investment-related activity is defined as "pertaining to financial assets, including securities, crypto assets, commodities, derivatives (such as futures and swaps), currency, banking, real estate or insurance."

Proposed Rule 3290 also contains multiple exclusions, including a broker's activity on behalf of a member or its affiliate, outside securities transactions among immediate family members for which the broker does not receive selling compensation, outside securities transactions subject to FINRA Rule 3210 and personal investments in non-securities, and the purchase, sale, rental, or lease of a main home or dwelling unit or personal-use rental property.

Industry Reaction

Proposed Rule 3290's focus on investment-related activities is generally receiving praise across the industry. For example, member firms and brokers-alike appear eager to stop disclosing and reviewing registered representatives' side gigs as sports referees and Uber drivers. The Proposed Rule also offers helpful guidance to firms in terms of tools for practical application and compliance.

However, initial feedback is overall mixed. The definition of "investment-related activity" is broad and so might include activities that do not pose a significant risk to the investing public. What's more, unaffiliated outside investment adviser activities would still be subject to disclosure and review. In light of the fact that such activity is already supervised by the SEC and state regulators, FINRA's continued review may be duplicative and causal of unnecessary costs, which are typically passed off on to customers.

Finally, there is still some lack of clarity regarding what activities would be within scope of Proposed Rule 3290 which may cause confusion if implemented.

In conclusion, Proposed Rule 3290 reflects the changing dynamics in the financial industry and the ongoing need for streamlined regulation. As FINRA moves forward with Proposed Rule 3290, the focus remains on investor protection with the operational realities and associated costs faced by member firms.



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