

Client Alert

Current Issues Relevant to Our Clients

August 14, 2015

SEC Seeks Comments on FINRA Proposed Rule Changes Addressing External Personal Accounts of Associated Persons

The Securities and Exchange Commission (“SEC”) is seeking comments on proposed rule changes by the Financial Industry Regulatory Authority, Inc. (“FINRA”) addressing external personal accounts opened or established by associated persons of FINRA member firms. The proposal includes the adoption of FINRA Rule 3210 and the deletion of existing NASD Rule 3050, Incorporated NYSE Rules 407 and 407A and related rule interpretations. FINRA’s rule proposal filing is available [here](#) and the SEC’s request for comment and notice of the proposal is available [here](#).

Rule Proposal

FINRA is proposing the adoption of FINRA Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions) and the deletion of NASD Rule 3050 (Transactions for or by Associated Persons), Incorporated NYSE Rules 407 (Transactions-Employees of Members, Member Organizations and the Exchange) and 407A (Disclosure of All Member Accounts) along with the related rule interpretations. While proposed Rule 3210 combines many of the provisions of the deleted rules, it is broader than the existing rules particularly with respect to the scope of the accounts covered. The proposals are designed to consolidate the applicable provisions and help enable FINRA member firms to conduct the required supervision of their associated persons’ personal trading activities.

Among other things, the proposed rule requires associated persons to take certain actions with respect to external accounts in which the associated person has a “beneficial interest” and in which securities transactions can be effected including:

- obtaining the written consent of his or her member firm before opening or establishing accounts at another member firm or other financial institution (or where an associated person opened or established an account prior to being employed by or associated with a member firm, within 30 days of establishing that association); and
- notifying a member firm or other financial institution of his or her association with a member firm in writing prior to opening or establishing an external account (or where an associated person opened or established an account prior to being employed by or associated with a member firm, within 30 days of establishing that association).

Accounts where an associated person is deemed to have a “beneficial interest” include any account of the associated person, the associated person’s spouse, the associated person or their spouse’s child if the child is residing in the same household or financially dependent upon the associated person, any other related individual over whose account the associated person has control, or any other individual over whose account the associated person has control and to whose financial support the associated person materially contributes.

FINRA member firms that open or establish these external accounts for associated persons are required to transmit duplicate copies of confirmations and statements (or the applicable transactional data) related to such accounts to the associated person’s related member firm upon request. The proposal also includes a new requirement that prior to a member firm consenting to its associated person opening an external account at a non-member firm, the member firm must consider the extent to which it will be able to obtain the necessary information about an associated person’s external trading activities from the non-member firm.

What’s Next?

The SEC will publish these proposals in the Federal Register. Firms will have 21 days to comment from that date of publication in the Federal Register. Comments can be submitted 1) through the SEC’s internet comment form at <http://www.sec.gov/rules/sro.shtml>, 2) via email to rule-comments@sec.gov (including File Number SR-FINRA-2015-029 on the subject line) or 3) by mail.

Firms should familiarize themselves with the proposals and consider what modifications will need to be made to their existing employee trading procedures if the proposals are adopted. In particular, firms should look at what accounts of their employees or family members that are

not currently supervising that they would be required to supervise under the proposals. FINRA has indicated that in establishing an implementation date for the proposals, it will take into account that member firms would need to modify their compliance systems to reflect the new requirements. If the SEC approves the proposals, FINRA will announce the implementation date of the proposals in a separate regulatory notice.

For More Information

To discuss any topic covered in this Client Alert, please contact a member of the Investment Management Group or visit us online at chapman.com.

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