

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-89188; File No. SR-FINRA-2020-019)

June 30, 2020

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Temporarily Extend the Time to Complete Office Inspections under FINRA Rule 3110 (Supervision)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 19, 2020, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt temporary Supplementary Material .16 (Temporary Extension of Time to Complete Office Inspections) under FINRA Rule 3110 (Supervision) that, in light of the operational challenges member firms are facing due to the outbreak of the coronavirus disease (COVID-19), would extend the time by which member firms must complete

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

their calendar year 2020 inspection obligations under Rule 3110(c) (Internal Inspections) to March 31, 2021.⁴

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

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3000. SUPERVISION AND RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS

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3100. Supervisory Responsibilities

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3110. Supervision

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(a) through (f) No Change.

• • • **Supplementary Material:** -----

.01 through .15 No Change.

.16 Temporary Extension of Time to Complete Office Inspections. Each member obligated to complete an inspection of an office of supervisory jurisdiction, branch office or non-branch location in calendar year 2020 pursuant to, as applicable, paragraphs (c)(1)(A), (B) and (C) under Rule 3110, shall be deemed to have satisfied such obligation if the applicable inspection is completed on or before March 31, 2021.

⁴ The proposed rule change will automatically sunset on March 31, 2021. If FINRA seeks to provide additional temporary relief from the rule requirement identified in this proposal beyond March 31, 2021, FINRA will submit a separate rule filing to further extend the temporary extension of time.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is closely monitoring the impact of the COVID-19 pandemic on member firms, investors, and other stakeholders. FINRA recognizes that firms are experiencing operational challenges with much of their personnel working from home due to shelter-in-place orders, restrictions on businesses and social activity imposed in various states, and adhering to other social distancing guidelines consistent with the recommendations of public health officials.⁵ FINRA believes that these ongoing extenuating circumstances warrant sensible and tailored accommodations for member firms to meet their inspection obligations under Rule 3110(c) for calendar year 2020.

Rule 3110(c) requires on-site inspections of offices of supervisory jurisdiction ("OSJs") and supervisory branch offices at least annually (on a calendar-year basis), non-supervisory branch offices at least every three years, and non-branch locations on a regular periodic schedule,

⁵ See, e.g., Centers for Disease Control and Prevention, How to Protect Yourself & Others, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (last visited June 17, 2020).

presumed to be every three years.⁶ As a result of the compelling health and welfare concerns stemming from the COVID-19 pandemic, firms are facing potentially significant disruptions to their normal business operations that may include staff absenteeism, the increased use of remote offices or telework arrangements, travel or transportation limitations, and technology interruptions or slowdowns. These circumstances make it impracticable for firms in most cases to reach and conduct an on-site inspection of office locations. To provide firms an opportunity to better manage these operational challenges and the resources attendant to fulfilling these supervisory obligations during these pressing times, FINRA is proposing to adopt Rule 3110.16 that would extend the time by which inspections must be completed in accordance with Rule 3110(c) for calendar year 2020 to March 31, 2021.⁷ FINRA emphasizes that this extension of time does not relieve firms from the on-site inspection requirement of branch offices and non-branch locations currently prescribed by the rule. FINRA also notes that this proposed extension of time would create further efficiencies for firms by aligning with the Municipal Securities Rulemaking Board's ("MSRB") temporary extension for meeting the inspection requirements of offices set forth under MSRB Rule G-27 (Supervision) to March 31, 2021.⁸

FINRA believes that this proposed extension of time is tailored to address the needs and constraints on a firm's operations during the COVID-19 pandemic, without significantly compromising critical investor protection. FINRA believes that potential risks that may arise

⁶ See Rule 3110(c)(1)(A), (B), and (C). See also Rule 3110.13 (General Presumption of Three-Year Limit for Periodic Inspection Schedules).

⁷ See supra note 4.

⁸ See Securities Exchange Act Release No. 88694 (April 20, 2020), 85 FR 23088 (April 24, 2020) (Notice of Filing and Immediate Effectiveness of File No SR-MSRB-2020-01). See also MSRB Notice 2020-09 (MSRB Amends Certain Rules to Provide Regulatory Relief During COVID-19 Pandemic) (April 9, 2020).

from providing firms additional time to comply with their inspection obligations due in calendar year 2020 are mitigated by firms' ongoing supervisory obligations, off-site monitoring, and the temporary nature of the extension. FINRA will continue to monitor the situation and engage with member firms, other financial regulators, and governmental authorities to determine whether additional regulatory relief or guidance related to this rule may be appropriate. In particular, FINRA will consider whether additional relief may be warranted to address any backlog of 2020 inspections that may continue to exist in light of ongoing public health and safety concerns.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁹ which requires, among other things, that FINRA rules must 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. The proposed rule change is intended to provide firms additional time to comply with their Rule 3110(c) inspection obligations due in calendar year 2020 to March 31, 2021, and does not relieve firms from completing those obligations or from maintaining, under the circumstances, a reasonably designed system to supervise the activities of their associated persons to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules that directly serve investor protection. In a time when faced with unique challenges resulting from the

⁹ 15 U.S.C. 78o-3(b)(6).

COVID-19 pandemic, FINRA believes that the proposed rule change is a sensible accommodation that will afford firms the ability to observe the recommendations of public health officials to provide for the health and safety of its personnel, while continuing to serve and promote the protection of investors and the public interest in this unique environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended solely to provide temporary relief given the impacts of the COVID-19 pandemic crisis.¹⁰ As a result of the temporary nature of the proposed relief, an abbreviated economic impact assessment is appropriate.

Economic Impact Assessment

A. Regulatory Objective

FINRA is proposing Rule 3110.16 to address an issue that has arisen due to the impacts of the coronavirus outbreak and restrictions related to health and safety concerns. In addition to social distancing requirements that have been implemented across the United States to benefit the health and welfare of the populace, firms are facing potentially significant business disruptions that may include staff absenteeism, increased use of remote offices or telework arrangements, travel or transportation limitations, and technology interruptions or slowdowns. These limitations pose significant challenges for firms to satisfy the on-site inspection component of Rule 3110(c), which requires travel to visit offices and non-branch locations. In recognition of these circumstances, the proposed rule change would provide temporary relief by extending the date by which firms must complete their 2020 inspections.

¹⁰ See also FINRA Regulatory Notice 20-08.

B. Economic Baseline

The Economic Baseline of the proposed temporary relief is the obligation under Rule 3110(c), as described above, and the current number and types of FINRA member locations that require inspections.

C. Economic Impact

Proposed Rule 3110.16 is intended solely to provide an accommodation from the timing requirements set forth under Rule 3110(c) (as applicable to year 2020) due to the current pandemic-related limitations in place across the United States to benefit the health and welfare of the populace. FINRA believes that the proposed rule change will not impose any new costs on member firms. Moreover, the proposed rule change would align with similar temporary relief provided by the MSRB (as discussed above), and such coordination among regulators will provide for greater clarity and the efficient use of resources by firms during this public health crisis.

FINRA notes that even in the current environment, member firms have an ongoing obligation to supervise the activities of their associated persons at their branch offices and non-branch locations in a manner reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. Any risks that may arise from providing firms additional time to comply with their Rule 3110(c) inspection obligations due in calendar year 2020 are mitigated by firms' ongoing supervisory obligations, off-site monitoring, and the temporary nature of the extension. As noted above, the proposed rule change would be limited in time, and in place to March 31, 2021, or until the conclusion of any extension thereof.¹¹

¹¹ See supra note 4.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that this proposed rule change may become operative immediately upon filing. FINRA has stated that the requested relief in this proposed rule change is in response to the potentially significant disruptions to normal business operations that may include staff absenteeism, the increased use of remote offices or telework arrangements, travel or transportation limitations, and technology interruptions or slowdowns. FINRA notes also that such circumstances make it impracticable for firms in most cases to reach and conduct an on-site inspection of office locations. FINRA states that the temporary relief provided for in the proposed rule change will provide firms an

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

opportunity to better manage these operational challenges and the resources attendant to fulfilling these supervisory obligations. We note that this proposal provides only temporary relief from the time required to complete office inspections; as proposed, these changes would be in place through March 31, 2021. FINRA also stated that the amended rule will revert back to its original state at the conclusion of the temporary relief period and, if applicable, any extension thereof. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

¹⁴ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2020-019 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2020-019. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-FINRA-2020-019 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

J. Matthew DeLesDernier
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).