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Oversight from Afar: FINRA Notice Addresses Financial Institutions Operating in a Remote Work Environment

On May 28, 2020, the Financial Industry Regulatory Authority (FINRA) issued Regulatory Notice 20-16, which summarizes the actions taken by broker-dealer firms as they transitioned to remote work environments amid the COVID-19 pandemic. FINRA issued the Notice after discussions with firms of all sizes as they took steps to ensure proper supervision during unprecedented changes for their workforces. Overall, the Notice reports that firms increased communication with and supervision of remote personnel, with particular focus on maintaining firm and customer confidentiality and on properly supervising trading activity and customer communications.

TAKEAWAYS

In its Notice, FINRA reports on how firms addressed the challenges associated with both (1) transitioning firm employees and resources to a remote work environment and (2) implementing remote supervision of their associated persons, trading activities, and communications with customers. In addition to summarizing how firms are functioning remotely, the Notice encourages firms to reach out to their designated Risk Monitoring Analyst with any questions about the Notice or any other pandemic-related challenges.

Transitioning to a Remote Work Environment

The Notice summarizes firms' efforts to efficiently implement their business continuity plans (BCPs) while they transition to remote work environments. Some firms experienced success as they continued to update their BCPs and maintain "hot" disaster recovery sites, which remain fully "live and connected" during the pandemic.

Regarding the actual transition to functioning remotely, the Notice describes how firms have assisted their employees with the transition through remote work protocols such as location monitoring and maintaining



contact lists for remote staff. Some firms also increased remote resources by conducting regular firmwide meetings to keep associated persons and staff connected and to reduce the risk of using non-firm technology to conduct firm business. In addition, firms have focused on confidentiality and cybersecurity protocols as well as training to ensure that firm and customer information remains protected from inadvertent disclosure or cybersecurity-related fraud.

The Notice also discusses how firms have chosen to guide customers through any service changes, including by providing assistance in navigating physical branch and office closures. Firm updates to customer assistance included making new guidance available on websites, as well as providing customer support and appointments through a centralized group for consistency.

Supervision in a Remote Work Environment

Turning to operational challenges in the remote work environment, the Notice summarizes firms' actions focused on ensuring proper supervision over associated persons. The Notice lists methods that firms have reported using to ensure effective remote supervision and notes that firms with preexisting comprehensive remote supervision capabilities reported easily transitioning to a remote environment. Firms reported implementing the following:

- supervisory checklists;
- surveillance tools;
- incident trackers; and
- email review and trade exception reports.

Firms also reported increasing communications between supervisors and associated persons, which took the form of establishing standing meetings for leadership and compliance staff as well as keeping supervisors informed of ongoing regulatory responsibilities and emerging risks.

Regarding trading supervision, the Notice provides several examples of methods firms applied to enhance their oversight of trading activity, including the implementation of screening processes and supervisory requirements prior to allowing anyone to engage in remote trading. At some firms, supervisors must approve each trader on an individual basis for remote trading and test each trader's remote capabilities with an in-office partner. Some firms implemented a senior management level review of testing results, which can be memorialized for firm leadership. Firms also attempted to recreate traditional "line of sight" supervision by keeping cameras on, using chat rooms, and scheduling daily rollcalls to ensure multiple touch points throughout each day.

The Notice also highlights ways that firms continued to supervise customer communications, including implementing additional measures to supervise remote customer communications and to ensure that remote workers use only firm-approved means of communication. Some firms increased the volume and frequency of their email reviews, implemented additional key word searches, maintained and in some cases expanded the use of recorded lines, and disabled chat functions that might risk violating recordkeeping obligations.

Because many firms closed physical branches, some substituted "on-site" inspections for temporary remote inspections that included video conferencing and electronic document review.

CONCLUSION

Remote supervision will continue to present operational and supervision challenges for financial institutions and broker-dealers for the foreseeable future. Firms should take a clear-eyed and dynamic approach to supervision in this environment, regularly assessing both continuing and novel risks. Communicating regularly with employees, applying



proper surveillance and supervision resources, and maintaining robust records of actions taken, including documenting the reasoning behind those actions, will be critical during these extraordinary times.

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