

FINRA Adopts Two New Rules Impacting Remote Work by Member Firms and Associated Persons

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In a [regulatory notice](#) published on January 23, 2024, the Financial Industry Regulatory Authority (FINRA) announced the adoption of two proposed rules, both of which impact how member firms and associated persons approach remote work.

Residential Supervisory Location Designation (Rule 3110.19)

The first rule (Rule 3110.19) addresses how member firms and associated persons will treat private residences. Going forward, a private residence at which an associated person engages in certain supervisory activities will be treated as a non-branch location of the member firm, using the newly-defined “residential supervisory location” or “RSL” designation by FINRA. These RSLs will be subject to inspections on a regular periodic schedule (likely at least every three years) instead of the annual inspections currently required for an office of supervisory jurisdiction (OSJ) and “supervisory branch offices.”

In order to qualify for an RSL designation under the new rule, a firm and the associated person at each such location must satisfy certain conditions and eligibility requirements, including the following:

- A firm must conduct and document a risk assessment and provide a list of RSLs to FINRA on a periodic basis; and
- A firm that elects to designate any of its offices or locations as RSLs must provide FINRA with a current list of RSLs by the 15th day of the month following each calendar quarter in the manner and format (*e.g.*, through an electronic process or such other process) FINRA may prescribe.

This rule becomes effective on June 1, 2024, at which time firms may start using the RSL designation in accordance with Rule 3110.19. The first RSL list is due to FINRA on October 15, 2024, covering all locations firms designate as RSLs during the period June 1, 2024, through September 30, 2024.

Firms should take steps now to evaluate these new rules and determine whether and to what extent they plan to implement them as part of their branch office supervisory programs. Further, should firms intend to avail themselves of these new rules, they will need to determine which individuals will be eligible for the RSL

designation and take steps to draft and implement policies and procedures governing RSLs. Finally, firms should update Forms U4 and BR to reflect any corresponding changes in employment office addresses or new branch office locations.

Remote Inspections Pilot Program (Rule 3110.18)

In addition to its adoption of the new RSL designation, FINRA also announced Rule 3110.18, which establishes a voluntary, three-year remote inspection pilot program to fulfill the inspection obligations of their qualified branch offices without an on-site visit to these offices.

In order to participate, a firm must affirmatively elect to take part in the Pilot Program by providing FINRA with an “opt-in notice.” Eligible firms that elect to participate in the Pilot Program in any pilot year are agreeing to participate for the entire duration of that year and will be automatically re-enrolled in the Pilot Program for subsequent years unless they affirmatively opt out by notifying FINRA of the same.

Open Enrollment Periods

For Pilot Year 1, which runs from July 1, 2024, to December 31, 2024, the timeframe in which an eligible firm may elect to opt in to the Pilot Program is June 1 through June 26, 2024.

An eligible firm that does not elect to join Pilot Year 1 may choose to join the Pilot Program for a subsequent pilot year on or before the following dates:

- December 27, 2024, to join Pilot Year 2 (running January 1, 2025, to December 31, 2025)
- December 27, 2025, to join Pilot Year 3 (running January 1, 2026, to December 31, 2026)
- December 27, 2026, to join Pilot Year 4 (running January 1, 2027, to June 30, 2027)

Opt-Out Notification Periods for Firm Participants to Withdraw From the Pilot Program

Firms that elect to withdraw or opt out of a subsequent pilot year must affirmatively notify FINRA at least five calendar days before the start of that pilot year. Thus, in order for it to be effective, FINRA must receive opt-out notifications on or before:

- December 27, 2024, to withdraw from participating in Pilot Year 2
- December 27, 2025, to withdraw from participating in Pilot Year 3
- December 27, 2026, to withdraw from participating in Pilot Year 4

Qualifying firm participants may conduct remote inspections under the Pilot Program starting on July 1, 2024.

As with the RSL rule, firms should take steps now to assess their current supervisory systems to determine where enhancements are necessary to properly supervise the coming increase in remote work locations. Policies and procedures should be updated to include specific guidance for RSLs, and if participating, the remote inspection pilot program.

Key Takeaway

Both the RSL designation and remote inspection pilot program represent a welcome modernization of FINRA's supervisory and inspection regulations and provide member firms with much-needed flexibility to adapt to the modern remote workforce demands of the day. Firms, however, should begin the work of adapting and revising their policies and procedures, along with their internal supervisory and inspection frameworks, in order to be compliant with these new rules when they take effect in the summer of 2024.

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