



RE: Regulatory Notice 19-36 - comment on proposed Rule 3241

There are obvious fundamental differences for a Registered Person being a passive beneficiary versus being in an active trusted position for an individual or entity. There should be separation between these two scenarios, not consolidation under one rule. While it makes sense to have a rule regarding naming a Registered Person as beneficiary, Rule 3270 has provided an adequate framework for review of trusted positions. Positions of trust and beneficiary statuses need to be discussed and addressed separately.

Holding a Position of Trust for or on Behalf of a Customer:

Like the Firms that FINRA surveyed, our Firm procedures provide for reviews of any trusted positions through the Outside Business Activity review process. Rule 3270's *prior written notice* requirement helps hold Representatives directly accountable, allows a review period by Firms, and reduces Firms' liability if a Representative were to knowingly take a trusted role without disclosure. While we don't see the proposed rule as having a substantial impact to our Firm, we do believe Rule 3270 is sufficient in addressing trusted roles for clients. If Rule 3241 were implemented, would both this rule and Rule 3270 need to be repealed going forward? There are already overlapping rules that require consideration with this scenario (E.g. SEC Rule 206(4)-2). A new rule would only be adding another regulatory layer to a scenario that is sufficiently supervised.

As an alternative, Rule 3270's potential revision per Regulatory Notice 18-08 could address trusted positions as a provision, if necessary. Keep in mind that there are other OBAs that could also easily have their own rules and guidance (E.g. Outside RIAs?).

Being Named a Customer's Beneficiary:

Yes - It makes sense to have a rule relating to a Registered Persons' beneficiary status with a client, especially with an effort to enhance public trust of the financial services industry. As mentioned above, the *prior written notice* requirement alleviates Firms by having a straight forward method for disclosure, review, and decision making. However, Firms should be able to determine that method for disclosure, not FINRA. A pre-disclosure requirement wouldn't have a substantial impact given the rarity of these requests.

Recommended Next Steps:

The inherent risks of either of these situations have *always* provided incentive for Firms and Registered Persons to follow up and act prudently. Firms, Registered Persons, and even clients know that appointing a Registered Person into a trusted position, or as a beneficiary, requires heightened review and supervision. FINRA should be able to review Firms' and Registered Persons' conduct pertaining to trusted positions without including it in a new rule. Instead, clarify that trusted positions fall under Rule

3270, or provide supplemental information if Rule 3270 is to be revised. A pre-disclosure requirement for the beneficiary status of a non-family client is intuitive, especially in the spirit of gaining public trust. However, keep the rule simple and allow Firms the flexibility to determine how they want this disclosed, if even permitted. Compliance Teams have been handling these two items without a specific rule in place for some time. It is an All-or-None case for FINRA: If you want to provide members specific guidance and rules on these two scenarios, then you could expand that into other types of conflicts of interest, OR keep the rules simple, straight-forward, and allow Members to do the right thing as they likely have been throughout their own Firm's history.

Thank you,

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