

Notice 17-20 asks for our views as to the existing regulation of outside business activities. We should start with the question: What business is it of FINRA's? FINRA is a regulator of securities activity, not a regulator of hair braiding, waitressing, real estate sales or anything else. FINRA has promulgated more than enough rules to handle any conceivable securities activity. If someone participates in some other business and then performs some securities activity, the latter will be subject to all of the securities rules in place. FINRA is wasting our valuable resources making us identify and oversee the outside activities of our representatives. If those outside activities require some regulation, those outside industries are responsible for creating an appropriate architecture. Speaking for small firms, we examine every purchase and sell order of securities very closely, whether or not the underlying representatives are performing outside businesses. In the rare case where a representative's outside business poses some risk to the firm and/or its operations, the firm would exercise some judgment as to that outside business, if it wanted to survive. But FINRA does not allow judgment. It demands that we supervise all outside activities, regardless of their relevance or irrelevance. If a representative sells securities to clients of some outside business, there are adequate securities rules for those transactions. If a representative advertises to customers of an outside business, there are adequate rules for such advertising. If a representative holds himself out as a securities-licensed person to clients of an outside business, there are adequate rules for such a thing.

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