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SEC OKs FINRA's New Supervisory Rules.

New consolidated rules govern supervision as well as guidance on email reviews

New FINRA Rules 3110 and 3120 replace NASD Rules 3010, 3012 and corresponding provisions of the NYSE Rules and Interpretations.

The Securities and Exchange Commission has approved the Financial Industry Regulatory Authority's new consolidated rules governing supervision as well as guidance on email reviews.

[Regulatory Notice 14-10](#) sets out FINRA's new consolidated rules governing supervision — rules 3110, 3120, 3150 and 3170, which replace NASD Rules 3010, 3012 and 3110(i) and other corresponding NYSE rule provisions.

The [new rules](#) become effective on Dec. 1.

The newly adopted FINRA supervisory rules address required supervisory systems, written supervisory procedures, branch-office inspections, testing and other related requirements.

New FINRA Rules 3110 (Supervision) and 3120 (Supervisory Control System) replace NASD Rules 3010 (Supervision), 3012 (Supervisory Control System) and corresponding provisions of the NYSE Rules and Interpretations.

Todd Cipperman, managing principal of Cipperman Compliance Services, says new rules 3110 and 3120 are "big deals" for compliance personnel and are read through carefully "because there's not a lot of guidance on how to build these compliance programs."

In addition, new FINRA Rules 3150 (Holding of Customer Mail) and 3170 (Tape Recording of Registered Persons by Certain Firms) replace NASD Rules 3110(i) and 3010(b)(2) (often referred to as the "Taping Rule"), respectively.

The Regulatory Notice offers guidance on reviews of electronic communications, including customer correspondence as well as internal communications.

Cipperman notes that "FINRA acknowledges that firms may use a 'lexicon-based' screening tool or system for email reviews but each supervisor 'is responsible for any deficiency in the system's criteria that would result in the system not being reasonably designed.'"

Said another way, Cipperman opines that FINRA means that "a firm does not get a free pass just for using an exception-based email review system. If a questionable email gets through, FINRA may still bring an action. Regardless, we recommend that firms utilize an email review system for the huge volume of communications."

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