

I am writing in response to your request for comments on the proposed new FINRA Rule 3190. Sutter Securities is an introducing firm.

FINRA states that the purpose of the new rule is to *“clarify a member firm’s obligations and supervisory responsibilities regarding its outsourcing arrangements.”*

The proposed rule states that we would be responsible to have procedures to determine:

1. *“whether the third-party service provider (including any sub-vendor) is capable of performing the activities being outsourced”;*
2. *“whether the member can achieve compliance with applicable securities laws and regulations and with applicable FINRA and MSRB rules with respect to any functions or activities being outsourced.”*

In addition, we would be required *“to maintain a supervisory system and written procedures for any functions or activities performed by a third-party service provider (including any sub-vendor) that are reasonably designed to achieve compliance”* with these rules.

The need for regulatory compliance by third-party vendors is clear and I do not question that objective. However, I do not know how a small introducing firm would be able to comply with these requirements, as presently written. For example, we do not have the resources to review our clearing firm’s operations and procedures. I suspect our clearing firm would prefer that its 1,000 introducing clients not ask to meet with them periodically so as to review their procedures.

I would like to propose that Rule 3190 be “tabled” for a short period of time so that a new industry/FINRA task force be created to recommend appropriate changes to the Rule. Among other issues, the following subjects might be considered by the task force:

- a) Can an introducing firm rely on a clearing firm’s SAS70 report to satisfy its due diligence with respect to its clearing firm’s procedures?
- b) Should the scope of a Member’s supervisory responsibilities be different if the third-party provider is also a Member and has its own internal supervisory procedures and controls.
- c) Should FINRA ask third-party firms that provide major services to Members, to voluntarily allow FINRA to review their procedures and to reimburse FINRA for the cost of these reviews. As an example, there are a few “email retention” firms that have a very large number of Member clients.

Please feel free to contact the undersigned regarding this matter.

Robert A. Muh  
Chief Executive Officer  
Sutter Securities Incorporated  
220 Montgomery Street - Suite 1700  
San Francisco, CA 94104  
415-352-6310