

FINRA to Overhaul Gifts, Non-Cash Compensation, and Business Entertainment Rules

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On August 5, FINRA proposed amendments to its gifts rule (Rule 3220) along with new rules to replace the current provisions governing noncash compensation (new Rule 3221) and business entertainment (new Rule 3222). These proposals arise from FINRA's 2014 retrospective review and related report, which assessed the current rules' effectiveness and efficiency. FINRA proposes to increase the gift limit in Rule 3220 from \$100 to \$175 per person per year and include a de minimis \$50 threshold below which firms need not keep records of gifts given or received. Proposed Rule 3221 would consolidate current non-cash compensation provisions into one rule, and cover any security. The current rules cover only variable insurance products, investment company securities, direct participation programs, and public offerings of securities. This proposal would forbid product-specific internal sales contests, based on FINRA's position that contests that favor one security, or type of security, "potentially create an incentive to engage in sales conduct contrary to the best interest of customers." Proposed Rule 3221 would also forbid payment or reimbursement for outings (e.g., golf outings), tours, or other forms of entertainment at training and education meetings. Nevertheless, FINRA specifically requested comment on whether the training and education meeting requirements should allow entertainment. FINRA would also increase the threshold of the non-cash compensation rule gifts exception from \$100 to \$175 per person, per year, so long as the gift is not preconditioned on the achievement of a "sales target," as defined in the proposed rule. Regarding business entertainment, proposed Rule 3222 would require each member to adopt written policies and supervisory procedures tailored to their business needs. Among other things, written policies would need to define forms of permissible and impermissible business entertainment based on location, nature, frequency, and dollar amount.

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