CARLTON FIELDS

# New FINRA Supervision Rules May Require Immediate Action

**Expect Focus**

7.8.14

The SEC approved FINRA's major reworking of its rules governing broker-dealers firms' supervision of their offices and associated persons. Firms must comply with the new rules by December 1, 2014. This may require some firms to make substantial changes.

For example, the rules' Supplementary Material makes clear that the principals designated by broker-dealers to perform supervisory responsibilities at offices of supervisory jurisdiction (OSJs) must have a physical presence on a regular and routine basis at each OSJ for which the principal has supervisory responsibilities.

It is evident that this requirement for "regular and routine" physical presence will have teeth because the Supplementary Material also presumes that no person may serve as a designated onsite supervising principal for more than one OSJ at a time. According to FINRA, when evaluating whether an OSJ supervising principal can overcome this presumption, firms should consider factors such as:

- the principal's level of experience and training;
- the amount of time the principal can devote to supervisory responsibilities at each OSJ;
- whether the OSJs are close together enough for the principal to be physically present at each on a regular and routine basis;
- the number and disciplinary history of the firms' personnel assigned to each OSJ and any other indicators of irregularities or misconduct; and
- the volume and complexity of the activities the principal will supervise at each OSJ.

FINRA will probably use similar factors, as appropriate, to determine whether even a principal whose supervisory responsibilities extend to but a single OSJ has a sufficiently "regular and routine" physical presence there. In any event, because of the lead time that these and many other required changes may entail, firms should thoroughly familiarize themselves with the new rules right away.

## Related Attorneys

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## Capabilities

Securities Litigation