

Hybrid Workplaces + Regulatory Obligations: What FINRA Members Need to Know About the RSL Rule and Remote Inspections

By Steven M. Phillips & Bridget Golden

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Meet the Authors



Steven M. Phillips

Principal

612-359-1768

Steven.Phillips@jacksonlewis.com



Bridget Golden

(She/Her)

Associate

Bridget.Golden@jacksonlewis.com

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Takeaways

- FINRA member firms can designate private residences as Residential Supervisory Locations (RSLs) if certain conditions are met, allowing them to participate in FINRA's Remote Inspections Pilot Program and manage inspection burdens remotely.
- The next deadline to opt-in to FINRA's Remote Inspections Pilot Program is Dec. 27, 2024.
- For home offices that qualify as RSLs, firms must comply with additional recordkeeping and submission requirements.

Related link

- [FINRA Statement to Correct Misinformation About the New Residential Supervisory Location Rule](#)

As of June 1, 2024, FINRA member firms have been able to identify as a "Residential Supervisory Location" (RSL) a "private residence from which an associated person engages in supervisory functions," so long as certain conditions are met. An advantage of identifying a RSL is that member firms then can opt in to FINRA's Remote Inspections Pilot Program and conduct remote, rather than in-person, inspections of the RSLs for three years.

Initially, member firms were required to opt-in to the Pilot Program by June 26, 2024, or these RSLs would be subject to in-person inspections. However, member firms that did not opt-in then can affirmatively opt-in for a subsequent Pilot Program year. The deadline to opt in to Year Two of the Pilot Program (Jan. 1, 2025, to Dec. 31, 2025) is Dec. 27, 2024. Accordingly, those wishing to opt-in to Year Two of the Pilot Program must take a number of steps soon.

A firm that opts into the Pilot Program for any given Pilot Year must participate in the Pilot Program for the duration of the Pilot Year. Once a firm has opted-in to the Pilot Program, it will automatically be deemed to have elected and agreed to continue to participate for subsequent Pilot Years until the Pilot Program expires. If a participating firm wishes to opt back out of the Pilot Program for a subsequent year, it must withdraw by submitting an "opt-out notice" through the FINRA Gateway within specified time frames.

Reimagined Pandemic-Era Relief: FINRA Rule 3110.19

Before the COVID-19 pandemic in 2020, FINRA required member firms to designate every location with one or more persons where business is regularly conducted as either a branch office, office of supervisory jurisdiction (OSJ), or a non-branch location.

Classification is required because each designation is subject to unique registration, supervisory, and inspection obligations.

Home offices were considered non-branch locations, but supervisors who worked from home were not permitted to have their residence designated as a non-branch location. Rather, a supervisor's home office had to be designated a branch office or OSJ subjected to the annual inspection requirements.

When COVID-19 forced many to work from home, FINRA suspended these designation obligations for newly opened, temporary home offices.

As FINRA member firms began returning to the office, FINRA reimagined what these rules should look like, and FINRA Rule 3110.19 was enacted.

Under Rule 3110.19, member firms can explicitly identify private residences where supervisory functions are performed as RSLs. This carveout allows these locations to be subject to inspections at least every three years, rather than annually as required for branch offices or OSJs. Additionally, if a member firm opts into FINRA's Remote Inspections Pilot Program under Rule 3110.18, the member firm can conduct remote inspections of their RSLs, among other locations, for three years.

Not all member firms can use the RSL designation, nor is every home office considered an RSL under FINRA's rules. For instance, if the firm is undergoing a review under FINRA Rule 1017(a)(7) because of an associated person's criminal convictions or specified risk events, then the firm cannot use the RSL designation at that location. Similarly, if a broker-dealer meets with customers or prospective customers at a home office location, then the residence cannot be classified as an RSL. Rule 3110.19(b) specifies several other exceptions and ineligibility criteria that member firms must carefully consider before determining whether the RSL designation can be used.

Obligations, Considerations for RSL Election

If a member firm is not considered ineligible under Rule 3110.19(b), and the location complies with the conditions set forth in Rule 3110.19(a), then the member firm must conduct a risk assessment for each RSL location and provide FINRA with a list of all of its RSLs on a quarterly basis.

Rule 3110.19(e) lists several factors that the firm should consider before using an RSL designation, such as whether the location is subject to customer complaints or if the location has a history of recordkeeping violations. Member firms also are required to maintain documentation of this risk assessment. Therefore, member firms should adopt formal processes that include maintaining the documentation in a safe, central location. In addition, member firms must review or update their written supervisory procedures to ensure they comply with the Pilot Program under Rule 3110.18.

Once a member firm has concluded itself eligible to use the RSL designation, determined whether the locations meet the conditions for RSL designation, and performed a risk assessment for each eligible location, then the firm must prepare a list of all RSLs for that quarter. Member firms then must update the list quarterly and submit it to FINRA no later than 15 days after each quarter ends.

Hybrid Workplace

Some member firms have interpreted these new rules and obligations as reasons to prohibit remote work and mandate a full return to the office. On May 22, 2024, FINRA released [a statement](#) to correct misinformation about the rules. FINRA clarified that Rule 3110, FINRA's Supervision Rule, exempts private residences from branch office registration obligations and that these rules were designed to provide firms with remote work flexibility while protecting investors and providing regulatory oversight.

While these rules may provide the securities industry with the tools to balance a hybrid workplace with regulatory obligations, they also impose additional recordkeeping obligations on member firms. Member firms should take extra precautions when designating RSLs to avoid potential FINRA violations or fines.

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