

## **RSL Eligibility Requirements and Conditions**

### ***STEP 1: Member Firm Must Determine Whether It Is Eligible to Use the RSL Designation***

The presence of any of the items below means that a *member firm* cannot use the RSL designation:

- Restricted Firm under Rule 4111
- Taping Firm under Rule 3170
- FINRA membership is suspended
- FINRA membership has been effective for less than 12 months
- Member firm has been found by the SEC or FINRA to have violated Rule 3110(c) in the past three years
- Member firm is subject to Rule 9557
- Member firm is subject to Rule 1017(a)(7)

If one or more of these items apply to the member firm, then the firm is ineligible to use the RSL designation.

But if none of these items apply to the member firm, then the firm can review the criteria applicable to associated persons in Step 2.

### ***STEP 2: Member Firm Must Determine Whether Its Associated Person Is Eligible to Work from an RSL***

The presence of any of the attributes below means that an *associated person's office or location* cannot use the RSL designation:

- Associated person is a designated supervisor with less than one year of direct supervisory experience with the member, or an affiliate or subsidiary of the member that is registered as broker-dealer or investment adviser
- Associated person is a limited principal under Rule 1210.04
- Associated person is subject to a mandatory heightened supervisory plan under the rules of the SEC, FINRA or state regulatory agency
- Associated person is statutorily disqualified, unless such disqualified person has been approved (or is otherwise permitted pursuant to FINRA rules and

the federal securities laws) to associate with a member and is not subject to a mandatory heightened supervisory plan (as noted above) or otherwise as a condition to approval or permission for such association

- In the prior three years, the associated person has an event that required a “yes” response to any item in Questions 14A(1)(a) and 2(a), 14B(1)(a) and 2(a), 14C, 14D and 14E on Form U4 (Uniform Application for Securities Industry Registration or Transfer)
- Associated person has been notified in writing that such person is now subject to, any Investigation or Proceeding, as such terms are defined in the Explanation of Terms for the Form U4 (Uniform Application for Securities Industry Registration or Transfer), by the SEC, a self-regulatory organization, including FINRA, or state securities commission (or agency or office performing like functions) (each, a “Regulator”) expressly alleging they have failed reasonably to supervise another person subject to their supervision, with a view to preventing the violation of any provision of the Securities Act, the Exchange Act, the Investment Advisers Act, the Investment Company Act, the Commodity Exchange Act, any state law pertaining to the regulation of securities or any rule or regulation under any of such Acts or laws, or any of the rules of the MSRB or other self-regulatory organization, including FINRA; provided, however, such office or location may be designated or redesignated as an RSL subject to the requirements of Rule 3110.19 upon the earlier of: (1) the member’s receipt of written notification from the applicable Regulator that such Investigation has concluded without further action; or (2) one year from the date of the last communication from such Regulator relating to such Investigation

If one or more of these items apply to the associated person at the office or location, then such office or location is ineligible to use the RSL designation.

But if none of these items apply to the associated person at the office or location, then the firm can proceed to Step 3.

***STEP 3: Where Member Firm and Associated Person Meet the Eligibility Criteria in Steps 1 and 2, Member Firm Must Determine Whether the Private Residence Satisfies the Conditions to be Classified as an RSL***

If the member firm and associated person are eligible to use the RSL designation in accordance with Rule 3110.19(b) and Rule 3110.19(c), respectively, then the associated person’s private residence may be deemed an RSL subject to the following conditions:

- Only one associated person, or multiple associated persons who reside at that location and are members of the same immediate family, conduct business at the location

- Location is not held out to the public as an office
- Associated person does not meet with customers or prospective customers at the location
- Any sales activity that takes place at the location complies with the conditions set forth under Rule 3110(f)(2)(A)(ii) or (iii)
- Neither customer funds nor securities are handled at that location
- Associated person is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, retail communications and other communications to the public by such associated person
- Associated person's correspondence and communications with the public are subject to the firm's supervision in accordance with this Rule the associated person's electronic communications (e.g., e-mail) are made through the member's electronic system
- The member must:
  - have a recordkeeping system to make and keep current, and preserve records required to be made and kept current, and preserved under applicable securities laws and regulations, FINRA rules, and the member's own written supervisory procedures under Rule 3110;
  - not physically or electronically maintain and preserve such records at the office or location; and
  - have prompt access to such records
- The member must determine that its surveillance and technology tools are appropriate to supervise the types of risks presented by each RSL, and these tools may include but are not limited to:
  - firm-wide tools such as, electronic recordkeeping system; electronic surveillance of e-mail and correspondence; electronic trade blotters; regular activity-based sampling reviews; and tools for visual inspections
  - tools specific to the RSL based on the activities of associated person assigned to the location, products offered, restrictions on the activity of the RSL

- system tools such as secure network connections and effective cybersecurity protocols

***STEP 4: Where Member Firm and Associated Person Meet the Eligibility Criteria in Steps 1 and 2, and the Private Residence Meets the Conditions in Step 3, Member Firm Must Conduct and Document a Risk Assessment Before Designating a Private Residence as an RSL***

After successfully completing Steps 1, 2, and 3, but before formally designating an office or location as an RSL, the member firm must:

- develop a reasonable risk-based approach to designating such office or location as an RSL, and
- conduct and document a risk assessment for the associated person assigned to that office or location.

The assessment must:

- Document the factors considered, including among others, whether the associated person at such office or location is now subject to:
  - customer complaints, taking into account the volume and nature of the complaints;
  - heightened supervision other than where such office or location is ineligible for RSL designation under paragraph (c)(3) of this Supplementary Material;
  - any failure to comply with the member's written supervisory procedures;
  - any recordkeeping violation; and
  - any regulatory communications from a Regulator, indicating that the associated person at such office or location failed reasonably to supervise another person subject to their supervision, including but not limited to, subpoenas, preliminary or routine regulatory inquiries or requests for information, deficiency letters, "blue sheet" requests or other trading questionnaires, or examinations.
- Take into account any higher risk activities that take place or a higher risk associated person that is assigned to that office or location.

Consistent with the member's obligation under Rule 3110(a), the firm's supervisory system must take into consideration any indicators of irregularities or misconduct (*i.e.*, "red flags") when designating an office or location as an RSL. Red flags should also be

reviewed in determining whether it is reasonable to maintain the RSL designation of such office or location in accordance with the requirements of Rule 3110.19 and the member should consider evidencing steps taken to address those red flags where appropriate.

***STEP 5: Quarterly List of RSLs***

A member firm that elects to use the RSL designation must provide FINRA with a list of its RSLs. This list is due on the 15th day of the month following the calendar quarter. The first RSL list is due on October 15, 2024, covering the period June 1, 2024, the first day a firm may use the RSL designation, through September 30, 2024. See Rule 3110.19(d).