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Client Alert: FINRA Forward Report May Reshape Enforcement Expectations for Member Firms

The Financial Industry Regulatory Authority's (FINRA) latest step in its FINRA Forward initiative gives member firms a clear signal: changes may be coming to how it investigates, communicates, and resolves enforcement matters. The newly released report, prepared by outside reviewers Professor Paul R. Eckert of William & Mary Law School and former United States Securities and Exchange Commission (SEC) Commissioner Troy A. Paredes of Paredes Strategies, recommends ways to make FINRA's enforcement program more transparent, consistent, and effective.

Background

FINRA commissioned the review to take a fresh look at whether its enforcement function is aligned with the goals of self-regulation. Rather than calling for a wholesale change in direction, the report appears to encourage refinement: clearer standards, better coordination, more disciplined case management, and stronger communication with firms.

For broker-dealers and other regulated firms, the practical importance is not limited to future rulemaking or formal policy changes. The report may influence day-to-day interactions with FINRA staff, including the scope of information requests, the timing of updates, the handling of disputed issues, and the path to resolution.

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Key Points for Regulated Firms

FINRA may place greater emphasis on prevention and engagement.

The report recognizes that FINRA's self-regulatory role is different from that of a traditional government enforcement agency. That distinction may support a more practical approach in appropriate matters, including earlier education, more meaningful dialogue with firms, and greater attention to correcting problems before they escalate. However, firms should not mistake that emphasis for leniency; FINRA is expected to continue pursuing serious violations aggressively.

Enforcement strategy may become more closely tied to examinations and surveillance.

Because many enforcement matters begin with exams, surveillance reviews, or investigations, changes to FINRA enforcement may show up well before a formal disciplinary action is filed. FINRA's move to align its regulatory operations under one governance structure could lead to more coordinated decision-making across teams and, potentially, more consistent expectations for firms throughout the regulatory lifecycle.

More public guidance could create new advocacy opportunities.

FINRA has indicated it expects to articulate enforcement principles more clearly, including through a public enforcement manual and internal training. If implemented thoughtfully, that guidance could give firms a better basis to understand FINRA's priorities, challenge overbroad requests, address perceived regulatory ambiguity, and advocate for outcomes proportionate to the conduct and investor impact at issue.

Senior oversight may increase accountability within the enforcement process.

FINRA leadership has signaled that senior executives and the Board of Governors will be involved in monitoring the response to the report. For firms, that added oversight may help reinforce consistency and discipline in enforcement decision-making, particularly in matters involving novel issues, significant sanctions, or questions about whether guidance, not discipline, is the better regulatory tool.

Why It Matters Now

The recommendations do not change FINRA rules overnight, and firms should not assume immediate procedural rights that do not yet exist. Still, the report may influence expectations on both sides of the table. Firms that are prepared to engage constructively, document their positions, and explain the practical implications of requested relief may be better positioned as FINRA evaluates how to implement the recommendations.

The report also underscores the value of coordinated compliance, legal, and business input early in the regulatory process. A well-organized response can help narrow issues, preserve privilege, reduce unnecessary burden, and improve dialogue with FINRA staff.

Practical Steps for Firms

- Inventory pending FINRA exams, inquiries, and investigations to identify matters where scope, timing, or communication issues should be addressed proactively.
- Revisit procedures for responding to FINRA Rule 8210 requests, including escalation, privilege review, document preservation, and burden assessment.
- Prepare business and compliance teams to explain operational context clearly and consistently during exams and investigations.

- Document areas where regulatory expectations are unclear, particularly where guidance or rulemaking may be more appropriate than enforcement.
- Monitor FINRA's implementation closely, including any enforcement manual, process updates, or additional public statements.

Shumaker Takeaway

The FINRA Forward enforcement report is not merely an internal management exercise. It is a useful preview of how FINRA may recalibrate enforcement expectations, communication, and governance. Member firms should use this moment to assess how they manage regulatory engagement and to position themselves for a process that may become more transparent—but not necessarily less demanding.

For more information on the FINRA Forward enforcement report, please contact Mike Taaffe or Brandon Taaffe.