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- Logout
- Home
- Search Articles
- Topical Index
- Print Issues
- Print Current Issue
- PDF Issues/Articles
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- Conferences
- Subscribe Online
- Privacy Policy
- Contact Us
- Change Password

## Special supervision is a big risk, compliance pros caution

Tell supervisors who want to put a problematic rep on special, heightened supervision, that doing so means the supervisor is vouching for that person, and if problems with that rep erupt, the supervisor could lose his or her license, compliance pros suggested at a recent conference.

"They're vouching for this person, saying, 'I believe in him or her. I will go to bat' [for that person], and that is a huge responsibility," said Andrea Golls, director of field and sales compliance with Thrivent Financial for Lutherans, speaking at the recent NRS Spring Compliance conference. Golls said when she tells supervisors at her firm the risk they take when putting someone on special supervision as opposed to terminating the rep, the supervisors typically decide to fire the person.

Golls said she personally doesn't support giving reps the special supervision option. Similar reluctance was voiced by the other speaker, John McGovern, senior vice president and chief compliance officer of IFMG Securities, Inc., a Sun Life Company, and a former examiner in NASD's New York District office.

McGovern said the only times he has allowed someone to stay on under heightened supervision are when: a) McGovern has just joined the firm, done his own quality assurance regimen, and discovered people who shouldn't have been hired in the first place; and b) when the firm applies some type of new surveillance system and discovers problems that were previously unknown.

"I have become so paranoid that in those few cases, I will take those items, I will make a matrix, I will assign it to a surveillance analyst," McGovern said. He then puts the item on his calendar to ensure the surveillance analyst stays on top of the case, he said.

Despite their own hesitancy to give reps this break, Golls said the decision should be a "gut" check for those who want to consider that option. If your gut tells you the rep merely made some errors in judgment, maybe had received insufficient training, and if you think your firm can put a program in place to correct the behavior, perhaps you can justify your decision to regulators, Golls continued.

"For me, in all my years dealing with regulators and dealing with these types of issues, I think the biggest part of the battle is really believing what you're doing," Golls said.

### Stick to the plan

If your firm puts a rep on special supervision, it's essential that the tasks detailed in the plan get accomplished, and on schedule, both said.

"Unless this person is so egregious that they should have been terminated without cause, they [regulator] will quickly accept your reason for putting them on special supervision, but then they'll look at your plan of special supervision to see if it's substantive enough, and if it is and it says you're going to do 20 things, they will test to

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see if those 20 things are done," McGovern said.

If you were supposed to conduct a certain number of meetings, for instance, regulators will look for proof that all those meetings were held.

"If they were supposed to take three more continuing education modules in the first three months after signing this letter, did they? And God forbid that they took the three, in four months .... Then you've violated your plan of special supervision. So that's where they're really stress-testing it to make sure you have complied," McGovern said.

One session attendee said his firm had placed three individuals on increased supervision NASD's suggestion two years ago, and that at the end of last year, SEC examiners came and drilled down into the records to determine whether the plan was being followed. The SEC left and FINRA came in and drilled down some more on same individuals. The only way the firm could save itself was to terminate the people because the firm was at risk, that attendee said.

McGovern also mentioned the need to keep an eye on data related to reps who need closer-than-normal supervision, but who don't need special supervision yet. Cross tabulate data to identify those reps by business and by activity. That way, you can tell, for instance, those reps who do a high amount of variable annuities business and who also have higher-than-usual 1035 exchanges, who may frequently be the last to undergo annual compliance training, and who have had other issues that indicate they need to be watched, McGovern said.

#### How long on special supervision?

Golis said those on special supervision plans should stay on those plans at least a year. Some organizations allow six months, but Golis insisted that's not long enough.

"In my mind, that's worthless. You don't have nearly enough time to demonstrate whether someone has changed their behavior," Golis said. At the end of a year, the person's supervisors need to sit down and look at progress that has been made during the course of the year, Golis said.

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10.2