

**Howard University School of Law
Investor Justice and Education Clinic
Room 105, Notre Dame Hall
2900 Van Ness Street, NW
Washington, DC 20008
(202) 806.8220
brucesanders0@gmail.com**

Via Email to pubcom@finra.org

November 20, 2015

Marcia E. Asquith, Esq.
Office of the Corporate Secretary
Financial Industry Regulatory Authority, Inc.
1735 K Street, NW
Washington, DC 20006-1506

Dear Ms. Asquith:

The Investor Justice and Education Clinic of Howard University School of Law (the “IJEC”) respectfully submits this comment letter with regard to FINRA Regulatory Notice 15-37, Financial Exploitation of Seniors and Other Vulnerable Adults. The IJEC provides free legal services to the underserved investing community. Many of our clients are senior citizens and retirees in need of protection of their funds and securities from the exploitation by others. In the course of our representation of these senior citizen investors we have become acutely aware that many senior citizens’ experience a decline in their ability to manage their own financial affairs, and understand increasingly complex financial products. Many senior citizens also rely on the assistance and advice of trusted family, friends, and advisors in handling their financial affairs. As a result, many of these senior citizens are vulnerable to financial exploitation by these same trusted people and others.

Consequently, the IJEC generally supports the overall purpose of FINRA’s efforts to enhance the investor protection of senior citizens and other vulnerable adults in proposed FINRA Rule 2165, and proposed amendments to FINRA Rule 4512. We appreciate the opportunity provide some recommendations to FINRA that we believe will strengthen the effectiveness of FINRA’s proposed rules, and enhance investor protections for senior citizens and other vulnerable adults.

Trusted Contact Person

FINRA's proposed rules provide that broker-dealers make reasonable efforts to obtain the names of and contact information for a "trusted contact person" upon the opening of an account for a senior citizen or other vulnerable adult. In general, we believe the proposal would add additional needed protections for vulnerable adult investors. In this regard, there have been numerous news reports of the exploitation of seniors and other vulnerable adults by financial professionals, family, friends, acquaintances, and others. In our legal representation of senior citizen investors we have seen how many of these senior citizen investors could have avoided financial losses if their brokers had the ability to place temporary holds on their accounts, and notify trusted contacts, upon learning of questionable transactions in the accounts.

However, we believe FINRA's current proposal could be made more effective, and provide more protection for senior citizens and other vulnerable adults.

FINRA's current proposal does not require that brokers notify the trusted contact person of their designation as a trusted contact person. Since it is likely that many vulnerable adults may simply forget to provide notification to the trusted contact person themselves, the trusted contact person may never learn of the designation. Therefore, we recommend that brokers be "required" to notify trusted contact persons that they have been designated as such. We believe that this mandatory notification requirement will provide trusted contact persons with the impetus to take an active interest in the financial well-being of the vulnerable adult, and help deter financial exploitation of the vulnerable adult by others.

In addition, mandatory notification will put the brokers on notice that trusted contact persons are aware of their designation as a trusted contact person. This will discourage broker misconduct since brokers will be aware that the trusted contact person will likely help vulnerable adults monitor their accounts to prevent financial exploitation of the vulnerable adult by brokers and others. However, if brokers are not required to notify trusted contact persons of this designation, then the investor protections which would have been afforded to the vulnerable adult by such notification to the trusted contact person will be lost.

In addition, we believe protection of vulnerable adults would be enhanced if the proposed rule requires that brokers identify not just one trusted contact person, but also a second trusted contact person. We believe imposing a two trusted contact person requirement would further enhance the protection of vulnerable adults and prevent financial exploitation. In this regard, in the event that one trusted contact person is also involved in financial exploitation of the vulnerable adult, there would be a second trusted contact person who will be put on notice to help protect the vulnerable adult.

Furthermore, we believe that FINRA's rule should include provisions to ensure that the two trusted contact persons are independent of one another. For example, the rule could prohibit married couples, or family members who live in the same household, from being designated as the two trusted contact persons. Such prohibitions would help mitigate the risks of the two trust contact persons colluding to financially exploit the vulnerable adult.

Vulnerable Adults as Beneficiaries of Accounts of Others

In many cases, vulnerable adults are named as “beneficiaries” of accounts of primary account holders. Such beneficiaries are also vulnerable to financial exploitation by others. For Questionable activities in the account that deplete the accounts assets, or possibly attempt to change beneficiaries, would detrimentally impact the vulnerable adult’s interests as beneficiary. Consequently, we recommend that the protections afforded to account holders by FINRA’s proposed rules, also be provided to vulnerable adults who are “ named beneficiaries” on the accounts of others.

Other Comments

We believe brokers’ costs of identifying and notifying trusted contact persons and customers, placing the temporary holds on accounts, and compliance are greatly outweighed by the considerable investor protections provided by the proposed rules to vulnerable adults. We further believe such added investor protections will encourage more seniors and retirees to trust their brokers and the financial markets with their investments and savings, providing a stimulus to our overall economy. We further believe that any possible litigation costs to brokers are too remote and hypothetical to be of consequence and, in any event, are clearly outweighed by the investor protection benefits of the proposed rules.

Thank you for your kind consideration of our comments.

Regards,

Investor Justice and Education Clinic
Howard University School of Law
Taurean McCrea, Student Attorney
Karissa Getz, Student Attorney
Professor Bruce Sanders, Supervising Attorney