

## **Attachment A**

Below is the text of the proposed rule changes. Proposed new language is underlined; proposed deletions are in brackets.

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### **0100. GENERAL STANDARDS**

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#### **0150. Application of Rules to Exempted Securities Except Municipal Securities**

(a) through (b) No Change.

(c) Unless otherwise indicated within a particular Rule, the following rules are applicable to transactions in, and business activities relating to, exempted securities, except municipal securities, conducted by members and associated persons: Rules 0110, 0120, 0130, 0140, 0160, 0170, 0190, 1010, 1011, IM-1011-1, IM-1011-2, IM-1011-3, 1012, 1013, IM-1013-1, IM-1013-2, 1014, 1015, 1016, 1017, 1019, 1020, 1021, 1122, 1200 Series (other than Rules 1220(a)(5), (a)(6), (a)(7), (b)(4), (b)(5) and (b)(6)), 2010, 2020, 2030, 2040, 2060, 2070, 2080, 2081, 2090, 2111, 2122, 2130, 2140, 2150, 2165, 2166, 2210, 2211, 2212, 2213, 2214, 2216, 2220, 2231, 2232, 2261, 2263, 2264, 2266, 2267, 2268, 2269, 2270, 2272, 2273, 2320(g), 2360, 3100 Series, 3200 Series, 3300 Series, 4100 Series, 4210, 4220, 4230, 4310 Series, 4330, 4340, 4360, 4370, 4380, 4510 Series, 4520 Series, 4530, 4540, 4570, 4580, 4590, 5160,

5210, 5220, 5230, 5310, 5340, 6700 Series, 7730, 8100 Series, 8210, 8211, 8300 Series, 9000 Series, 12000 Series, 13000 Series, and 14000 Series.

(d) No Change.

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## **2100. TRANSACTIONS WITH CUSTOMERS**

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### **2165. Financial Exploitation of Specified Adults**

#### **(a) Definitions**

(1) through (4) No Change.

#### **(b) Temporary Hold on Disbursements or Transactions**

(1) No Change.

(2) The temporary hold authorized by this Rule will expire not later than 15 business days after the date that the member first placed the temporary hold on the disbursement of funds or securities or the transaction in securities, unless otherwise terminated or extended by a federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction, or extended pursuant to paragraph (b)(3) of this Rule.

(3) Provided that the member's internal review of the facts and circumstances under paragraph (b)(1)(C) of this Rule supports the member's

reasonable belief that the financial exploitation of the Specified Adult has occurred, is occurring, has been attempted, or will be attempted, the temporary hold authorized by this Rule may be extended by the member for no longer than 10 business days following the date authorized by paragraph (b)(2) of this Rule, unless otherwise terminated or extended by a federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction, or extended pursuant to paragraph (b)(4) of this Rule.

(4) Provided that the member's internal review of the facts and circumstances under paragraph (b)(1)(C) of this Rule supports the member's reasonable belief that the financial exploitation of the Specified Adult has occurred, is occurring, has been attempted, or will be attempted and the member has reported or provided notification of the member's reasonable belief to a federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction, the temporary hold authorized by this Rule may be extended by the member for no longer than 30 business days following the date authorized by paragraph (b)(3) of this Rule, unless otherwise terminated or extended by a federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction, or extended pursuant to paragraph (b)(5) of this Rule.

(5) At the expiration of the temporary hold period authorized under paragraph (b)(4) of this Rule, a member may implement up to three additional extensions of 30 business days each, unless otherwise terminated or extended by a federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction, subject to the conditions below.

(A) A member may initiate each 30-business day extension under this paragraph (b)(5) only if:

(i) the member has made reasonable efforts to follow up with the relevant regulator or agency of competent jurisdiction or court of competent jurisdiction regarding the status of the reported matter;

(ii) the member has not received a response from the relevant regulator or agency of competent jurisdiction or court of competent jurisdiction requesting the member to extend or terminate the hold; and

(iii) the member continues to have a reasonable belief that financial exploitation of the Specified Adult has occurred, is occurring, has been attempted, or will be attempted.

(B) The first extension under this paragraph (b)(5) requires the member to provide notification of the extension of the temporary hold, the reason for the extension, and the potential for the extension to last 90 business days (absent further extension by federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction) to:

(i) all parties authorized to transact business on the Account, unless a party is unavailable or the member reasonably believes that the party has engaged, is engaged, or will engage in the financial exploitation of the Specified Adult; and

(ii) the Trusted Contact Person(s), unless the Trusted Contact Person is unavailable or the member reasonably believes that the Trusted Contact Person(s) has engaged, is engaged, or will engage in the financial exploitation of the Specified Adult.

**(c) Supervision**

(1) No change.

(2) A member's written supervisory procedures also shall identify the title of each person authorized to place, terminate or extend a temporary hold on behalf of the member pursuant to this Rule. Any such person shall be an associated person of the member who serves in:

(A) a supervisory, compliance or legal capacity for the member;

or

(B) a specialized senior investor protection or fraud prevention role with responsibilities that include, as appropriate, investigating, evaluating, escalating, and reporting potential financial exploitation of Specified Adults.

**(d) Record Retention**

Members shall retain records related to compliance with this Rule, which shall be readily available to FINRA, upon request. The retained records shall include records of: (1) request(s) for disbursement or transaction that may constitute financial exploitation of a Specified Adult and the resulting temporary hold; (2) the finding of a reasonable belief that financial exploitation has occurred, is occurring, has been attempted, or will be attempted underlying the decision to place a temporary hold on a disbursement or transaction; (3) the name and title of the associated person that authorized the temporary hold on a disbursement or

transaction; (4) notification(s) to the relevant parties pursuant to paragraphs (b)(1)(B) and (b)(5)(B) of this Rule; (5) the internal review of the facts and circumstances pursuant to paragraph (b)(1)(C) of this Rule; [and] (6) the reason and support for any extension of a temporary hold, including information regarding any communications with or by a federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction; and (7) for any extension under paragraph (b)(5) of this Rule, documentation of follow-up efforts, the lack of response from the relevant regulator or agency of competent jurisdiction or court of competent jurisdiction, and the member's continuing belief that financial exploitation of the Specified Adult has occurred, is occurring, has been attempted, or will be attempted.

**• • • Supplementary Material: -----**

**.01** through **.03** No Change.

**.04 Relevant Authority Requests for Extension.** A member may extend a temporary hold beyond the periods specified in this Rule upon the request of a federal or state regulator or agency of competent jurisdiction or court of competent jurisdiction. Such request need not be in the form of a formal order and need not be in writing. The member shall maintain a record of the relevant authority's request.

**.05 Extensions Under Paragraph (b)(5).** For purposes of paragraph (d)(7) of this Rule, documentation of follow-up efforts with the relevant regulator or agency of competent jurisdiction or court of competent jurisdiction shall include dates of communication attempts, methods used, and any communications received. The member shall maintain records demonstrating that it made reasonable efforts to determine the status of the referred matter.

**.06 Notice to Relevant Parties.** The notifications required under paragraphs (b)(1)(B) and (b)(5)(B) of this Rule shall include information about how the Specified Adult, authorized parties or Trusted Contact Person(s) can contact the member with questions or concerns about the hold.

**.07 Account-Level Restrictions.** To the extent a member places restrictions on an entire account when they have a reasonable belief of financial exploitation regarding a transaction or disbursement from the account, the member shall: (i) permit legitimate transactions or disbursements from the account in these circumstances (e.g., regular bill payments); and (ii) have procedures reasonably designed to permit such legitimate transactions and disbursements. A member may not avail itself of the Rule 2165 safe harbor if it blocks transactions or disbursements where there is not a reasonable belief of financial exploitation regarding such transactions or disbursements.

## **2166. Temporary Delays for Suspected Fraud**

### **(a) Definitions**

(1) For purposes of this Rule, the term "Account" shall mean any account of a member for which a customer has the authority to transact business.

(2) For purposes of this Rule, the term "customer" shall mean a natural person age 18 and older.

(3) For purposes of this Rule, the term "Trusted Contact Person" shall mean the person who may be contacted about the customer's Account in accordance with Rule 4512.

(4) For purposes of this Rule, the term "fraud" means a deceptive scheme perpetrated by a third party that targets a customer and results in a request for a disbursement of funds or securities or a transaction in securities based on false or misleading information.

### **(b) Temporary Delay on Disbursements or Transactions**

(1) A member may place a temporary delay on a disbursement of funds or securities from the Account of a customer or a transaction in securities in the Account of a customer if:

(A) The member reasonably believes that fraud has occurred, is occurring, has been attempted, or will be attempted; and

(B) The member, not later than two business days after placing the temporary delay, provides notification, which may be oral, of the temporary delay and the reason for the delay to:

(i) all parties authorized to transact business on the Account, unless a party is unavailable or the member reasonably believes that the party is involved in the fraud; and

(ii) the Trusted Contact Person(s), unless the Trusted Contact Person is unavailable or the member reasonably believes that the Trusted Contact Person(s) is involved in the fraud; and

(2) The temporary delay authorized by this Rule will expire not later than five business days after the date that the member first placed the temporary delay, unless otherwise terminated or extended by a federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction.

**(c) Supervision**

(1) In addition to the general supervisory and recordkeeping requirements of Rules 3110, 3120, 3130, 3150, and Rule 4510 Series, a member relying on this Rule shall establish and maintain written supervisory procedures reasonably designed to achieve compliance with this Rule, including, but not limited to, procedures related to the identification and escalation of suspected fraud.

(2) A member's written supervisory procedures also shall identify the title of each person authorized to place or terminate a temporary delay on behalf of the member pursuant to this Rule. Any such person shall be an associated person of the member who serves in:

(A) a supervisory, compliance or legal capacity for the member;

or

(B) a specialized customer protection or fraud prevention role with responsibilities that include, as appropriate, investigating, evaluating, escalating, and reporting suspected fraud targeting customers.

**(d) Record Retention**

Members shall retain records related to compliance with this Rule, which shall be readily available to FINRA upon request. The retained records shall include

records of: (1) request(s) for disbursements or transactions that may constitute fraud and the resulting temporary delay; (2) the basis for the reasonable belief of fraud; (3) the name and title of the associated person who authorized the temporary delay on a disbursement or transaction; (4) notification(s) to the relevant parties pursuant to paragraph (b)(1)(B) of this Rule; (5) any information provided to the customer in connection with the temporary delay; and (6) information regarding any communications with or by a federal or state regulator or agency of competent jurisdiction or a court of competent jurisdiction.

**• • • Supplementary Material: -----**

**.01 Applicability of Rule.** This Rule provides members and their associated persons with a safe harbor from FINRA Rules 2010, 2150 and 11870 when members exercise discretion in placing temporary delays on disbursements of funds or securities from or transactions in securities in Accounts consistent with the requirements of this Rule. This Rule does not require members to place temporary delays.

**.02 Training.** A member relying on this Rule must develop and document training policies or programs reasonably designed to ensure that associated persons comply with the requirements of this Rule.

**.03 Relevant Authority Requests for Extension.** A member may extend a temporary delay beyond the period specified in this Rule upon the request of a federal or state regulator or agency of competent jurisdiction or court of competent jurisdiction. Such request need not be in the form of a formal order or in writing. The member shall maintain a record of the relevant authority's request.

**.04 Notice to Relevant Parties.** The notifications required under paragraph (b)(1)(B) of this Rule shall include information about how the customer, authorized parties or Trusted Contact Person(s) can contact the member with questions or concerns about the temporary delay.

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#### **4510. Books and Records Requirements**

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#### **4512. Customer Account Information**

(a) through (c) No Change.

• • • **Supplementary Material:** -----

**.01** through **.05** No Change.

#### **.06 Trusted Contact Person**

(a) With respect to paragraph (a)(1)(F) of this Rule, at the time of account opening a member shall disclose in writing, which may be electronic, to the

customer that the member or an associated person of the member is authorized to contact the trusted contact person and disclose information about the customer's account to address possible financial exploitation, to confirm the specifics of the customer's current contact information, health status, or the identity of any legal guardian, executor, trustee or holder of a power of attorney, or as otherwise permitted by Rules 2165 and 2166. [With respect to any account that was opened pursuant to a prior FINRA rule, a member shall provide this disclosure in writing, which may be electronic, when updating the information for the account pursuant to paragraph (b) of this Rule either in the course of the member's routine and customary business or as otherwise required by applicable laws or rules.]

(b) through (c) No Change.

(d) When seeking to obtain or update trusted contact information for a customer's account, a member may request the customer's authorization to apply the trusted contact information to the customer's other accounts at the member in existence at the time or established subsequently, provided that the customer is offered the choice to assign the trusted contact on an account-by-account basis rather than to all accounts.

(e) Alternative Terminology for Trusted Contact Person. For purposes of this Rule and Rules 2165 and 2166, a member may use the term "emergency contact" as

an alternative to “trusted contact person.” For example, “emergency contact” may be used when communicating with customers, in account documentation, forms, disclosures, and other customer-facing materials. Regardless of the terminology used, such contact persons serve the same function and are subject to the same requirements as set forth in this Rule and Rules 2165 and 2166. A member that chooses to use “emergency contact” for purposes of this Rule and Rules 2165 and 2166 shall ensure that its written supervisory procedures and training materials reflect that the terms “emergency contact” and “trusted contact person” have the same meaning and obligations.

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