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June 11, 2025

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006-1506
Via Electronic Mail to pubcom@finra.org

Re: FINRA Regulatory Notice 25-04 – Request for Comment on Modernizing FINRA Rules (Comment Period Ending June 11, 2025)

Dear Ms. Mitchell:

We appreciate the opportunity to comment on FINRA's Regulatory Notice 25-04, which proposes a broad review to modernize FINRA rules and regulatory frameworks applicable to member firms and associated persons. Apex Clearing Corporation ("Apex") commends FINRA for its forward-thinking approach to tailoring regulatory requirements to technological advancements, market evolution, and operational changes.

The comments below address specific questions and request areas raised in the Notice, along with additional suggestions that we believe align with FINRA's mission of protecting investors and promoting market integrity.

We strongly support FINRA's focus on modernizing its regulatory framework to reflect the evolving financial services landscape and reduce unnecessary burdens on member firms, while continuing to uphold robust investor protections. Specifically, we commend FINRA's recognition of the importance of innovation, adoption of new technologies, and adaptation to modern workplace practices to ensure a competitive and fair marketplace.

Artificial Intelligence

As part of this modernization effort, we urge FINRA to consider revising its rules to encourage and facilitate the rapidly expanding use of artificial intelligence (AI) in financial services and the significant opportunities it presents for the industry. AI-driven tools are revolutionizing many aspects of the financial services ecosystem, including but not limited to:

- Reducing Costs: AI enables firms to analyze vast amounts of data efficiently, improving decision-making, fraud detection, and compliance monitoring, all while cutting back on expensive manual processes.
- Enhancing Customer Service and Experience: AI allows for personalized financial advice, chatbot functionalities, and predictive analytics that offer superior and tailored customer experiences in real time.
- Increasing Operational Efficiency and Reducing Errors: Integrating AI into back-office functions and operational workflows can streamline processes, reduce human error, and allow firms to manage risk more effectively.

However, the use of AI also raises important regulatory and compliance questions, such as ensuring fairness, transparency, data security, and accountability, which should be considered as part of FINRA's modernization initiative. We appreciate that FINRA issued Regulatory Notice 24-09 (FINRA Reminds Members of Regulatory Obligations When Using Generative Artificial Intelligence and Large Language Models) on June 27, 2024, which presents risks relating to this technology and reminders of member firm obligations. Additionally, FINRA published a whitepaper titled Artificial Intelligence (AI) in the Securities Industry on June 10, 2020, which: (a) briefly defines AI and its scope as it pertains to the securities industry; (b) provides an overview of broker-dealers' use of AI applications related to: (i) communications with customers, (ii) investment processes, and (iii) operational functions; and (c) discusses key factors including potential regulatory considerations, securities market participants may want to consider as they develop and adopt AI-based tools. Moreover, we believe that FINRA should publish updated guidance on the appropriate uses and limitations of AI that would support both firms and investors in navigating this transformative and quickly evolving technology. Specifically, FINRA surveyed its member firms on the use of AI through the 2025 Third Vendor Questionnaire as well as ad hoc requests and discussions facilitated by FINRA's Risk Monitoring team. FINRA should publish its observations from these studies, including themes, common use cases, pitfalls, and areas of concern.

Investor Communications

We encourage FINRA to address how the modes of interaction and communication between brokers and investors have dramatically evolved over the last decade. Real-time messaging platforms, push notifications, and app-based communication are becoming central to client engagement, while the use of traditional communication channels, such as physical mail and email, is rapidly declining. FINRA

should specifically revise its rules to permit statements, confirms, and other investor notifications be delivered by push notifications and other app-based communication means.

These advancements in communication technology not only improve clients' access to timely and relevant information but also enhance transparency and responsiveness. However, the increased use of these newer communication tools necessitates updated rules and guidance regarding recordkeeping, supervision, and compliance to ensure that regulatory requirements keep pace with these innovations. It is important that FINRA establish clear retention guidelines for these electronic communications that take into account technological and practical considerations while acknowledging the underlying and core principles behind long-standing rules.

By addressing these technological and behavioral shifts, FINRA can help foster a regulatory environment that better aligns with modern market realities, encourages innovation, and supports member firms in serving their clients effectively and efficiently.

Licensing and Registration

As part of FINRA's efforts to modernize its regulatory framework, we respectfully request FINRA also prioritize a review of the licensing requirements for brokerage employees. The current rules governing which brokerage employees are required to be licensed, as well as which specific licenses are needed, create unnecessary complexity and confusion for member firms. The overlap between multiple license categories often leads to inefficiencies and raises questions about tasks that must be performed by licensed individuals versus those that may be conducted by unregistered personnel under supervision, a distinction that is not always clear under the current framework. Additionally, most of the licensing exam content can be modernized for how registered people actually conduct business today.

The rapidly evolving role of technology in financial services has further complicated the application of licensing rules. Tasks that historically required the oversight or direct action of licensed operations professionals are increasingly automated or, in the future, may even be carried out by advanced agentic AI systems. These technological advancements raise critical questions about the rationale and applicability of existing licensing rules. For instance, if an unlicensed person cannot perform a manual task, yet the same task can be executed by an automated system—such as algorithm-driven trade reconciliations or risk monitoring—questions arise as to whether FINRA's licensing requirements are suited to the modern workplace.

We believe it is both practical and necessary to revisit the current licensing framework to account for technological advancements that reduce or eliminate the need for human intervention in routine operational or compliance tasks. Specifically, the focus of licensing requirements should evolve to ensure that individuals responsible for supervising or overseeing automated systems, including agentic AI, are appropriately credentialed and qualified, without unnecessarily requiring other roles or processes that no longer involve human decision-making to be burdened with licensing requirements.

FINRA has the opportunity to realign licensing standards with today's technological reality by:

- Clarifying Standards for Licensing Requirements: Providing clarification on which tasks must still be performed or overseen by a licensed individual and which fall outside the scope of licensing due to automation or the capabilities of advanced AI.
- Recognizing the Role of AI in Operational Functions: Acknowledging the ability of agentic AI systems to carry out specific tasks traditionally performed by humans and clarifying that the licensing requirement should apply only to individuals responsible for supervising or approving those AI-driven processes. For instance, a licensing framework where the ultimate responsibility lies with the registered supervisor of the AI system—rather than requiring all individuals working within a system dominated by AI to maintain licenses—would be more in line with contemporary practices.
- Streamlining Licensing Categories: Reducing overlaps between various licensing categories, such as the SIE, Series 7, Series 24, Series 99, and other specialized licenses, which create administrative burdens without offering a corresponding benefit to investor protection or market integrity.

By addressing these issues, FINRA can modernize its licensing framework in a way that meets its goals of protecting investors and ensuring market integrity without stifling innovation or imposing unnecessary burdens on member firms. Not only will this provide clarity and consistency, but it will also allow member firms to allocate resources more effectively to supervisory and compliance oversight in the areas of greatest importance.

This revision highlights both the opportunities and challenges AI and evolving communication methods bring, maintaining alignment with FINRA's objectives while positioning the client as technologically forward-looking and investor-focused.

ACATs

Apex urges FINRA to prioritize reforming the rules governing Automated Customer Account Transfers (ACATs), as the current framework creates significant vulnerabilities for fraud that are increasingly difficult for member firms to mitigate. While the ACATs system facilitates seamless and efficient customer account transfers when functioning properly, the rigid timeframes prescribed by existing rules, coupled with misaligned incentives among parties involved, have made it challenging to appropriately detect and address fraudulent activity in a timely manner.

The current ACATs framework places sending firms, receiving firms, and clearinghouses in situations where systemic fraud can and has proliferated, with limited options for immediate response once an ACAT request has been initiated. Specifically:

- Prescribed Timeframes and Deficiencies in Fraud Prevention: The strict timeframes for ACAT processing often do not provide sufficient opportunity for sending firms to adequately investigate and verify suspected fraudulent requests. This compressed timeline can lead to fraudulent transfers being processed before appropriate action can be taken. Fraud detection processes are further hindered by the lack of flexibility in rejecting ACAT requests for suspected fraud, forcing firms to comply with transfers they believe may lead to harm.

- Misaligned Incentives: Sending firms are often responsible for identifying potential fraudulent requests but lack proper mechanisms to challenge or halt transfers in real time. Receiving firms are not well positioned to identify potentially fraudulent requests given their potentially short relationship with their new customer, and limited, validated information. Notwithstanding that receiving firms ultimately bear responsibility under current asymmetrical rules.

- Lack of Reporting Requirements and Data Transparency: No formal framework requires firms to report incidents of fraud related to ACATs or to share related statistics with FINRA. This lack of data hinders FINRA's ability to gain comprehensive insight into the scope and systemic risks posed by ACAT-related fraud.

In light of these challenges, we respectfully urge FINRA to modernize its rules governing ACATs to better align with the evolving fraud landscape and account for technological and operational realities. Specifically, we request that FINRA implement the following changes:

- Extend Timeframes for Fraud Detection and Review: Adjust mandatory ACAT processing timeframes to allow firms greater opportunity to investigate and prevent fraudulent activity before transfers are completed.

- Permit Firms to Reject ACAT Requests for Reasonable Fraud Suspicion: Provide firms with the authority to reject ACAT requests when reasonable fraud concerns are identified, rather than forcing firms to comply with transfers that they believe are invalid or harmful.

- Require Sending Firms to Validate Instructions Directly with Customers: Establish a requirement for sending firms to verify transfer instructions directly with customers, using secure communication methods, before initiating or completing an ACAT transfer.

- Mandate Fraud Incident Reporting: Require firms to report incidents of ACAT-related fraud and fraud prevention statistics to FINRA. This measure would provide FINRA with greater visibility into fraud trends and allow for a more strategic and data-driven approach to addressing ACAT fraud risks.

- Coordinate with the NSCC to Modernize Liability Rules and Processes: FINRA should work collaboratively with the National Securities Clearing Corporation (NSCC) to update NSCC's

liability framework for ACAT-related fraud to align with FINRA's updated rules. A modernized liability structure would account for the responsibility of all parties involved in the ACAT process, promoting a more equitable allocation of risk and incentivizing all participants to take fraud prevention seriously.

These recommendations would increase the security and integrity of the ACATs process, ensuring that member firms can better protect their customers from financial harm while maintaining a system that is efficient and investor-focused. By empowering firms with improved fraud prevention capabilities and requiring transparency in reporting fraud incidents, FINRA can further its mission to protect investors and uphold the integrity of the marketplace. Additionally, collaboration with NSCC to adjust liability rules will ensure consistency across the broader ACAT ecosystem.

Disclosures of Associated Persons

1. Outside Business Activities (FINRA Rule 3270)

Modernizing the rules surrounding outside business activity disclosures would greatly enhance clarity and reduce unnecessary burdens for registered representatives (RRs) and their member firms. Specifically, these disclosures should focus on activities that meaningfully compete with or conflict with securities-related duties without regard to the number of hours, including hours during securities trading hours, unless it demonstrably impacts the RR's responsibilities. Next, it would be beneficial to clarify whether work conducted for affiliates or subsidiaries of the employer firm qualifies as "outside" business that requires disclosure and particularly affiliates with which a RR is dually-registered. Many affiliates, though technically separately registered entities, function closely with a firm's operations and may not warrant the same disclosure scrutiny. Lastly, routine or negligible activities should not require disclosure, as they pose minimal risk or conflict. Examples include managing a short-term rental property or infrequent activities that include nominal compensation, like pet sitting. Establishing a minimum threshold for hours, compensation, or materiality of these activities would streamline the process and minimize procedural inefficiencies. FINRA should consider revising the rule to focus disclosure requirements on activities that present genuine potential for conflicts of interest or interference with securities-related duties.

2. Private Securities Transactions (FINRA Rule 3280)

The definition and supervisory requirements surrounding private securities transactions would benefit from greater granularity and differentiation. Specifically, making a personal investment in a private entity should not always be equated with potential "selling away" activities. This is especially relevant in cases where RRs or firms have no sales-related role or supervisory responsibilities for the investment. Differentiating personnel making passive investments from those actively marketing or negotiating private transactions would reduce unnecessary supervisory burdens without compromising investor protection. Firms would benefit from a tailored supervision framework that distinguishes between passive private investments (e.g., angel investments or personal stakes in start-ups) and active sales-related activities. This differentiation could help eliminate blanket reviews or restrictions on benign transactions that present little risk to the firm or public.

3. Accounts at Other Broker-Dealers (FINRA Rule 3210)

As modern family structures and financial arrangements evolve, the rules surrounding employee trading account monitoring would benefit from adjustments to reflect these changes. Supplementary Material .02 of FINRA Rule 3210 provides that "an associated person need not be presumed to have a beneficial interest in, or to have established, an account if the associated person demonstrates, to the reasonable satisfaction of the employer member, that the associated person derives no economic benefit from, and exercises no control over, the account." FINRA should define "beneficial interest" and provide further guidance on how an associated person should sufficiently demonstrate that he or she services no economic benefit from, and exercises no control over, an account as defined in Rule 3210. Additionally, FINRA should clarify expectations around college-aged children who are living away from home but remain financially dependent on their parent who is an RR. Finally, FINRA should clarify whether Rule 3210 applies to non-U.S securities transactions and permit more discretion and risk-based reviews of personal trading monitoring to prevent conflicts of interest and misuse of confidential information. That is, not all member firms have the same risks relating to investment banking and research, frontrunning, et cetera.

4. Gifts, Gratuities and Entertainment

We support FINRA's previous consideration around updating its rules around entertainment to better reflect current business practices and promote clarity in application. In addition to the proposed changes to FINRA Rule 3220 that FINRA filed with the SEC on May 29, 2025 (SR-FINRA-2025-003), we urge FINRA to produce clearer guidance on what constitutes a permissible pattern of entertainment would help prevent inadvertent violations in a competitive environment where relationship-building often necessitates incremental ongoing interactions. Furthermore, FINRA rules should provide exceptions for giving or receiving gifts and entertainment to or from non-regulated third parties, such as vendors, consultants, law firms, etc. with which securities-related conflicts of interest are highly unlikely to arise, as well as sponsorships of client-approved charitable initiatives or participation in educational or training sessions that are not intended to materially benefit an individual.

Fractional Share Trading

As fractional share trading has become increasingly common among retail investors, the current limitations of Trade Reporting Facilities (TRFs) in supporting fractional share quantities no longer align with the realities of today's market. Fractional share trading has democratized investing by enabling smaller investors to participate in the ownership of high-value securities, enhancing accessibility and promoting broader market participation. Despite these benefits, the inability of TRFs to allow for the reporting of fractional share quantities introduces inefficiencies and inconsistencies in the trade reporting and regulatory framework.

Under the current regulatory environment, FINRA member firms are unable to report trades involving fractional share quantities through Trade Reporting Facilities, which poses operational challenges and leads to potential gaps in trade data. This issue becomes even more significant as the adoption of

fractional shares continues to grow, accelerated by the emergence of app-based trading platforms and services that cater to retail investors. To address this gap and facilitate a regulatory framework that reflects modern trading practices, we urge FINRA to amend its rules to explicitly allow for the entry and reporting of fractional share quantities. Specifically, we recommend that FINRA update the following rules:

1. **FINRA Rule 6282 (Alternative Display Facility (ADF)):** Amend this rule to permit reporting of trades involving fractional shares on the ADF. Fractional shares frequently involve off-exchange transactions, making it essential for the ADF to fully accommodate these trades.
2. **FINRA Rule 6380A (FINRA/Nasdaq TRF):** Modify this rule to allow for the entry of fractional share quantities on the Nasdaq TRF, particularly as Nasdaq platforms are often utilized by retail-focused broker-dealers that heavily support fractional share programs.
3. **FINRA Rule 6380B (FINRA/NYSE TRF):** Update this rule to mirror the capabilities of the Nasdaq TRF, enabling the reporting of trades involving fractional shares on the NYSE TRF, where applicable.
4. **FINRA Rule 6622 (OTC Reporting Facility):** Provide amendments to this rule to ensure that trades involving fractional share quantities in over-the-counter settings can be accurately reported within the OTC Reporting Facility.

In addition to these rule amendments, we encourage FINRA to work closely with reporting facility operators to ensure that technical adjustments are made in the systems supporting these facilities to handle fractional share quantities seamlessly and without disruption. This modernization would enhance transparency in fractional share trading, ensuring equal regulatory treatment of fractional and whole share trading activities. These updates would ensure FINRA rules reflect the evolution of market practices and the widespread adoption of fractional shares as a standard offering by modern brokerage platforms. FINRA can further its mission to protect investors and uphold market integrity while fostering innovation and inclusivity in capital markets.

Fingerprinting

We encourage FINRA to collaborate with the Securities and Exchange Commission to modernize fingerprinting requirements of securities industry personnel under 17 CFR § 240.17f-2. Specifically, there are underlying interpretive questions regarding who is in scope for fingerprinting due to the unclear definition of “Associated Person.” Additionally, non-U.S. persons who have not lived in or spent meaningful time in the U.S. are unlikely to have a U.S. criminal history, and fingerprinting non-U.S. persons creates operational burdens for member firms and these individuals and introduces conflicts with foreign laws, especially those governing privacy.

Conclusion

In conclusion, we appreciate FINRA's leadership in undertaking this comprehensive modernization effort and its commitment to listening to member firms and other stakeholders. We believe that thoughtful updates to FINRA's rules will enable the industry to better serve investors while reducing unnecessary burdens.

Thank you again for this opportunity to comment. We would welcome the chance to discuss our feedback further and provide additional input as needed. Please do not hesitate to contact me at Rkhurana@apexfintechsolutions.com.

Sincerely,

/s/ Rajeev Khurana

Apex Clearing Corporation
Rajeev Khurana
Chief Legal Officer