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By Electronic Transmission

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: FINRA REGULATORY NOTICE 26-14; COMMUNICATIONS WITH THE PUBLIC (THE "NOTICE") – REQUEST FOR COMMENT

Dear Ms. Mitchell:

We appreciate the opportunity to comment on FINRA's proposal to modernize Rule 2210 (Communications with the Public) (the "Rule"). We strongly support FINRA's efforts to assess and modernize its rules, and we appreciate FINRA's recognition that evolving communication practices and technologies—particularly the growth of social media and advances in generative artificial intelligence ("AI")—warrant a fresh look at the Rule.

Capital Client Group, Inc., a registered broker-dealer, is part of The Capital Group Companies, Inc., one of the oldest and largest privately held investment management organizations in the United States with more than 90 years of investment experience. Through our investment adviser affiliates, we actively manage equity and fixed income investments across all market sectors in various collective investment vehicles and institutional client separate accounts. The vast majority of these assets consist of the American Funds family of mutual funds as well as other U.S. regulated investment companies for which Capital Client Group serves as principal underwriter and distributor.

MODERNIZE THE EXISTING RULESET BUT PRESERVE THE EXISTING PRINCIPAL PRE-USE APPROVAL FRAMEWORK

While we generally support FINRA's proposed transition from principal pre-approval to a risk-based framework, we believe firms should retain the option to continue applying the existing pre-use approval process for fixed, non-interactive retail communications (*e.g.*, printed sales literature, fact sheets, brochures, advertisements, and firm-controlled website content). When applied to such material, the current framework is clear, well understood, effective, and straightforward to supervise. By contrast, interactive social media and technology-generated communications may warrant a more tailored, risk-based approach.

Accordingly, we urge FINRA to preserve principal pre-use approval for fixed, non-interactive retail communications and to expressly state, in the Rule text or supplementary material, that a firm's election to use this approach constitutes a reasonably designed supervisory procedure that satisfies the Rule. Firms choosing this approach should not be required to develop, document, or defend a separate risk-based classification methodology.

We also request two clarifications to support implementation of the proposed framework. First, FINRA should confirm that the risk factors listed in proposed Supplementary Material .01 are considerations firms may evaluate, rather than mandatory elements that must be applied in every case. Treating the factors as a rigid checklist would undermine the flexibility intended by the proposal. Second, FINRA should provide examples of lower-risk retail communications that would not require principal review or filing before first use such as thought leadership and other non-product specific communications and standardized information like fund fact sheets. Such examples would help firms develop supervisory procedures appropriately tailored to their business, size, and structure.

MODERNIZE RULES IN RESPONSE TO A RAPIDLY EVOLVING TECHNOLOGY LANDSCAPE

We applaud FINRA on its efforts to seek industry feedback given rapid changes to the technology landscape and investor practices. We agree that the distinction between "static" and "interactive" content has become difficult to apply as social media platforms have blurred the line between the two, and item-by-item principal pre-approval is impractical given the speed and volume at which social media and AI-generated content are produced. In particular, principal pre-approval has become impractical for social media and certain types of AI created content for these reasons. However, we request that FINRA provide certain guidance and principles to enable firms to develop frameworks that are effective, protective of investors and contemplate continued technological changes and advancements.

Modernize Clarify the adoption and entanglement guidance as applied to social media

As part of a modernized social media framework, we specifically ask FINRA to update its "adoption" and "entanglement" guidance to reflect how individuals actually use today's social media and networking platforms. These doctrines are not found in the text of the Rule itself; rather, they are interpretive concepts developed through FINRA staff guidance—principally Regulatory Notice 17-18, which built on Regulatory Notices 10-06 and 11-39.[1] Under that guidance, a third-party post generally is not a communication of the firm, but it may become one if the firm or its personnel "explicitly or implicitly endorsed or approved" the content (adoption) or were involved in preparing, or paid for, the content (entanglement).[2]

On modern social media platforms, many routine actions are ambiguous, low-signal engagements that do not reflect any endorsement of the substance of the underlying content. One of the clearest examples of such a routine social media action is the passive "like." When an individual "likes" a third-party post or comment on LinkedIn (or registers a comparable reaction on another platform), that action alone should not be treated as implicit endorsement or approval—and thus adoption—of the underlying content. A "like" is frequently used to acknowledge receipt, signal general goodwill, note that a post was read, or

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[1]See FINRA Regulatory Notice 17-18, Guidance on Social Networking Websites and the Application of FINRA Rule 2210 (Apr. 2017); FINRA Regulatory Notice 11-39, Guidance on Social Networking Websites and Business Communications (Aug. 2011); FINRA Regulatory Notice 10-06, Guidance on Blogs and Social Networking Web Sites (Jan. 2010).

[2]See Regulatory Notice 17-18 (Third-Party Posts).

recognize a professional milestone—not to endorse the substance of any statement in the post. Nor does a passive "like" give rise to entanglement, because the individual has neither participated in preparing the third-party content nor paid for it. Treating such *de minimis* reactions as adoption sweeps a large volume of low-risk, ordinary professional activity into the Rule's content and supervisory requirements, which is impractical to supervise and provides little corresponding investor-protection benefit.

We therefore ask FINRA to clarify, through a bright-line safe harbor, that merely "liking," following, or connecting with a third party or its content does not, without more, constitute adoption or make it a communication of the firm. Adoption should require affirmative endorsement, such as re-posting, sharing or commenting with explicit affirmation.

Recognizing the Growing Role of Technology in Creating Communication

As FINRA recognizes, applying the existing principal pre-approval framework to all types of sales and marketing content is impractical given that evolving technology has increased the speed at which content is created and the volume of content itself. In addition, the current approach is in tension with the use of technology itself to help review and supervise communications. We agree with FINRA that firms should instead be permitted to supervise technology-generated retail communications, such as content created by generative AI, through a reasonably designed, enterprise-level governance framework—one that provides for vetting, testing, and validation of the tools; ongoing monitoring for accuracy and drift; human review and escalation of higher-risk outputs; and recordkeeping sufficient to reconstruct both the communication and the supervisory review.

We ask FINRA to confirm that, subject to appropriate disclosure, generative AI tools may be used both to generate and to review or supervise communications within such a framework, that responsibility for the resulting communications remains with the member firm, and that guidance in this area will remain technology-neutral and principles-based so that it can adapt to rapidly evolving tools. For example, if a firm that has designed and adopted an effective governance framework as described herein and contemplated in the Notice uses generative AI to create an agent that communicates with the public (*e.g.*, an AI "chatbot,"), the Rule text should state that communications produced by the agent do not need to be reviewed on an ongoing basis and are not subject to strict recordkeeping requirements[3]. In addition, the Rule text should provide clear language for any required disclosure. Clarity of this kind would preserve the substantive content standards—which we agree should not change—while giving firms a realistic and durable path to supervise technology-generated content.

Expanded Use of QR Codes

QR codes are a commonly used method of providing access to electronic information and are commonly used in both print and media advertising. FINRA currently permits certain required disclosures to appear separate from an advertisement if the reader can access the disclosures through a clear, prominent

[3] Recordkeeping for content generated by AI tools can be impractical in cases where a tool generates responses based on a specific inquiry. We recognize current SEC Rules do not recognize this distinction and urge coordination with the industry and the SEC regarding recordkeeping requirements, so rules and requirements are consistent and practical.

hyperlink (*i.e.,* that required disclosures be "one click away"); however, we understand that FINRA has declined in the past to permit the use of a QR code to satisfy this requirement. We strongly encourage FINRA to permit the use of QR codes in this context as they have become a common way for individuals to easily access information through mobile devices.

ALIGN FINRA RULE 2210 WITH SEC MARKETING RULE

As stated in our letter dated June 11, 2025,[4] we believe that harmonizing Rule 2210 and related guidance with the SEC Marketing Rule would solve many challenges our industry currently faces. Specifically, many firms are now dually registered, so advertising material may be used in both the brokerage and advisory context. Creating different versions of the same material leads to inefficiencies and additional expenses. We reiterate our request that FINRA align its performance reporting standards with those of the Marketing Rule. Specifically, FINRA should permit related performance information to be used with retail investors, as such information can help existing and prospective investors better understand a firm's investment process and results.

FILING REQUIREMENTS

We support the proposal to permit certain retail communications concerning registered investment companies that include self-published performance rankings or comparisons to be filed within 10 business days of first use rather than prior to first use. The proposed change is consistent with the relatively low noncompliance rate reflected in FINRA's data.

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If you have any questions regarding our comments or would like to discuss further, please feel free to contact AJ Aguilar at AJ.Aguilar@capgroup.com, Stacey Delich-Gould at scyd@capgroup.com or Timothy W. McHale at Timothy_McHale@capgroup.com.

Sincerely,

AJ Aguilar
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Capital Client Group, Inc.

Timothy W. McHale
Secretary
Capital Client Group, Inc.

Stacey Delich-Gould

Stacey Delich-Gould
Senior Counsel
Capital Client Group, Inc.

[4] See Letter from Capital Client Group, Inc. to Jennifer Piorko Mitchell, FINRA re: FINRA Regulatory Notice 25-04 (June 11, 2025).