



VIA ELECTRONIC MAIL

March 9, 2026

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 26-02; Rule Revisions to Help Member Firms Protect Senior Investors From Financial Exploitation and All Investors from Fraud

Dear Ms. Piorko Mitchell:

On January 8, 2026, FINRA published its request for public comment on proposed recommendations based on Regulatory Notice 25-07 by proposing amendments to FINRA Rules 4512, 2165, and a new rule, 2166.¹ FINRA is offering this proposal as part of its modernization initiative and seeks to further assist member firms in protecting customers from fraud and financial exploitation.

Recent data underscore the urgency of enhancing these tools. Americans over the age of 60 lost more than \$4.8 billion to fraud in 2024, while overall fraud losses exceed \$16.6 billion nationwide. These trends highlight the importance of equipping member firms with effective and practical mechanisms to intervene when suspicious activity arises.²

The Financial Services Institute (FSI) appreciates the opportunity to comment on this important proposal, consistent with our mission to preserve and advance access to independent financial advice for Main Street Americans. The proposed rule highlights FINRA's continued leadership in modernizing its investor protection framework.

Background on FSI Members

The Financial Services Institute (FSI) was founded in 2004 and is the only organization advocating on behalf of independent financial services firms and their affiliated independent financial advisors. FSI represents 130,000 advisors, through its member firms, across all 50 states, serving Main Street Americans with affordable, competent, and unbiased financial advice. The independent financial services community has been an important and active part of the lives of American investors for more than 50 years. In the US, there are more than 175,000 independent financial advisors, which account for approximately 60 percent of all producing registered

¹ FINRA, Regulatory Notice 26-02, *Proposal to Adopt New Rule 2166 to Permit Temporary Holds for Suspected Fraud* (Jan. 2026), <https://www.finra.org/rules-guidance/notices/26-02>.

² Fed. Bureau of Investigation, Internet Crime Complaint Ctr., *2024 Internet Crime Report (2025)*, https://www.ic3.gov/AnnualReport/Reports/2024_IC3Report.pdf

representatives.³ These financial advisors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (IBD).⁴

FSI's IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners and job creators with strong ties to their communities. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Main Street Americans with the affordable financial advice, products, and services necessary to achieve their investment goals.

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate \$35.7 billion in economic activity.⁵ This activity, in turn, supports 408,743 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly \$7.2 billion annually to federal, state, and local government taxes.⁶

Discussion

FSI appreciates the opportunity to comment on the Regulatory Notice 26-02. FSI generally supports Regulatory Notice 26-02, and we also offer several suggestions for refinement. We support the use of "emergency contact" terminology, allowing a single trusted contact across accounts, extending Rule 2165 temporary hold periods to 145 business days, and adopting the proposed fraud "speed bump" under new Rule 2166. We recommend extending the Rule 2166 delay period to 7–10 business days to enhance its effectiveness and suggest modification of Form U4 reporting to encourage appropriate escalation of suspected fraud without unintended consequences for associated persons. These concerns are discussed in greater detail below.

A. Trusted Contact Amendments

FSI supports FINRA's proposal to permit firms to use the term "emergency contact" as an alternative to "trusted contact person." We agree that customer familiarity with the term "emergency contact" could increase participation and comfort without altering the substantive protections of Rule 4512. Allowing firms flexibility in terminology, while maintaining consistent supervisory procedures and training, strikes an appropriate balance between investor protection and operational practicality.

FSI also supports FINRA's proposal to allow customers to designate a single trusted (or emergency) contact across multiple existing and future accounts at a member firm, provided that

³ Cerulli Associates, Advisor Headcount 2024, on file with author.

⁴ The use of the term "financial advisor" or "advisor" in this letter is a reference to an individual who is a registered representative of a broker-dealer and an investment adviser representative of a registered investment adviser firm, or a dual registrant.

⁵ Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2020).

⁶ See *id.*

customers retain the option to elect account-by-account designation. This is a logical and practical extension of prior FINRA's FAQs regarding Rules 4512 and 2165 and will reduce administrative friction that may otherwise discourage adoption. Streamlining this process enhances the utility of trusted contacts while preserving customer choice and autonomy.

B. Temporary Hold Amendments

FSI supports FINRA's proposal to extend the maximum temporary hold period under Rule 2165 from 55 business days to up to 145 business days in 30-business-day increments, subject to safeguards.⁷ As FINRA notes, investigations by Adult Protective Services and other authorities frequently extend beyond the current 55-business-day limit.⁸ Providing additional time, conditioned on reasonable follow-up efforts and continued reasonable belief of financial exploitation, appropriately recognizes the complexity of modern fraud schemes while maintaining guardrails against misuse.

C. New Speed Bump for Suspected Fraud

FSI supports FINRA's proposal to introduce new Rule 2166 to permit a short-term temporary delay for suspected fraud affecting customers of any age. We agree that a narrowly tailored "speed bump" mechanism can be an effective intervention tool, particularly in light of the urgency and isolation tactics frequently used by fraudsters. A brief pause can disrupt that momentum and allow firms to communicate with customers and combat the influence of bad actors. We view this framework as a thoughtful complement to Rule 2165, extending protective tools beyond "Specified Adults" while preserving the enhanced structure applicable to senior and vulnerable investors.

That said, FSI encourages FINRA to consider whether a delay period modestly longer than five business days, such as seven to ten business days, would better accomplish the rule's intended purpose. In many cases, additional time may be necessary to reach customers who are being actively defrauded and remain in frequent contact with the scammer, or who are subject to third-party influence that discourages communication with the broker-dealer. A modestly longer window would better position firms to establish meaningful contact, interrupt the fraud's momentum, and provide effective educational outreach before funds are disbursed. A longer window would also better align with firms' internal supervisory and escalation processes, which often require coordination across compliance, legal, and supervisory personnel before a final determination can be made. In addition, providing modest flexibility in the delay period would help ensure that firms can engage trusted contacts or regulators when appropriate, without creating unnecessary operational pressure that could undermine the effectiveness of the intervention.

D. Good-Faith Fraud Intervention Should Not Trigger Enforcement Risk

In addition, FSI recommends that FINRA provide some protection against customer complaints filed because of a firm's efforts to prevent a scam victim from being further victimized. Financial advisors and firms face adaptive adversaries when trying to preserve client accounts from foreign scams that steal investors' money. As these adaptive adversaries understand the securities reporting regime, some try to increase the pressure on financial advisors by threatening customer complaints.

⁷ FINRA, Regulatory Notice 26-02, *Proposal to Adopt New Rule 2166 to Permit Temporary Holds for Suspected Fraud* (Jan. 2026), <https://www.finra.org/rules-guidance/notices/26-02>.

⁸ *Id.*

Even if these complaints are not always filed, the fear of a customer complaint that impacts an advisor's reputation, particularly an advisor in a small town, may act as a disincentive to report.

Customer complaints arising out of good faith uses of Rule 2165 should not be reportable as to individual advisors since they are not ultimately the decision-makers who determine whether to delay a disbursement or transaction under Rule 2165 and Proposed Rule 2166. Making such complaints non-reportable against an individual advisor promotes investor protection by encouraging financial advisors to internally escalate concerns that a client may be the victim of a scam, while preserving the availability of relevant information to the investing public. Because we believe the regulatory framework should not inadvertently discourage the escalation of suspected fraud targeting seniors, we urge FINRA to work with the SEC and NASAA to implement a process that prevents such complaints from being disclosed on the Form U4 or BrokerCheck.

Conclusion

FSI is committed to constructive engagement in the regulatory process and welcomes the opportunity to work with FINRA on this and other important regulatory efforts. Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 393-0022.

Respectfully submitted,

A handwritten signature in blue ink that reads "Andrew M. Hartnett". The signature is written in a cursive, flowing style.

Andrew M. Hartnett
Vice President & Deputy General Counsel