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

Re: Communications with the Public: Regulatory Notice 26-14

Dear Ms. Mitchell:

Fidelity Investments ("Fidelity")[1] appreciates the opportunity to provide comments to the Financial Industry Regulatory Authority ("FINRA") in response to Regulatory Notice 26-14 regarding proposed amendments to modernize FINRA's Communications with the Public rules ("Proposal").[2] Fidelity supports FINRA's Proposal and believes it represents a meaningful step toward a more effective, risk-based regulatory framework. We offer the recommendations below to clarify the proposed framework, facilitate effective implementation, and identify additional opportunities for modernization.

Executive Summary

As FINRA proposes to modernize the supervision and review requirements for retail communications, we provide the following recommendations:

1. Clarify supervisory flexibility and preserve the benefits of the risk-based supervisory framework for retail communications.
2. Preserve a technology-neutral, risk-based framework that supports the responsible use of artificial intelligence ("AI") and other evolving methods of customer communication.
3. Eliminate the static versus interactive social media distinction and include social media within the proposed risk-based framework for retail communications.
4. Expand guidance on educational and financial literacy communications.

[1] Fidelity is one of the world's leading providers of financial services, including investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing, and other financial products and services. We administer approximately $18 trillion in assets from over 50 million individual investors, 29,000 employer client firms, 16,000 wealth management firms and institutions, and 8.5 million clearing and custody accounts. https://www.fidelity.com/about-fidelity/our-company. Fidelity currently has six registered broker-dealers that are members of, and overseen by, FINRA (Digital Brokerage Services LLC, Fidelity Brokerage Services LLC, Fidelity Distributors Company LLC, Fidelity Prime Financing LLC, Green Pier Fintech LLC, and National Financial Services LLC).

[2] *See* Financial Industry Regulatory Authority; Communications with the Public, Regulatory Notice 26-14 (July 9, 2026), available at Regulatory-Notice-26-14.pdf

5. Further modernize the framework for system-generated and ephemeral communications.
6. Harmonize performance communication standards with the SEC Investment Adviser Marketing Rule where appropriate.
7. Consider additional communication-related modernization opportunities.

1. Clarify Supervisory Flexibility and Preserve the Benefits of the Risk-Based Framework for Retail Communications

Fidelity supports FINRA's Proposal to replace the mandatory pre-use approval requirement for retail communications with an optional risk-based supervisory framework. The existing framework was designed at a time when communications were largely static, manually prepared, and distributed through traditional channels, such as hard-copy fact sheets or brochures mailed to customers. Firms now communicate with investors through websites, mobile applications, digital assistants, social media platforms, and AI-enabled experiences. A one-size-fits-all pre-use approval requirement does not appropriately account for the evolving ways member firms create and deliver communications to their customers.

A risk-based approach would better serve both investors and regulators. It would permit firms to apply enhanced review, testing, surveillance, and escalation to communications presenting heightened risk. At the same time, firms could apply appropriately tailored controls to routine service messages, account notifications, operational communications, and general educational content that do not present the same investor protection concerns.

Many member firms already consider factors such as product complexity, audience, and delivery channel when determining an appropriate communications review. For example, firms may require lower-risk retail communications to be reviewed only by a qualified principal, while communications deemed more complex may also require compliance and/or legal review. The proposed framework would permit firms to build on those practices while maintaining accountability for ensuring that communications remain fair, balanced, and not misleading.

For the proposed framework to be practical, FINRA should make clear that the factors identified in the Proposal are non-exclusive supervisory guideposts rather than mandatory elements that must be separately evaluated and documented for every communication. The relevant inquiry should be whether the firm maintained a reasonably designed supervisory process based on the nature and risks of the communication, not whether a particular communication is evaluated in hindsight against a rigid set of factors.

In addition, FINRA should confirm that firms choosing to continue utilizing principal pre-use approval for certain categories of communications may reasonably view that approach as satisfying their supervisory obligations for those communications without requiring firms to conduct separate risk-based assessments or implement additional supervisory measures. Such clarification would provide firms with useful certainty when designing supervisory systems and procedures.

Finally, FINRA requires firms to file retail communications that promote or recommend a specific investment company or family of registered investment companies. As drafted, proposed Rule 2210(c)(4) would require an appropriately qualified principal to approve such communications before they are filed with FINRA. Therefore, communications subject to filing would remain subject to principal approval, substantially limiting the flexibility intended by FINRA's proposed risk-based supervisory framework.

To ensure the framework provides meaningful flexibility across business models, we encourage FINRA to reconsider whether principal approval should be required solely because a communication is subject to filing. Linking mandatory approval to filing status, rather than the communication's substantive risk, would constrain the effectiveness of the framework and divert supervisory attention from communications presenting greater investor protection concerns.

2. Preserve a Technology-Neutral, Risk-Based Framework for the Responsible Use of AI and Other Evolving Methods of Customer Communication

Fidelity supports FINRA's recognition that new technologies increasingly affect the creation, review, supervision, personalization, and delivery of communications with the public. And we agree that FINRA's rules should establish durable standards based on the characteristics of a communication (*e.g.*, its content, purpose, audience, reasonably foreseeable effect, and risks)—not the technology, channel, format, or process used to create, review, distribute, or display it.

Technology innovations help firms service their customers in new ways, including presenting relevant educational content, expediting customer support, strengthening compliance monitoring, and delivering timely investor information that is responsive to customers' needs. Supervisory structures should not inhibit these benefits when appropriate controls are in place. The Proposal's risk-based framework will help firms bring these benefits to their customers while maintaining strong investor protections, including adherence to Rule 2210's substantive content standards.

AI-enabled tools allow customers to use free-form text to ask questions or search for relevant information, including through website search functions or "chatbots." Fidelity agrees that firms should remain responsible for ensuring that communications generated using these tools comply with applicable regulatory requirements. That is paramount. Yet, a requirement to treat every customer prompt entered into a particular technology tool as incoming correspondence, subject to a correspondence supervisory framework, creates an unnecessary supervisory burden. FINRA should clarify its rules to recognize that a meaningful distinction exists between customer communications directed to a firm and customer prompts entered into an AI-enabled tool.

For example, if a user types a stock ticker symbol into a search bar to receive a quote or searches "retirement planning" on a firm's website, the customer is simply searching for information about a security or topic. This does not constitute incoming correspondence. Customer prompts used to retrieve information through a chatbot or AI-enabled tool are functionally comparable to those search queries. Where a chatbot or other AI-enabled interface discloses that it is an AI-based system and is not a human or other representative of the firm, the prompts into such a tool should be treated like other searches on a member firm's website or mobile application, and not as incoming written correspondence subject to Rule 3110(b)(4).

3. Eliminate the Static Versus Interactive Social Media Distinction

Fidelity supports FINRA's Proposal to eliminate the distinction between static and interactive social media content. This distinction has become increasingly difficult to administer and provides diminishing regulatory value. Modern social media platforms routinely combine short-form video, livestreams, stories, comments, replies, reposts, collaborative posts, creator tools, and other features that do not fit neatly within the static versus interactive framework.

Moreover, content may easily transition from static to interactive through comments, sharing functionality, reposting, or platform design changes. As a result, firms often spend considerable effort analyzing platform mechanics rather than evaluating the substantive risks and content of communications.

We see no reason to apply a separate standard to social media communications as compared to other forms of retail communications. Treating social media communications under the same general risk-based framework applicable to retail communications would allow firms to develop firm-appropriate supervisory standards and reduce existing burdens under current FINRA guidance.

4. Expand Guidance on Educational and Financial Literacy Communications

FINRA previously worked with member firms to provide helpful guidance on the use of social media.[3] Last year, Fidelity urged FINRA to expand that guidance to include educational and financial literacy communications.[4] Investors increasingly seek information regarding budgeting, saving, retirement planning, diversification, financial wellness, account types, and other foundational financial topics. These communications can improve investor knowledge and outcomes while supporting FINRA's investor education objectives.

Uncertainty exists, though, regarding where educational content ends and broker-dealer communications begin. Additional guidance is necessary, as firms continue to interpret Regulatory Notice 17-18 in light of the limited examples provided by FINRA.[5] FINRA should update its guidance to recognize that certain types of educational or financial wellness

[3] *See* Regulatory Notices 10-06, 11-39 and 17-18, available at www.finra.org/rules-guidance/key-topics/social-media#notices.

[4] *See* Letter from Roberto Braceras, General Counsel, Fidelity Investments, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, *Supporting Modern Member Workplaces* (July 14, 2025), available at https://www.finra.org/sites/default/files/NoticeComment/Fidelity%20Comment%20Letter%20FINRA%20Modern%20Member%20Workplaces.pdf.

[5] *See* Regulatory Notice 17-18 Q&A #2, available at https://www.finra.org/rules-guidance/notices/17-18.

communications that do not promote a member firm's specific product or service are excluded from Rule 2210's requirements.

Firms offering financial products and services are often best positioned to educate investors about those products, including through social media. Yet current FINRA guidance leaves firms uncertain whether such content is educational or promotional merely because it discusses a type of product the firm offers. For example, a social media post explaining the benefits of investing through a 401(k), a tax-season post encouraging investors to consider whether an IRA may be appropriate, education comparing a Roth versus a Traditional IRA, or general guidance concerning diversifying a portfolio should be treated as educational so long as the communication does not promote a specific product or service of the firm. These types of communications, and others that similarly mention a generic product or service a member firm may offer, should be excluded from Rule 2210's requirements as educational or financial wellness communications.

5. Further Modernize the Framework for System-Generated and Ephemeral Communications

FINRA should provide additional guidance regarding system-generated, automated, and ephemeral communications. These communications are increasingly central to digital customer experiences, yet they often differ materially from marketing communications, product promotions, or communications that could reasonably influence an investment decision.

Firms increasingly use automated technologies to deliver information to customers, including account balance notifications, trade status updates, money movement alerts, service notices, maintenance reminders, and customer-configured alerts and notifications. These communications generally convey factual, transactional, or service-related information.

As firms continue enhancing digital experiences and automating customer interactions, one area where additional guidance would be particularly helpful is the recordkeeping treatment of such communications. In practice, it can be difficult for firms to retain every communication in its exact form when dynamic digital content is generated from approved templates, automated data feeds, or customer-specific inputs. FINRA should allow firms to rely on approved templates, automated content controls, and supervisory testing for dynamic digital content without retaining continuous snapshots of every changing data element. FINRA took a similar approach in 2002 with respect to statistical updates to approved templates.[6] This approach would reflect how modern digital platforms operate while preserving necessary supervisory and recordkeeping safeguards.

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[6] *See* Interpretive Letter to Forrest R. Foss, T. Rowe Price Associates, Inc. January 8, 2002, available at https://www.finra.org/rules-guidance/guidance/interpretive-letters/forrest-r-foss-t-rowe-price-associates-inc.

6. Harmonize Performance Communication Standards with the SEC Investment Adviser Marketing Rule Where Appropriate

Fidelity appreciates FINRA's Proposal to amend FINRA Rule 2210 to permit certain forward-looking projections in retail communications, subject to appropriate conditions.[7] This is an important modernization that better reflects how firms communicate with investors and would help align FINRA's framework with the SEC Investment Adviser Marketing Rule, where appropriate.

Additional alignment would be particularly helpful for performance communications. Many firms operate both broker-dealer and investment adviser businesses and communicate with investors through integrated digital experiences. Divergent standards for similar performance content can create operational complexity and inconsistent investor experiences without necessarily improving investor protection.

FINRA should consider harmonizing standards for projected, targeted, hypothetical, model, related, and extracted performance. The focus should be whether the communication is fair and balanced, supported by a reasonable basis, appropriate for the intended audience, and accompanied by sufficient disclosure regarding assumptions, risks, limitations, and methodology.

7. Consider Additional Communications-Related Modernization Opportunities

As discussed in our July 2025 comment letter,[8] several aspects of FINRA Rule 2220 (governing communications related to options and options trading) warrant review and modernization. We continue to support revisiting the definition of "institutional investor" and permitting firms to treat all retirement plan sponsors as institutional investors regardless of participant count. These recommendations provide meaningful opportunities for FINRA to modernize its rules and better align them with current communication practices and the needs of today's marketplace.

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Fidelity would be pleased to provide further information, participate in any direct outreach efforts that FINRA undertakes, or respond to questions FINRA may have about our comments.

Sincerely,

[7] SR-FINRA-2026-004, Proposed Rule Change to Amend FINRA Rule 2210 (Communications with the Public), available at https://www.finra.org/rules-guidance/rule-filings/sr-finra-2026-004.

[8] *See* Supra note 5.

cc: Robert Cook, President & CEO, FINRA
Robert Colby, Chief Legal Officer, FINRA

Fidelity INVESTMENTS