FINANCIAL SERVICES INSTITUTE | VOICE OF INDEPENDENT FINANCIAL SERVICES FIRMS AND INDEPENDENT FINANCIAL ADVISORS

September 11, 2026

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

Re: FINRA Regulatory Notice 26-14; Proposed Changes to Modernize Rule 2210 (Communications with the Public)

Dear Ms. Piorko Mitchell:

On July 9, 2026, FINRA published Regulatory Notice 26-14, requesting comment on proposed amendments to Rule 2210.[1] The proposal is part of FINRA's modernization initiative to reflect evolving communication practices and technologies, including changes in how social media is used and advances in generative artificial intelligence.

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.

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 representatives.[2] These financial advisors are self-employed independent contractors, rather than employees of the independent financial services firms.[3]

FSI's 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

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[1] FINRA, Regulatory Notice 26-14, *Proposal to Modernize Rule 2210 (Communications with the Public)* (Jul. 2026), https://www.finra.org/rules-guidance/notices/26-14.
[2] Cerulli Associates, Advisor Headcount 2024, on file with author.
[3] 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.

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.[4] 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.[5]

Discussion

FSI appreciates FINRA tackling longstanding issues under Rule 2210, including the distinction between static and interactive content and the blanket pre-use approval requirement. These requirements warrant re-examination in light of the pace, volume, and dynamic nature of AI-generated content. FSI urges FINRA to continue modernizing 2210 and aligning it with the SEC Marketing Rule. To improve the current proposal and advance this important effort, FSI offers three recommendations:

- First, FINRA should use this rulemaking to advance modernization efforts by addressing the 1998 FSC Securities interpretive letter, which continues to create regulatory uncertainty for firms with hybrid business models.
- Second, FINRA should explicitly endorse the risk-based framework for AI-generated content and consider extending the same approach to supervision and recordkeeping as a complementary, not competing, effort to the proposed communications rule changes.
- Third, FINRA should further refine the pre-use approval and filing requirements to ensure that the flexibility contemplated by the proposal can be realized in practice, including by considering appropriate protections and guidance for firms that implement reasonable supervisory procedures.

A. FSC Interpretive Letter Guidance

FSI urges FINRA to use this rulemaking as an opportunity to address the 1998 FSC Securities interpretive letter.[6] That letter broadly applied NASD Conduct Rule 2210's communications requirements, including the prohibition on predictions and filing obligations, to advisory activities of dually registered firms whenever there is any connection to potential securities transactions. This interpretation continues to create significant regulatory uncertainty for firms with hybrid business models. FSI respectfully requests that FINRA withdraw the 1998 FSC Securities interpretive letter and state that communications used primarily for advisory services are outside the scope of Rule 2210 unless they also specifically promote the member's broker-dealer business.

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[4] Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2020).
[5] *See id.*
[6] FINRA, *Interpretive Letter to Dawn Bond, FSC Securities Corporation*, Jul. 30, 1998, https://www.finra.org/rules-guidance/guidance/interpretive-letters/dawn-bond-fsc-securities-corporation.

B. AI and Social Media

FSI supports the proposal's attention to evolving communication practices, including social media and AI. The proposal approaches these issues primarily through the lens of communications pre-review and filing requirements. On social media, the proposal would eliminate the current distinction between static and interactive content, a distinction that has become increasingly difficult to apply as platforms have evolved. The proposal acknowledges that risk depends on factors beyond whether content is static or interactive, such as the qualifications, potential conflicts, and compensation arrangements of financial influencers. But it addresses these concerns solely through the proposed risk-based supervisory framework for retail communications.

On AI, the proposal recognizes that applying the principal pre-use approval requirement to AI-generated communications is challenging given the speed, volume, and dynamic nature of such content. It also acknowledges that the applicable supervisory standard varies based on how widely the communication is distributed and whether it makes a recommendation or promotes the member's products or services. The proposal's solution is again the risk-based supervisory framework, which would let members develop tailored policies that consider the qualifications and experience of those supervising, validating, or reviewing AI tools.

FINRA's risk-based framework is a good first step to addressing the challenges posed by social media and AI-generated communications. FSI encourages FINRA to state explicitly whether it endorses that framework for AI-generated content. FINRA should also consider extending the same risk-based approach to supervision and recordkeeping, not as a competing effort, but as a complement to the proposed communications rule changes so that firms can apply coherent, proportionate controls across the full lifecycle of AI-generated content.

For example, under the proposed framework a member may reasonably determine that AI-generated personalized client updates drawn from approved source materials do not require principal pre-use approval. That member, however, remains subject to supervision and recordkeeping expectations that call into question whether item-by-item review and retention is required – an approach that becomes unworkable given the speed, volume, and dynamic nature of such content. A risk-based approach across communications, supervision, and recordkeeping rules would allow firms to evidence controls at the system level – approved inputs, validation testing, and exception reporting – rather than at the level of each individual communication.

C. Pre-Use Approval and Filing Requirements

FSI recognizes the proposal's intent to provide members with greater flexibility in supervising retail communications. Under the proposal, members would establish written procedures to determine which categories of retail communications require principal pre-use approval based on a non-exhaustive list of risk factors: the nature and complexity of products or services; the qualifications and experience of the preparer; whether the communication makes a recommendation or promotes a product or service; whether it promotes an affiliate's or third party's product; whether it appears tailored to a specific audience; the inclusion of performance data, rankings, or comparisons; the medium and distribution method; and the member's or associated persons' history of communication concerns. FSI encourages FINRA to consider whether this shift will achieve the intended benefits for the reasons discussed below.

First, the risk-based criteria will be difficult to apply consistently, and firms will remain exposed to hindsight review by FINRA examiners who may second-guess those judgment calls after the fact. Second, for product pieces and other communications that must be filed with FINRA, principals will, as a practical matter, continue to review them in advance regardless of the rule change, making the shift largely academic for this category of communications. Third, when procedures do not require pre-use review of all retail communications, the proposal requires them to include provisions for education and training of associated persons, documentation of such training, and surveillance and follow-up to ensure adherence. Members must also maintain evidence that these procedures have been implemented and make it available to FINRA upon request. The cumulative demands of training, documentation, surveillance, and ongoing oversight could be so substantial that the flexibility the proposal offers may not prove particularly useful in practice.

To help make the risk-based approach more workable and reduce the risk of hindsight review, FINRA should consider adopting a safe harbor for firms that implement and follow reasonable supervisory procedures consistent with the rule. Complementary examination guidance could reinforce this protection by directing examiners to evaluate firms' processes and good-faith judgment as of the time decisions were made, rather than second-guessing those decisions after the fact.

Conclusion

FSI appreciates FINRA continuing to update Rule 2210 in light of AI, social media, and other advances in communication technology. As noted above, the current proposal, as well as the broader effort to modernize Rule 2210, would benefit from rescinding the FSC Interpretive Letter, a more comprehensive treatment of AI across communication, supervision, and recordkeeping rules, and a safe harbor for well-designed policies and procedures.

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,

Andrew M. Hartnett

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