

June 12, 2025

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

Re: Regulatory Notice 25-07

The National Adult Protective Services Association's (NAPSA) Policy Leadership is pleased to comment on FINRA's Regulatory Notice 25-07. (FINRA Requests Comment on Modernizing FINRA Rules, Guidance, and Processes for the Organization and Operation of Member Workplaces.) We applaud FINRA for continuing to prioritize the protection of senior investors and adults with disabilities. We will be commenting on **Section G. Fraud Protection**.

Section G.2

Should FINRA further extend the temporary hold period in Rule 2165? If so, for how long?

NAPSA was very pleased with FINRA's recommendation to extend the hold period an additional 30 business days for a total of a 55-business day hold extension. Recognizing that financial exploitation investigations are often more complicated and time consuming, we appreciate the additional days that mirror the average time it takes to conduct an APS investigation.

This average encapsulates all categories of reports that APS investigates (i.e., physical, sexual and emotional abuse, self-neglect, caregiver neglect), in addition to financial abuse. Financial exploitation investigations are often the most complex and time-consuming and there are many examples of cases being open for more than a year. It does not seem practical to extend a "temporary" hold for over a year so other solutions should be considered.

We would again like to emphasize the vast differences across APS programs and difficulties in obtaining an extension of a temporary hold from a financial institution or a court. NAPSA welcomes a partnership with FINRA to bring awareness and solutions to this challenge as we have developed a new protocol and forms addressing this matter.

Section G.3

Should FINRA expand the application of Rule 2165: such as (1) beyond "specified adults" to any customer where there is reasonable belief of financial exploitation; or (2) or where there is a reasonable belief that the customer has an impairment that renders the individual unable to protect his or her own interests (e.g., a cognitive impairment or diminished capacity), irrespective of whether there is evidence that the customer may be the victim of financial exploitation by a third party?

The term “specified adult” covers for the most part the population that APS serves and NAPSA is supportive of this designation while recognizing that others who are not served by APS are also in need of protection from individuals and criminal enterprises stealing from all populations.

NAPSA reiterates our position that Rule 2165 be expanded to include temporary holds on transactions when a firm is concerned about customers managing their own assets as opposed to only when there is financial exploitation by a third party. We share some of FINRA’S previous concerns about expanding the application of the rule and recognize that this a sensitive and complicated matter. However, we think this is overshadowed by the potential harm to investors if action is not taken and concerns can be addressed in an appropriate manner.

Financial service professionals are in a unique position of often being the first and only individuals to detect the potential of financial harm. We know the devastating effect wealth loss has on older investors who are not in a position to reclaim the losses. We believe that through the experience and education offered by FINRA, as well as other entities, many members have or can get the required expertise to recognize the red flags; the hold would enable the investor to be protected while an investigation is completed. Existing protections in the process are put in place by FINRA, and the individual firms mitigate the discretion that individuals have.

Many studies link cognitive ability to financial decision making. Data reported by APS programs report that over 31% of victims of financial exploitation suffer from cognitive issuesⁱ. A 2019 study in Health Economics concluded that people in the early stages of Alzheimer’s Disease (AD) face a heightened risk of damaging financial outcomesⁱⁱ. Stiegel reported in 2012 that people in early stages of Alzheimer’s disease are more likely to be susceptible to financial exploitation and fraud by othersⁱⁱⁱ. Wood and Lichtenberg stated in 2017 that “individuals who are mildly impaired prior to AD are the perfect victims as they have control of their assets but have impairment that may not be recognized and have broad exposure to the community.^{iv}” We think it is critical that the ability to hold and report be maximized here.

Section G.4

Are there aspects of the trusted contacts provisions in Rule 4512 that FINRA should consider modifying or enhancing?

The requirement of member firms to obtain the name of and contact information for a trusted contact person upon the opening of a non-institutional customer’s account or when updating account information for a non-institutional account is a great resource for investor protection and the benefits are clear. It is also clear that the usage rate needs to be higher.

Previous comments by NAPSA recommended that FINRA look at other industries that have similar requirements and a much higher success rate. (e.g., the long-term care insurance industry has had great success in identifying trusted contacts.) We are recommending more specific ideas to promote trusted contacts be provided such as FINRA publishing stories of how the provision has helped protect investors, video discussion with the trusted contact and client which proved instrumental in stopping exploitation and fraud, or other materials. We would like to see the FINRA Foundation create an annual educational campaign to promote the use and benefits of having a trusted contact person on the account. Older

investors are used to similar annual campaigns during the Medicare open enrollment period. Such a campaign for trusted contacts would support ease in navigation.

Sincerely,

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- 1 Roan Gresenz, Carole, Mitchell, Jean M., Marrone, James and Federoff, Howard A. (2019) Effects of Early-stage Alzheimer's on household financial outcomes. Health Economics, Volume 29, Issue 1, January 2020 pgs. 18-29.
2 Stiegel, Lori A., (2012) An Overview of Elder Financial Exploitation. Generations 36 73-80.
3 Woods, S., Lichtenberg, P.A. (2017) Financial Capacity and Financial Exploitation of Older Adults: Research Findings, Policy Recommendations and Clinical Implications. Clinical Gerontologist, 40 (1), 3-13.