NOBLES & RICHARDS, INC.
Member of FINRA, SIPC

September 10, 2026

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

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

Dear Ms. Mitchell:

Nobles & Richards, Inc. appreciates the opportunity to comment on FINRA's proposed modernization of Rule 2210.

We support FINRA's effort to move toward a more principles-based and risk-based framework for communications supervision. In particular, the proposal recognizes that the risks associated with communications differ depending upon the nature of the communication, the product involved, the method of distribution, the audience, and the role of the persons involved in preparing or approving the communication.

Our principal reason for commenting, however, is to encourage FINRA to address an interpretive issue that is particularly important to broker-dealers participating in private placements: when an independently created issuer communication becomes a communication of the broker-dealer for purposes of Rule 2210.

ISSUER COMMUNICATIONS AND MEMBER COMMUNICATIONS

Private issuers increasingly communicate directly with the public through websites, television, social media, digital advertising and other media. A broker-dealer may subsequently enter into a selling agreement with that issuer, or may be one of several broker-dealers permitted to sell the issuer's securities.

We believe Rule 2210 should make clear that a broker-dealer's participation in the distribution of an issuer's securities should not, by itself, cause independently created and independently disseminated issuer communications to become communications of the broker-dealer.

The appropriate inquiry should instead focus on the broker-dealer's conduct with respect to the communication itself.

Relevant factors could include whether the member:

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• created or materially participated in creating the communication;
• approved or endorsed the communication;
• paid for or directed its dissemination;
• distributed, posted, transmitted, linked to or otherwise made the communication available to investors;
• incorporated the communication into its own sales efforts; or
• otherwise became sufficiently entangled with or adopted the communication.

Conversely, the fact that a member has a selling agreement with an issuer, receives compensation for securities transactions, or is identified as a broker-dealer through which securities may be offered should not, standing alone, cause every communication independently created and disseminated by the issuer to become the member's communication.

This distinction is important because distributing securities and distributing a communication are not the same thing. A member can participate in the distribution of securities without having created, approved, adopted, disseminated or used every public communication made by the issuer.

A conduct-based standard would provide firms, issuers and FINRA examiners with a clearer and more objective framework while preserving FINRA's ability to hold a member responsible when the member actually adopts, becomes entangled with, distributes or uses the communication.

This approach also appears consistent with the risk-based direction of the current proposal, which identifies considerations such as who prepared a communication, who endorsed or approved it, the method of distribution, and whether the communication promotes a product or service offered through a third party.

SHORT-FORM PRIVATE PLACEMENT ADVERTISING

We also encourage FINRA to consider whether Rule 2210 should provide a more workable framework for short-form advertising involving private placements.

There is an important practical distinction between an advertisement intended to create awareness, more detailed marketing or sales literature, and the offering documents through which an investment is actually offered.

A short television commercial, digital advertisement, airport display, social media advertisement or similar communication cannot reasonably perform the same function as a private placement memorandum, investor presentation or detailed sales brochure. Attempting to require a short-form advertisement to communicate extensive offering-specific information can impair, rather than improve, the usefulness and clarity of the communication.

FINRA could consider a limited safe harbor or similar framework for short-form private placement advertising. The framework could permit basic information about an issuer or offering while requiring a prescribed set of prominent disclosures appropriate to private securities offerings.

For example:

“Securities offered only pursuant to the applicable private placement memorandum. Investment involves risk, including possible loss of principal. Securities are illiquid and are not FDIC or SIPC insured. Eligibility requirements apply.”

We are not suggesting that short-form advertising should be exempt from Rule 2210’s requirement that communications be fair, balanced and not misleading. Nor should an advertisement be permitted to contain exaggerated or unsupported claims simply because it is brief.

Rather, a short-form framework would recognize that different types of communications serve different purposes. An advertisement may appropriately create awareness and direct an interested investor to the offering documents, while the PPM provides the comprehensive description of the offering, its terms and its risks.

A clearly defined framework could improve investor protection by producing more consistent disclosures while reducing uncertainty about how much offering-specific information must be compressed into communications where space or time is inherently limited.

ADVERTISING REGULATION REVIEW PROCESS

FINRA also asks whether the Advertising Regulation Department’s review letters are useful, accurate and material and whether its operational or administrative processes should be updated.

We encourage FINRA to consider requiring that material objections raised during Advertising Regulation reviews identify, as specifically as practicable, the applicable rule, published interpretive guidance or regulatory principle supporting the objection.

There can be a meaningful difference between:

• a requirement imposed by Rule 2210;
• an interpretation reflected in published FINRA guidance; and
• a staff determination regarding what additional disclosure or presentation would be preferable in a particular communication.

Making those distinctions clearer in review letters would help firms understand their regulatory obligations, improve consistency between reviews, and allow firms to revise communications more efficiently.

This is particularly important when the threshold issue is whether a third-party communication is attributable to the member at all. If staff concludes that an independently created issuer communication constitutes a member communication, firms would benefit from understanding the conduct or regulatory principle upon which that determination is based.

CONCLUSION

We appreciate FINRA's willingness to reconsider Rule 2210 in light of changes in technology, communication practices and the securities industry.

As part of that modernization, we respectfully encourage FINRA to:

1. clarify when independently created issuer or third-party communications become communications of a member;

2. base that determination primarily on the member's conduct with respect to the communication rather than merely its participation in selling the securities;

3. consider a limited framework or safe harbor for short-form private placement advertising that recognizes the distinction between advertising, more detailed marketing materials, and offering documents; and

4. provide greater transparency regarding the regulatory basis for material Advertising Regulation review comments.

We believe these changes would provide greater regulatory certainty to members and issuers without weakening Rule 2210's fundamental requirement that member communications be fair, balanced and not misleading.

Respectfully submitted,

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