July 14, 2025

VIA ELECTRONIC SUBMISSION

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

Re: Regulatory Notice 25-07: Supporting Modern Member Workplaces

Dear Ms. Piorko Mitchell,

The Securities Industry and Financial Markets Association ("SIFMA")[1] submits this letter in response to the Financial Industry Regulatory Authority Inc.'s ("FINRA") request for public comment on modernizing FINRA rules, guidance and processes for the organization and operation of member workplaces.[2] We welcome this opportunity to share with FINRA the concerns and recommendations of our members as we all continue to navigate post-pandemic hybrid and remote work environments.

This letter highlights some core areas of concern and suggests possible changes or solutions that SIFMA and its members believe would be beneficial and reflect the leaps the industry has made, notably around remote work and supervision, in response to the COVID-19 pandemic and recent advances in technology. Notwithstanding, our members believe certain areas require more sweeping change while balancing the importance of reaching reasonable outcomes. SIFMA and its members remain ready to deepen the dialogue as FINRA identifies reasonable safeguards and seeks to modernize standards where appropriate.

Executive Summary

This letter, prepared by SIFMA and its members, highlights SIFMA's recommendations for modernizing FINRA's rules, guidance, and systems to better reflect today's remote capabilities and work environments, technological advancements, and evolving investor and firm needs. As

[1] SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association ("GFMA").

[2] *See* FINRA Regulatory Notice 25-07.

detailed herein, SIFMA recommends the following for each of the eight areas in which FINRA requested comment.

- **Branch Offices and Hybrid Work**: Modernize the outdated office designations based on physical-location given today's technology-enabled remote work and supervisory capabilities. As part of this effort, SIFMA and its members advocate for the elimination of offices of supervisory jurisdiction ("OSJs") and expansion of remote work conducted from residential supervisory locations ("RSLs") and other non-branch locations, as today's workforce is supervised via centralized, electronic systems, versus in-person oversight. We also ask that FINRA apply a risk-based approach to office designations and inspection requirements.

- **Registration Process and Information:** Clarify registration rules to limit registration for support staff and limit categories of information made available to the public, including client complaints and Forms U4/U5 disclosures as the harm associated with these disclosures may significantly outweigh any public benefit. This is particularly important in today's social media environment which has provided customers with numerous outlets to express momentary, and potentially unjustified, grievances that were not intended to be formal, reportable complaints.

- **Exams, Continuing Education ("CE"), and Maintaining Qualifications**: Grant broader access to exams (*e.g.,* remote testing, fewer restrictions on eligibility to sit for exams) and expand the flexibility of FINRA's CE program to grant exceptions or credit based on seniority, experience, and participation in other CE Programs. Similarly, promote the Maintaining Qualifications Program ("MQP") to increase enrollment, eliminate the 5-year limit on the program, and coordinate with the North American Securities Administrators Association ("NASAA") and states to ensure uniform interpretation of the program.

- **Delivery of Information to Customers:** Allow default e-delivery with opt-out rights, to align with industry and investor preferences and increase efficiency. Similarly, increase efficiency for firms and investors through the development of principles-based guidance that would allow for the use of negative consent letters to approve account transfers or non-material changes.

- **Recordkeeping and Digital Communications:** Clarify rules around record retention to clearly define the materials that require preservation—in particular we ask for clarity regarding the directive to preserve communications relating to "business as such." This is increasingly important in today's digital age where the proliferation of digital communication channels has exponentiality increased customer communication. Relatedly, modernize FINRA Rule 2210 to allow modern technology to enhance investor communications, *e.g.,* by allowing firms to translate account opening documents, and streamlining electronic disclosures.

- **Compensation Arrangements:** Allow broker-dealers to pay securities commissions to personal services entities ("PSEs"), and update guidance regarding non-cash compensation and continuing commission programs.

- **Fraud Protection:** Enhance fraud safeguards to protect vulnerable adults, including through expanded use of Trusted Contacts, an enhanced safe harbor for firms who suspect exploitation and implement account holds, and establishment of platforms where the industry and investors may access information regarding active scams.

- **Leveraging FINRA Systems to Support Compliance**: Streamline recruiting, onboarding, and termination processes by improving access to candidate data, simplifying Forms U4/U5, and enhancing FinPro, Gateway, and CRD functionality. Increase the functionality of FINRA's platforms to make its Disciplinary Actions Online and FINRA Rule 4530 systems more user friendly, and to better describe and target requests sent through FINRA Gateway. Coordinate with other regulators and law enforcement to share fingerprint records, while eliminating fingerprint requirements for associated persons in foreign jurisdictions. Finally, clarify the definition of an associated person and provide guidance on the use of third-party offshore vendors.

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1. Branch Offices and Hybrid Work

a. Impacts of Modern Technologies and Compliance Tools on Supervision of Decentralized Workplaces/Hybrid Work Arrangements

Modern technology has transformed the financial industry, shifting the concept of the workplace from physical office spaces to centralized electronic systems. As FINRA noted in its April 14, 2025 Request for Comment, while "members once operated in a paper-based environment," in recent years, new technology has increased investor preference for virtual or digital platforms, leading firms to adjust their business and operational practices. This trend was accelerated by the pandemic, which as we have previously noted "brought about a quantum leap towards the adoption of fully remote capabilities, work habits, procedures and controls."[3]

When the concept of designation of office locations (OSJ, branch office, non-branch office) was adopted by FINRA (and formerly the National Association of Securities Dealers ("NASD") and New York Stock Exchange ("NYSE")), business was almost entirely conducted in a physical office. At that time, employees needed to be physically present in an office setting in order to accomplish their work and supervision was both necessarily and consequentially conducted on-site. At that time, we understand that the activities identified as presenting the greatest degree of risk were required to be performed in physical offices designated as OSJs, where they would be subject to on-site supervision. Today's modern workplace is completely different. With the advent of technological solutions, which have continued to progress at rapid speed over the last several years, physical offices have been replaced by virtual, or online, offices. In the vast majority of

[3] SIFMA Comment Letter (2021), https://www.sifma.org/wp-content/uploads/2021/02/FINRA-20-42-COVID-19-Impact-SIFMA-Comment-Letter-Final-as-Filed-with-FINRA-on-2-16-2021-Zambrowicz.pdf.

today's workplaces, individuals can seamlessly work and supervise others from any location – a home, a hotel, a plane, a train, a bus, a car or a firm office – all over the world. Furthermore, in today's modern workplace, rarely does an individual arrive at an office at 9 am, leave at 5 pm and not log back onto firm systems until the following day at 9 am. Individuals now work at varying times around the clock and it is common for individuals working in a firm's physical office location to perform additional work at another location after hours or over the weekend. Therefore, even when individuals are "in-office" on a regular, or even daily basis, work is still being conducted outside of the "office."

Today, regardless of "office" location, work, whether trading, structuring, supervision or back-office activities, is now performed through the same secure centralized firm systems. These centralized firm systems include virtual private networks and identity and access management solutions that enable firms to restrict business activities to a firm's authorized electronic system and secure network connection and supervise the same. Firms' abilities to supervise employee activities on their systems include programs that record and/or restrict data and programs accessed, preserve communications, monitor trading, and track compliance with firm requirements, such as the review of policies and procedures and completion of employee trainings. Firms may also deploy collaborative technology, *e.g.*, video conferencing, screen sharing, direct messaging, centralized business processing tools, and document sharing platforms to monitor employee activities. Importantly, these records and systems are accessible through electronic networks, meaning supervisors can monitor employee activities from their desk across the hall, their home office on the other side of the country, or one of their firms' international locations. In sum, modern technology has provided firms with the ability to monitor and supervise their workforce irrespective of location.

Notably, FINRA's own integration of technology into its examinations process has significantly transformed the way firm and branch exams are conducted. For example, most of FINRA's documentation requests are now managed online, with records uploaded to FINRA's servers for review even before any physical examination of a firm's offices. This technological advancement has resulted in substantial time and cost savings for both FINRA and its examiners while maintain FINRA's ability to examine and investigate within its mandate.

b. Modernizing Branch Office and OSJ Definitions, Inspection Requirements, and Designation and Registration of Offices

i. Eliminate Offices of Supervisory Jurisdiction

As we have advocated in recent years, in order to meet the realities of the modern workplace, FINRA should move away from the current location-based approach to supervision. Specifically, we recommend that FINRA revise Rule 3110 to eliminate the concept of OSJs. The OSJ designation was originally intended for physical offices that maintained hard copy books and records and carried out supervisory functions through line-of-sight practices, relying on direct, over-the-shoulder oversight to detect potential violations or exceptions. Simply put, at the time of the OSJ implementation over 40 years ago, supervisors needed to be physically present in a shared work location in order to conduct effective supervision. As detailed in section 1(a) above, the same does not hold true today. Technology has removed the need for in-person supervision; rather, supervision is now primarily (and oftentimes exclusively) conducted through firm-wide,

centralized, electronic networks that can be accessed by any authorized employee and which provide real-time data regarding employee business activities. In sum, in today's workplace, it is not physical presence that enables effective supervision, it is authorized access to the systems which enable effective supervision, and that access is independent of physical location. Resultingly, the OSJ designation is outdated. Furthermore, maintaining the OSJ designation is burdensome, requiring firms to devote significant resources to determining whether a location constitutes an OSJ.

At a minimum, if FINRA does not entirely eliminate the OSJ designation, the definition must be significantly updated to reflect the realities of the modern workplace. In updating the rule, we ask FINRA to specifically consider the following:

- "Order execution" and "market making" are typically conducted through centralized electronic systems and can be effectively surveilled and supervised from any location. At a minimum, FINRA should allow individuals working from a non-branch office (including RSLs) to engage in order execution and market making, including order execution that occurs outside of business hours.

- Structuring of public offerings or private placements is no longer conducted in a conference room where all participants are physically present. Structuring is conducted electronically, through email, through document management systems and through virtual data rooms, all electronic platforms. Further, many firms have commitment committees that review prospective deals, and oftentimes the participants of such committees are not in the same physical space.

- Custody of customer funds or securities is primarily electronic.[4] Rarely do firms accept cash from clients and when they do such cash is generally deposited within 24 hours.

- Final acceptance (approval) of new accounts on behalf of the member, review and endorsement of customer orders and final approval of retail communications for use by persons associated with the member are now entirely electronic processes. It is more efficient for supervisors to conduct such approvals online through centralized firm systems and such approvals can be done from anywhere a supervisor can access the firm's centralized system. By conducting the approvals online, supervisors also have ready access to any additional materials they may need to reference in connection with the approvals.

- As noted above, supervision of the activities of persons associated with the member at one or more other branch offices is not conducted in person; rather, supervision is now conducted through electronic centralized systems and can be conducted anywhere a supervisor can access the system, which for most firms is almost anywhere in the world.

For the reasons outlined above, it is not necessary to designate an office as an OSJ based on whether registered persons at the location engage in retail sales or other activities involving

[4] Further, how is custody defined, *i.e.*, does "maintaining" amount to receipt of customer funds or securities or does it require ongoing custody (*e.g.*, a period of greater than 24 hours).

regular contact with public customers, the number of registered persons who conduct securities activities or are supervised from a location, the distance from another OSJ, whether the member's registered persons are geographically dispersed, or whether the securities activities at the location are diverse or complex. Firms can effectively supervise centrally or from other locations so the number of registered persons in one location is not an appropriate risk factor in determining office type.

ii. Branch and Non-Branch Offices

The definitions of branch and non-branch offices should also be amended to reflect the modern workplace. As described above, technological advancements have significantly transformed the way business is conducted, and a reevaluation of what constitutes a branch office is warranted. One way to achieve this would be by broadly expanding the non-branch location exceptions from the definition of branch office. In addition, the designation of an office as a branch or non-branch should be based on a factual and risk analysis, rather than physical location. For example, FINRA could narrow its consideration to whether a location is held out by a member firm as a place where they meet with a representative in-person to conduct business related to effecting securities transactions.

At a minimum, the non-branch location exclusions from the definition should be expanded and FINRA Rule 3110(f)(2) should be amended as follows:

- FINRA Rule 3110(f)(2)(A)(ii) and (iii) should not be limited to primary residences or locations used for limited time periods and should instead include any alternate work location. Today's work force may work from a variety of places, including a primary residence, a second home, a co-working space, or long-term vacation rental, and should not be limited by arbitrary location-based distinctions when there is no difference between the supervision of a primary residence and any other remote work location.

- Eliminate the requirement to list residences on a Form U4 as a secondary employment location and eliminate requirement that firms maintain a list of non-branch residence offices.

- Amend the requirement under FINRA Rule 3110(f)(2)(A)(ii)(a) that, "Only one associated person, or multiple associated persons who reside at that location and are members of the same immediate family, conduct business at the location." This limitation is unrealistic in today's housing market where many people, especially young people in major cities, share houses or apartments with roommates or significant others. We appreciate that confidentiality and material non-public information ("MNPI") must be safeguarded but suggest FINRA consider a risk-based approach that is focused on the conflicts of interest raised by these arrangements rather than the relationship of the individuals within the location. Any amendments to FINRA Rule 3110(f)(2)(A)(ii)(a) should also be reflected in FINRA Rule 3110.19(a)(1), which imposes an identical restriction on RSLs.

- Clarify the definition of activities considered "back-office type functions" under FINRA Rule 3110(f)(2)(A)(i).

- FINRA Rule 3110(f)(2)(B), which requires that locations "responsible for supervising the activities of persons associated with the member at one or more non-branch locations of the member" be considered branch offices, should be stricken from the Rule given that supervision is no longer centralized in physical offices.

iii. Residential Supervisory Locations

The adoption of the RSL status has been helpful to the industry and widely utilized; however, based on firms' experience with the RSL status over the past year, we urge FINRA to consider making the following amendments to FINRA Rule 3110.19:

- Differentiate between RSLs based on the type of supervisory activity. RSLs engaged in supervision of back-office functions, that have no customer contact, and do not handle funds or securities should not be subject to the same requirements as an RSL that engages in front-line supervision.

- Modify or eliminate the condition that renders locations ineligible for designation as an RSL if the one or more supervisors at the location has less than one year of supervisory experience with the member. Supervision conducted at any member firm should be sufficient to satisfy the one-year requirement. Restricting RSLs to supervisors who have been at the member firm for one year or more restricts such persons from being able to move positions and prevents member firms from being able to recruit talented individuals from other firms. A firm should be able to adopt risk-based criterion for designation as an RSL based on a thorough assessment of the qualifications and supervisory experience of the individual(s) in question, rather than solely on tenure with the members, as required in FINRA Rule 3110(a)(6).[5]

- Permit firms to determine which activities can be conducted from home on a risk-based approach rather than dictating the specific activities that are permitted at an RSL.

- Coordinate with NASAA to promote recognition of RSLs across all states and with the NYSE. This would alleviate the burden of satisfying different requirements across different state jurisdictions and the NYSE.

iv. Inspection of Branch and Non-Branch Offices

Firms should be able to take a risk-based approach to the necessity and frequency of inspection of branch and non-branch offices. Specifically,

- FINRA should eliminate the location level activities under FINRA Rule 3010(g)(1)(F) and (G) that render locations ineligible for remote inspections. These location level ineligible activities (*e.g.*, engaging in proprietary trading) should instead be considered by firms in making their risk assessments for remotely inspecting locations.

[5] 3110(a)(6) provides that a member's supervisory system should provide for "[t]he use of reasonable efforts to determine that all supervisory personnel are qualified, either by virtue of experience or training, to carry out their assigned responsibilities."

- FINRA should eliminate the inspection requirement for non-branch offices, excluding RSLs, unless a firm determines that there is a risk-based need for an inspection.

- Non-branch locations where permissive registrants and non-registered associated persons conduct business should be exempt from periodic inspection requirements. Permissive registrants are individuals who function in an associated capacity for the member firm, and who by definition are not conducting the business of the broker-dealer. Permissive registrants also include those who are involved in the investment banking or securities business of a foreign affiliate or subsidiary. Permissive registrants must be assigned a registered supervisor who is responsible for regularly checking with their day-to-day supervisor to ensure they are not exceeding their assigned duties. Permissive registrants are also required to complete all continuing education, comply with regulatory reporting obligations, are monitored by FINRA for disclosure matters, and are subject to the firm's overall supervisory control processes. Likewise, firms integrate both permissive registrants and non-registered associated persons into their broader supervisory control framework, which collectively supports a robust and reasonable supervisory structure that is commensurate with the firm's level of risk. Given their roles, and the supervision to which they are subjected, there is no practical purpose served by inspecting the locations where these individuals work.

c. Member Experience with RSLs and Pilot Program

Our members report that FINRA's RSL designation and Pilot Program are positive innovations that promote efficiency and suggest that FINRA further improve the programs by making the updates suggested, or providing the clarity requested, below.

i. RSLs

While SIFMA's members appreciate the ability to designate locations as RSLs, the supervision performed, as with the OSJs[6], is based upon authorized access to the systems which enable effective supervision, and that access does not depend on physical location. Further, the administrative burden involved in the office designation process is substantial, including with respect to the Form U4 updates. For large firms with a dispersed workforce, the risk assessment and eligibility analysis required for each location is highly burdensome, especially in light of the limited benefit of the designation. To lessen this burden, we ask that FINRA consider streamlining the RSL evaluation process, potentially by eliminating the risk assessment in favor of a more comprehensive eligibility criteria. As an alternative to the elimination of the risk assessment, SIFMA requests clarity on what constitutes a "regulatory communication…indicating that the associated person at such office or location failed reasonably to supervise another person subject to their supervision," or removal of this consideration from the assessment. Furthermore, the activities of structuring, order execution and market making should be permitted in an RSL.

[6] Note that if FINRA determines to remove the category of OSJ in its entirety, the designation of RSL likely would no longer be relevant.

ii. Pilot Program

With the benefits of remote inspections, including lower costs, greater efficiency, less travel and disruption for both employees conducting and undergoing inspection, FINRA should codify the remote inspections program into a permanent rule. Further, we suggest that FINRA:

- Advise firms regarding eligibility for remote inspections.

- Clarify what constitutes a significant finding under FINRA Rule 3110.18(h).

- Require firms to consider disciplinary information in connection with their risk assessments regarding remote inspections, rather than a bright-line ineligibility rule for remote inspections for individuals subject to a disciplinary action reportable under FINRA Rule 4530(a)(2). In certain instances, the prior disciplinary action may be so aged, or based on activities or monetary threshold amounts that have changed over time, that it is irrelevant to the analysis of whether to perform a physical inspection.

- Eliminate FINRA Rule 3110.18(g)(1)(F)'s exclusion from remote inspections of locations at which one or more associated persons is engaged in proprietary trading, including the incidental crossing of customer orders, or the direct supervision of such activities. An in-person inspection of such locations (versus remote) does not enhance the control environment as trading is conducted through firm systems, subject to business and risk oversight, and the technology tools that firms rely on for supervision are more significant than on-site inspections.

- Clarify that firms must conduct only an annual risk assessment. The risk assessments require time consuming, detailed analysis of the required elements, and must be completed before a firm can set its inspection schedule—another time consuming, detail-oriented exercise.

- Continue to work with the Municipal Securities Rulemaking Board ("MSRB") on rule uniformity, including coordination between the MSRB and FINRA to allow broker-dealers that are FINRA members to fulfill their office inspection obligations remotely under the Proposed Supplementary Material .05 of MSRB Rule G-27.

- Work with state regulators to harmonize state branch/non-branch inspection requirements, and the ability to conduct remote inspections of such offices, with the FINRA rules.

d. Revising CRD/Form BR to Align Regulator Requirements

SIFMA and its members commend FINRA for the recent steps it has taken to streamline the registration process. Its efforts to incorporate both Form BR and CRD into FINRA Gateway has made the registration process more efficient and user-friendly. We ask that FINRA continue its efforts to eliminate redundancies by updating its systems as follows:

- Allow for batch uploads versus manual entry into the CRD system.

- Update the CRD system to flag variances when state-specific rules deviate, in order to prompt firms to address the same.

- Consider rebuilding the library of core industry reports accessible through Classic CRD. This will ensure that both industry participants and regulators have the same expectation of consistent high-quality reporting, without any of the variances, intended and unintended, that result from firms trying to create substantially similar reports.

- Harmonize and modernize the definition of a branch office as discussed above and streamline the registration process by creating a single unified system to eliminate redundancy.

- Leverage technology and automation to enhance data sharing and communication. This approach will reduce errors in submission and administrative burdens, while improving the efficiency and coordination of regulatory oversight.

FINRA should also consider updating the following forms to reduce duplicative efforts:

- Allow certain FINRA filings to be accessed by the SEC to avoid duplicative filing requirements with the SEC and FINRA (*e.g.*, Rule 17a-5 material weakness notices).

- Align Continuing Membership Applications ("CMAs") and Form BD (*e.g.*, allow firms to update certain proposed activities through a Form BD amendment that is flagged for FINRA review rather than having to include such updates on a CMA and Form BD).

- Forms BR and U4 should be integrated. Leverage technology to allow users to import changes to Form BR into Form U4 and vice versa rather than needing to update each individual form with the same information.

- Enhance CRD and Form BR to support unified submissions to multiple jurisdictions using one form.

- Update Form BR as follows:

    - Incorporate designations for home offices and RSLs (this change has already been made to Form U4).

    - Import certain changes (*e.g.*, a new supervisor, a branch's first investment adviser representative ("IAR")) across all relevant Form BRs.

- Update Form U4 as follows:

    - Allow registered representatives to indicate that their registration status is "permissive."

    - Add the ability to update an investment related OBA to multiple Forms U4 for activities occurring across a branch office.

- Update the form logic so that individuals who identify their work location as an RSL do not need to provide their home address multiple times and streamline the address entry process for RSLs.

- Provide functionality to allow users to import data and/or entitlements from other Forms U4 (*e.g.*, other advisers on the same team) to allow for more efficient filings and to reduce the likelihood of error. SIFMA understands that such functionality currently exists to some extent within CRD, but Form U4 does not currently benefit from this automated process.

- Incorporate the FINRA Rule 2263 statement into Form U4 (initial filings and amendments).

- Enhance the RSL logic to prevent users from selecting this option in states that do not recognize RSLs.

2. Registration Process and Information

SIFMA requests that FINRA improve the registration process by clarifying certain registration rules, and limit the pitfalls created by publicly available registration disclosures.

a. Registration Process, Systems, and Information Collected

First, we ask that FINRA consider the following amendments to the registration rules:

- **FINRA Rule 1220(b)(3)(A)(ii)(m-o):** FINRA should eliminate the term "defining" from the provisions that identify the covered functions of operations professionals. The use of the term in this context is ambiguous and has created uncertainty about who must register as an Operations Professional.[7] This uncertainty has forced members to set registration as a minimum hiring criteria for roles well beyond the rule's intended scope.[8] If "defining" is removed, the text of the provisions would still require those responsible for "approving" the relevant systems, security requirements, and policies to register as Operation Professionals. This ensures the rule still functions to "help ensure that investor protection mechanisms are in place in all areas of a member's business that could harm the member, a customer, the integrity of the marketplace, or the public."[9] Therefore, there is little benefit in including the term "defining" in such provisions.

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[7] *See Proposed Rule Change to Establish a Registration Category, Qualification Examination and Continuing Education Requirements for Certain Operations Personnel, and Adopt FINRA Rule 1250 (Continuing Education Requirements) in the Consolidated FINRA Rulebook*, SR-FINRA-2011-013 at 28-29, https://www.finra.org/sites/default/files/RuleFiling/p123266.pdf (responding to comments that the provision was "written to broadly, creates potential for misinterpretation in determining how far up or down the reporting chain this registration requirement would apply").

[8] SR-FINRA-2011-013 at 5-6 (stating the rule would require "senior management;" "supervisors, managers or other persons responsible for approving or authorizing work;" and "persons with the authority or discretion materially to commit a member's capital").

[9] *Id.* at 4.

- **FINRA Rule 1230**: Consistent with existing guidance, FINRA should clarify that the "clerical and ministerial" registration exemption includes non-client facing support staff who execute orders on behalf of registered representatives. As written, if a representative receives and confirms an order and then delegates the task of entering the order to an internal service team, the rule can give rise to a range of interpretations on whether the person who merely enters the representative's instructions should be registered under FINRA Rule 1230. However, longstanding FINRA guidance provides that "at the direction and supervision of an appropriately registered person, administrative personnel may perform the mechanical task of typing orders."[10] FINRA Rule 1230.1 also allows an unregistered person to receive a customer order so long as a registered person confirms the order details with the customer before it is entered. FINRA should clarify that support staff who process the order after it has been confirmed by the registered person should be eligible for a similar exemption. "Clerical and ministerial" should be clearly expanded to include support staff who enter orders into a firm's management system based on client instructions, as these individuals are simply entering an order as directed by a registered person without providing advice or making a recommendation. Clarifying the exception for clerical and ministerial functions would increase efficiency and better meet the needs of the modern workplace.

b. Registration Information Provided to the Public

As detailed below, we ask FINRA to reconsider certain categories of information it makes available to the public, including client complaints, Form U5 disclosures, and Form U4 disclosures as the harm associated with certain of these disclosures may significantly outweigh any public benefit. For example, customer complaints which name a registered representative who had no contact with, and did not service the complainant, should not be disclosed on the representative's public record. Further, FINRA should remove the requirement for registered persons to disclose judgments and liens satisfied within a narrow time period, such as 30 days.

i. Complaints

As currently written, the term "complaint" is overbroad and fails to reflect the current realities of social media and other technologies that have made it more commonplace for people to express dissatisfaction without the desire or expectation of a remedy. As reflected in our comment letter in response to Regulatory Notice 25-04, reporting should be limited to complaints: 1) of a verified client; 2) that are clearly directed at the firm; (3) that identify specific issues; and (4) that request some action and/or compensation.[11]

Categorizing all customer grievances as reportable complaints makes collection challenging and burdens FINRA with the time-consuming review of overinclusive submissions. As an example, FINRA should explicitly exclude issues related to service, such as issues surrounding a firm's website or phone system, poor customer service and similar issues, from

[10] Letter from NASD Assistant General Counsel, Eric Moss, to Joanne Ferrari, Compliance Manager, Weeden & Co, dated July 19, 2000, https://www.finra.org/rules-guidance/guidance/interpretive-letters/joanne-ferrari-weeden-co-lp.
[11] SIFMA, Letter to FINRA re: Regulatory Notice 25-04: Rule Modernization (June 11, 2025), https://www.sifma.org/wp-content/uploads/2025/06/SIFMA-Comment-on-RN-25-04-June-11-2025.pdf.

4530(d)'s reporting requirement. FINRA should limit the universe of complaints that require reporting (including on a quarterly basis) to those that meet the above criteria and should further allow customers to rescind their complaints, without reporting, upon customer request (without prompting by the firm or registrant).

FINRA should also allow firms to request removal from a representative's Form U4 complaints that are demonstrably false, without requiring a formal expungement proceeding. The rise of social media and other electronic communications channels has led to an uptick in false or unfair complaints as these channels provide customers with numerous outlets and encourage them to express momentary, and potentially unjustified, frustration. What a customer may have viewed as an avenue to "blow off steam" becomes a permanent part of a representative's public facing record, with the only recourse being a difficult and lengthy expungement process. Therefore, FINRA should include a mechanism by which a firm can request that FINRA remove a complaint from a representative's Form U4 if the complaint was deemed demonstrably false. Such removal would be appropriate in instances where the information in the claim is factually impossible or clearly erroneous; the complaint involves a security, a product or an investment never owned, the complaint names a firm employee who has never been associated with the client's account, or the complaint accuses a representative of making a statement that can be refuted by written communications, *etc*. Further, members will also occasionally enter into a settlement with a client in connection with a claim simply to avoid the cost of litigating the claim. Firms should be allowed to expunge these claims along with other demonstrably false complaints.

FINRA should also include an additional complaint status option on Form U4 that reflects the complaint is "Closed/Without Merit" and such status should cause the complaint to be moved to the archive and therefore remove the complaint from BrokerCheck/public viewing.

ii. Form U5 Disclosures

FINRA should limit Form U5 disclosures relating to non-voluntary terminations. Detailed narratives regarding an employee's termination may limit the employee's future career prospects,[12] and provide a basis for the employee to seek damages from the reporting firm for defamation.[13] To avoid such harm to either party, FINRA should limit non-voluntary termination explanations to certain broad categories. This could be accomplished by requiring reporting firms to select the appropriate explanation from a dropdown menu in Item 3 of Form U5. Terminations that are the result of non-violative conduct under the federal securities laws and SRO rules (*e.g*., violations of firm policy, violations of state insurance laws, violations of banking regulations unrelated to securities) should be addressed with a catch-all dropdown option specifying that the conduct was "non-securities related conduct," without further explanation. This level of detail strikes a more appropriate balance between the benefit and harm of termination disclosures. In the event FINRA determines to continue to require narratives, we request specific guidance regarding what information should be included.

[12] *See Baravati v. Josephthal Lyon & Ross*, 834 F. Supp. 1023 (N.D. Ill. 1993).

[13] *See* Letter from Kevin Carrol, Deputy General Counsel, SIFMA, to Richard Berry, Executive Vice President and Directors, FINRA, Form U5 Defamation Claims for Money Damages: Recommendation to improve fairness of adjudications (Feb. 20, 2024), https://www.sifma.org/wp-content/uploads/2024/02/SIFMA-Letter-to-FINRA-re-U5-defamation-claims-220.2024.pdf.

iii. Form U4 Disclosures

Information required by the Form U4 should be further streamlined and updated as follows:

- Registered persons and/or firms should not need to report (1) attorney bar or state insurance license suspensions when the bar or issuing state order was not related to misconduct, *e.g.*, where the suspension was due to a failure to complete the CLE or failure to reaffirm a retirement status; or (2) events considered criminal in foreign jurisdictions but not in the United States. Eliminating these disclosures will provide relief from overly broad disclosure requirements without sacrificing investor protection.

- Include separate sections for information about the (1) broker-dealer with which the representative is registered; and (2) the firm that employs the representative. This would help customers better understand the roles and responsibilities of each entity in regards to overseeing the registered representative.

iv. Form BD and BrokerCheck

When a firm enters into a settlement with multiple SROs and/or states in connection with the same conduct, and potentially after collective negotiations, the firm should only be required to disclose the collective settlement once, rather than making a separate disclosure for each settling party. Filing a disclosure for each related matter is redundant and potentially obscures other matters.

Additionally, SIFMA asks that FINRA update BrokerCheck's interface to (1) ensure the platform does not lift non-public information from Form U4 and display it on a publicly accessible page; and (2) enhance BrokerCheck so that registered representative's exam qualifications are listed on the individual page rather than in the Detailed Report, which would increase the ease of efficiently finding such information.

3. Registration Process and Information

FINRA should consider the following input from our members regarding licensing exams, registration eligibility, and continuing education:

a. Updates to FINRA's Exam Program and Registration Eligibility

FINRA's Securities Industry Essentials ("SIE") has been credited by firms for assisting them in finding candidates more likely to pass the Series 7 and Series 66.[14] However, FINRA data suggests the SIE format as currently structured has failed to achieve its purpose of materially

[14] In response to FINRA's request for information regarding tools members leverage to identify successful candidates, in addition to acknowledging the SIE, one of our members shared that they have found that Aon Performance's "AP Reasoning" assessment indicates whether a candidate will pass or fail particular licenses, helping the firm to differentiate between candidates. The same firm shared that they have also found that providing interview guidelines to hiring managers better equips the hiring managers to identify appropriate candidates.

growing registrations within the industry.[15] SIFMA asks FINRA to consider the following suggestions to improve the administration of the program and the content of the exams:

- Study the structure, format, and difficulty level of the SIE as an entry-level exam and its impact on registrations at successive levels.

- Offer all exams remotely. Remote exams promote access by eliminating both limited seating, which may prevent prospective examinees from taking the exam during a particular cycle, and the costs associated with traveling to the exam, including time lost.

- Reduce the 30-day waiting period after the first two exam failures to 15 days and decrease the 180-day waiting period after the third exam failure to 60 days. The significant 180-day waiting period serves no purpose other than to punish the candidate who will have to study for a longer period versus building on more recent study and makes it virtually impossible for a firm to allow an individual to remain at a firm for a fourth attempt.

- Consider expanding the existing qualification waivers and exemptions to additional exams for individuals who can demonstrate they possess the requisite knowledge through significant industry experience, professional certification, or academic achievement.[16] The exam process is time-consuming and burdensome and does little to increase investor protection where candidates can demonstrate a record of industry experience and expertise. FINRA already uses specific criteria to provide SIE, Series 16, and Series 86 exemptions.[17] We believe a similar objective framework should be developed for other qualifying exams. [18]

- Allow non-associated persons to sit for all representative-level examinations. FINRA already permits non-associated persons to sit for the SIE, and we submit that there is little benefit to restricting other representative-level exams to associated persons. Further, allowing non-associated persons to sit for other examinations will benefit individuals by increasing their desirability as job candidates and ensuring their

[15] FINRA's stated purpose for restructuring the representative-level qualification exam program in 2018 was to "make it easier for individuals to enter the securities industry." Total number of FINRA-Registered Representatives has largely remained the same since converting to the SIE format with 630,235 Registered Representatives in 2017 to 634,508 Registered Representatives in 2024. (*See* FINRA Exam Restructuring at https://www.finra.org/registration-exams-ce/qualification-exams/exam-restructuring; *FINRA Industry Snapshot*, Figure 1.1.1 at 2 (2022 and 2025)).

[16] For example, our members suggest waiving the Series 66 exam for representatives who have held a Series 7 or Series 24 license, and/or have held other designations, *i.e.*, Certified Financial Planner for a certain time period, and can therefore demonstrate relevant experience.

[17] *See Qualification Exam Waivers and Exemptions*, FINRA, https://www.finra.org/registration-exams-ce/qualification-exams/exam-waivers-and-exemptions (last accessed Jun. 20, 2025).

[18] For example, our members suggest waiving the Series 66 exam for representatives who have held a Series 7 or Series 24 license, and/or have held other designations, *i.e.*, Certified Financial Planner for a certain time period, and can therefore demonstrate relevant experience.

qualifications in advance of onboarding. It would also benefit firms by eliminating the cost and time a new hire must spend studying and sitting for examinations upon their entry to the firm. These costs can be exacerbated by repeated failures, further increasing the import of allowing non-registered individuals to sit for the exams. After passing such examinations, such persons should be eligible to enter the FIND program to help firms with recruiting practices.

- Permit individuals who do not meet the technical definition of an "associated person" and who are employed by an affiliate or parent of a broker-dealer to obtain and maintain a "permissive" registration under Rule 1210.02. This would provide interested individuals with access to education and training about the securities industry. Further, these individuals could be hired by a broker-dealer and act as registered representatives immediately upon hire, thereby increasing the hiring pool for member firms without creating any material risks to investors.

- Expand Series 79, which was implemented for investment bankers, to include certain investor interactions, *e.g.*, road show participation, market sounding and testing the waters. These activities are central to the work of investment bankers, but are currently covered in Series 7, which otherwise is largely inapplicable to investment banking work. Requiring investment bankers to take both exams discounts the purpose of Series 79.

- Divide Series 27 and 28 into two exams, one covering financial supervision and one covering operational supervision (Series 99).

b. Updates to FINRA's CE Program

The current FINRA CE program requiring both a regulatory element developed by industry professionals in cooperation with regulators and a firm specific element based on a firm's unique needs analysis has proven an effective approach to continued education. Our members expressed particular appreciation for the Firm Element Needs Analysis Quarterly Highlights which enables firms to clearly identify and train to firm-specific needs, and the absence of an arbitrary FINRA-mandated minimum number hours requirement. While our members clearly agree with the overall direction of the program, they have identified certain potential improvements. Specifically:

- Provide further advance notice of the CE topics for the Regulatory Element for the upcoming year so that firms can tailor their own training programs to complement these topics, *i.e.*, to either cover other topics given that their employees will receive training through FINRA, or to reinforce FINRA's training through supplemental firm training on the topic.

- Consider providing exemptions for employees based on their seniority (*e.g.*, chief executive officers ("CEOs")) who are involved in limited client-facing activities and not involved in day-to-day interaction with broker-dealer clients. Firms should have the flexibility to determine whether such employees, based on their functions, should be subject to the CE program.

- Similarly, FINRA should consider providing exemptions for employees who have achieved a specific number of years of experience while maintaining a clean record, without negative feedback or customer complaints.

- Coordinate with state securities authorities administering like training programs to prepare complementary programs and allow for reciprocal credit across programs.

- Credit completion of continuing education courses offered or required by other professional organizations towards the Regulatory Element.

- Allow individuals completing Regulatory Element trainings who demonstrate proficiency in the review portion of the training to skip the remainder of the review and move directly to the testing portion.

- Enhance the FinPro Dashboard so that it reflects completion of the IAR CE Program as soon as a member firm submits records of completion.

c. Updates to FINRA's MQP

FINRA's MQP program is proving beneficial for both individuals who are able to maintain their qualifications after terminating registrations, and for firms, who may prefer the option of hiring or employing an individual who can easily commence employment in a registered capacity. All representatives should be auto enrolled in the MQP and all representatives should be required to provide a non-work email address to FINRA to ensure that departing representatives receive FinPro notices. FINRA can also increase transparency around the MQP by updating BrokerCheck to reflect whether an individual is eligible for the program. Currently, eligibility is not available until a firm files a Form U5. Making that information more accessible may assist firms and individuals in the hiring process.

FINRA should eliminate the five-year limit on the MPQ program, provided representatives complete their CE requirements. This approach would align with other financial and legal professions, where qualifications are maintained through periodic training without expiration. Eliminating the MQP's seemingly arbitrary time-limit would benefit both representatives and member firms by: (i) allowing representatives to maintain their registrations while they are on extended hiatus to care for family, pursue graduate coursework, serve the public, or pursue a different endeavor; and (ii) enhancing career mobility for representatives who are interested in positions within their firm that do not require active registration.

Finally, we suggest that FINRA coordinate with NASAA to (1) provide greater transparency regarding which states recognize NASAA's equivalent program, EVEP; and (2) implement the military deferral available through FINRA's CE for IARs serving in the Armed Forces. FINRA and NASAA should also work with state regulators to ensure regulators interpret the program, and its impact on participants, uniformly.

4. Delivery of Information to Customers (E-Delivery/Negative Consent Letters)

SIFMA recognizes that existing statutes and regulations generally require that member firms provide paper copies of customer documents unless customers affirmatively consent to e-delivery.

That said, the industry, and indeed the country at large, has demonstrated a strong preference for e-delivery in recent years. For example, when Congress passed the E-SIGN legislation a quarter-century ago, its intent was to "facilitate the use and acceptance of electronic signatures and records in interstate and foreign commerce."[19] More recently, Congress introduced a bipartisan bill that would require the SEC to adopt rules which would allow e-delivery to become the default delivery method for regulatorily required documents.[20] Our members support the expanding the use of e-delivery and are confident it would provide additional benefits.

E-delivery can benefit investors and member firms in a number of ways, including increases in cost efficiency and decreases in fraud risk. It is also almost instantaneous and cryptographically secure. These characteristics minimize the risk of documents being delayed, lost, or stolen.

Investors also simply prefer e-delivery. Our members have seen significant increases in the number of customers that are opting for e-delivery.[21] We believe this trend will continue for a number of reasons, including how e-delivery facilitates customers' ability to access, review, and store their documents.

Given these advantages and the evolution of investor preferences, FINRA should strongly consider permitting default e-delivery where possible. As SIFMA has previously advocated, this will both modernize the regulatory communications framework and ease the compliance burden on firms.[22] This transition should not prevent investors who prefer to receive paper communications from being able to do so. FINRA should require firms to allow investors to opt out of default e-delivery. For existing customers, FINRA should permit firms to provide information via e-delivery if the investor already receives certain categories of information via e-delivery already, with the ability to opt out at any time.

v. Negative Consent Letters

SIFMA supports the development of principles-based guidance that would allow the use of negative consent letters to approve "transfers" or "changes" that do not materially impact the structure or ownership of an account. This guidance should outline the conditions under which a change or transfer may be deemed "non-material." Expanding the circumstances under which negative consent letters can be used will provide greater convenience for clients. For firms, it will

[19] Electronic Signatures in Global and National Commerce Act, H.R. 1714, 106th Cong. (1999), available at https://www.congress.gov/committee-report/106th-congress/house-report/341/1?outputFormat=pdf.
[20] Bill H.R. 1807 – Improving Disclosures for Investors Act of 2023 (12/01/2023).

[22] *See* SIFMA, SIFMA AMG, FSI, and IAA Whitepaper, *E-Delivery: Modernizing the Regulatory Communications Framework to Meet Investor Needs for the 21st Century* (Sept. 2020), available at https://www.sifma.org/wp-content/uploads/2020/09/E-Delivery-Paper.pdf.

lessen the burdens associated with obtaining affirmative consent (*e.g.*, processing consents, and reissuing unanswered notices). Relatedly, we suggest that firms with investment advisory accounts be allowed to apply the same transfer processes to both their investment advisory and brokerage accounts. In our members' experience, clients view their accounts holistically with the firm and expect similar treatment across the firm's entities.

5. Recordkeeping and Digital Communications

SIFMA members continue to seek FINRA support in modernizing the Securities Exchange Act of 1934 ("Exchange Act") requirements regarding preservation of communications, and FINRA rules regarding communications with the public and preservation of those communications, to better reflect today's use of electronic communications.

a. Challenges to Preserving Communications Relating to "Business as Such"

The Exchange Act's directive to preserve communications relating to "business as such" is overly broad, and vague, leading to confusion regarding what communications must be preserved under the rule. Absent clarity on the scope of this directive and fearing that regulators may interpret it more broadly than a firm, firms configure their surveillance and archiving systems to capture all communications to and from associated persons, regardless of content or context.[23] Unsurprisingly, this approach is taxing for both the personnel and systems tasked with ensuring compliance with this rule. To alleviate this burden, which is increasing with the expanded use of electronic communications, SIFMA asks that FINRA support the modernization of the recordkeeping rules to eliminate industry confusion surrounding the scope of "business as such".

The recent proliferation of digital communication channels has made communication preservation increasingly challenging as firms find themselves confronted with the daunting and expensive task of preserving chat functions across a multitude of platforms, including messaging, video conferencing, and file sharing. Likewise, firms allocate resources to identifying and preserving communications made on third party platforms, including, communications related to emergency notifications; communications related to event management, *e.g.*, conferences, including RSVPs; and responses to review on online platforms like Yelp. Firms report challenges with each step of the process required for preservation of these communications, including identifying, reviewing, capturing, and retaining such communications. Given the steep cost, and the minimal benefit of preserving these types of communications, we reiterate our ask that FINRA support efforts to define "business as such" with the added consideration that certain categories of communications be exempted from preservation.

Firms also report difficulty with Exchange Act Rule 17a-4(b)(4)'s requirement that firms preserve original copies of received communications for at least three years. To comply with this requirement, firms pay for paper storage at companies that often charge far more to dispose of paper records than to store them. In practice, this means firms may continue to pay to store records longer than required by regulation rather than face the large upfront cost of disposing of their records. While SIFMA appreciates that FINRA is not able to unilaterally overhaul statutory

[23] For example, our members have shared that they are preserving non-substantive communications including acknowledgments of receipt, *e.g.*, "noted" or "will revert"; communications related to scheduling, *e.g.*, "running 5 minutes late" or RSVPs; automated messages, *etc*.

recordkeeping requirements, FINRA should support industry efforts to limit the types of communications that must be preserved so that firms are required to devote fewer resources to storing unnecessary communications and allow firms to store at least certain originals electronically.

Finally, we ask FINRA to revise its own record retention rules to mirror Exchange Act Rule 17a-4(b)(1). While the Exchange Act requires broker-dealers to preserve certain records for a minimum of three years, FINRA Rule 4511(b) requires members to retain records for a minimum of six years, unless otherwise specified by the Exchange Act or a specific FINRA rule.[24] It is burdensome for firms to track and apply different retention periods across several categories of records, and given that it appears there is little benefit to these differing retention requirements, FINRA should revise its rules so that its retention requirements align with the Currency and Foreign Transactions Act and Bank Secrecy Act. Likewise, we ask that, where possible, FINRA support efforts to revise and harmonize statutory record keeping requirements, including Exchange Act and Investment Advisers Act of 1940 ("Advisers Act") requirements.

b. Supervision of Digital Communications Channels

While our members expressed frustration with recordkeeping requirements that have not been updated to account for changes in communications brought about by electronic communications, they appreciate that FINRA's approach to supervision was developed with an eye towards this changing world. We find that FINRA's risk-based approach allows members to tailor their supervisory procedures to target types of communications, or particular channels, that warrant review, and to continuously fine tune those procedures based on experience, business model, and changes to technology, *i.e.*, development, or increasing popularity, of a new communications channel.

c. Changes to Communications with the Public Requirements to Reflect Challenges of New Technologies

In light of new technologies and the modern workplace, FINRA should consider the following updates to FINRA Rule 2210:

- Revise the rule to allow firms to translate documents, specifically account opening documents to other languages, without requiring firms go through the Rule 2210 approval process for each translation. Firms have a significant number of non-English speaking clients, and being able to provide translations to these customers benefits both these customers and firms.[25]

[24] For example, FINRA Rule 4513 states that "customer complaint records shall be preserved for a period of at least four years."

[25] We would also welcome FINRA's engagement with the SEC to modernize the broader regulatory approach to translation of customer-facing documentation more generally, consistent with current developments in technology and translation. The SEC's limited guidance on this issue is reflected in a more than 30 year old no-action letter: https://www.sec.gov/divisions/investment/noaction/1989/americanfundsdistributors101689.pdf.

- Utilize the "one-click-away" and layered format for disclosures included in digital content. We find that investors expect to interact with digital communications in this way, *i.e.*, accessing additional information via hyperlink at will, and reviewing disclosures in this way streamlines the presentation of digital communications.

Finally, we understand that FINRA's Board of Directors recently approved a proposal to amend FINRA Rule 2210 to permit the presentation of performance projections in certain communications. SIFMA and its members support this positive development to align FINRA rules more closely with Adviser Act Rules for the benefit of retail investors and to avoid investor confusion, and are eager to review the proposal.

6. Compensation Arrangements

SIFMA submits that FINRA update its guidance regarding PSEs, non-cash compensation and continuing commission programs.[26]

a. PSEs

We ask that FINRA support updating guidance regarding PSEs to allow broker-dealers to pay securities commissions directly to PSEs. This is an important issue for our member firms who utilize independent contractor representatives ("ICRs"), a group that commonly uses PSEs.[27] While the SEC has shown leniency in certain cases over the past decade, the prevailing view is that securities commissions may only be paid to registered individuals. As a result, broker-dealer firms are reluctant to pay PSEs, and instead pay individual representatives who assign the payments to their PSEs. Not only is this roundabout payment to the PSE an exercise of form over substance, but also, it raises tax complications, as an individual's 1099 and reported income will be different, potentially resulting in a time consuming, expensive audit.

While SIFMA appreciates regulator concerns that PSEs may be distributing payment to unregistered individuals or individuals subject to statutory disqualification, we firmly believe that this risk may be mitigated. Indeed, the Financial Services Institute proposed a framework that nearly resulted in a recent no-action letter from the Division of Trading and Markets. We also note that the SEC does permit the payment of advisory fees to PSEs. It is anomalous that revenue attributable to very similar services, often provided by the same individuals to the same customers and subject to regulation by the same agency should be treated so disparately.[28] In light of this, we urge FINRA to consider supporting the development of controls sufficient to protect investors while allowing broker-dealers to pay securities commissions directly to PSEs.

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[26] *See also* SIFMA, Letter to FINRA Re: Regulatory Notice 25-04: Rule Modernization (June 11, 2025), https://www.sifma.org/wp-content/uploads/2025/06/SIFMA-Comment-on-RN-25-04-June-11-2025.pdf.

[27] One of our members estimates that 25-30% of FINRA registered representatives are ICRs, making payment of securities commissions to PSEs a significant issue for broker-dealers. ICRs find PSEs beneficial because ICRs commonly conduct OBAs and work in teams, and PSEs simplify division of payment, payment of operating expenses and tax reporting.

[28] Insurance commissions may also be paid to PSEs that are not registered if they meet specified conditions.

b. Non-Cash Compensation and Continuing Commissions Program

FINRA should consider updating the following rules and guidance related to compensation:

- Modernize the non-cash compensation language in FINRA Rules 2310, 2320, 2341, and 5110 to more clearly define what qualifies as permissible business entertainment.[29] This modernization should incorporate existing guidance and interpretive positions from FINRA.

- Limit the applicability of the relevant rules to investment related vendors and third-party companies. In making this limitation, FINRA should provide guidance or thresholds members can use to determine whether the rules should apply to these third parties.

7. Fraud Protection

SIFMA and its member firms greatly appreciate FINRA's extensive commitment to partnering with the industry to protect investors from fraud and exploitation. FINRA's efforts have included pioneering new anti-fraud research, robust investor protection campaigns, the adoption of two targeted rules (FINRA Rule 2165 and amendments to Rule 4512) and more. Yet, all partners can and must do more as the threat of fraud and exploitation increases.[30]

To that end, FINRA has requested feedback on five areas: the role of technological advances in investor protection efforts, a potential elongation of the safe harbor for holding a suspicious disbursement or transaction under Rule 2165, the expansion of the Rule 2165 safe harbor to apply to instances where firms seek to protect all clients or those with diminished capacity, the implementation of FINRA Rule 4512, and additional tools FINRA may be able to provide industry members.

The answers to these questions are intertwined, and – as such – are set forth below in a way meant to address these questions holistically. As always, SIFMA is happy to continue our ongoing discussions on these matters at your convenience.

a. Trusted Contact and the Trusted Contact Form

The addition of a Trusted Contact to a consumer's account can be a game changer. Not only can it lead to improved investor outcomes when a temporary hold is placed, but also, outreach to a Trusted Contact can – at times – obviate the need for a hold to be placed at all. Unfortunately, the uptake rate for this effective tool is lower than anyone would like.

[29] FINRA should consider incorporating existing guidance on virtual events into the rules.

[30] AARP reported that individuals 60 years of age and older lose $28.3 billion annually: https://www.aarp.org/content/dam/aarp/money/scams-and-fraud/2023/true-cost-elder-financial-exploitation.doi.10.26419-2Fppi.00194.001.pdf.

As such, SIFMA has several suggestions where FINRA action would assist member firms in finding innovative solutions to increase use of the Trusted Contact form.

- FINRA should explicitly permit firms to refer to a Trusted Contact or Trusted Contact form by alternative names (*e.g.*, "Emergency Contact" forms). In conversations with clients, firms have found a reticence to identify a Trusted Contact for their account. Much of this appears to stem from either a lack of understanding of what a Trusted Contact's role is, or the weight of the phrase itself. We have received numerous reports of individual clients attempting to weigh which person they "trust the most," which can lead to inaction by the customer. On the other hand, there are form names that individuals are more comfortable with, such as Emergency Contact, Secondary Contact, *etc*. Explicitly permitting alternative names to be used (with the same substantive requirements) would likely have a positive impact on uptake and SIFMA strongly urges FINRA to do so.

- Another challenge the industry faces is when a client identifies a Trusted Contact on one account, but there is no Trusted Contact for their related or similar accounts within the same firm. This often appears to be a result of customer oversight but can lead to a situation where a firm would be allowed to reach out to a Trusted Contact when exploitation is suspected on the individual's IRA account, but not when it is suspected on their main brokerage account. As such, SIFMA urges FINRA to permit the Trusted Contact to be tied to the person, instead of the account – while also allowing for situations of consumer choice (*e.g.*, a direction to have different contacts on different accounts, *etc*.).

- Similarly, a Trusted Contact may be "lost" when a client transitions from one firm to another. The person may have an effective Trusted Contact on their main trading account, but if that individual transfers to another firm, the customer would have to go through the process of setting up the contact again. SIFMA urges FINRA to consider permitting a Trusted Contact to be transferred to another firm, whether by default or customer request.[31]

- FINRA should continue to expand their efforts through the FINRA Investor Education Foundation, or another publicly accessible platform, to promote awareness and understanding of Trusted Contacts. We believe this tool is a real success story and would like to see increased use. Additional outreach, or expanded materials that could be used by FINRA member firms from a trusted organization can only increase use, especially as some FINRA members were not as aware of the campaign FINRA has undertaken.

b. Potential Changes to FINRA Rule 2165

The FINRA safe harbor for temporarily delaying suspicious transactions and disbursements has been another game changer for the industry's fraud protection efforts. Critically,

[31] This might be accomplished by adding the Trusted Contact to the Automated Customer Account Transfer form that customers are required to execute.

this safe harbor allows firms to take actions to protect their client's assets, while law enforcement seeks out the bad actor, and adult protective services (where applicable) protects the individual. For those accounts covered by FINRA Rule 2165, it can be an incredibly impactful tool.

One of the aspects of investor protection work that makes each case unique is that there are always two variables: (1) the method of fraud / exploitation; and (2) the target of that fraud / exploitation. This means that, even if the same scam is being run against hundreds of individuals, each case can still be unique as each victim differs. FINRA Rule 2165 has been successful specifically because it is targeted at protecting two generally distinct groups of likely potential victims: older investors and vulnerable investors.

There is serious concern within the industry that attempting to apply the FINRA Rule 2165 framework to other situations (*i.e.,* all account holders or fraud targets experiencing cognitive decline) would not be as effective – or that any changes to FINRA Rule 2165 to accommodate those groups may lessen the necessary protections already in place and bring the more than forty states with parallel laws or rules out of alignment with the FINRA rule. As such, SIFMA respectfully requests that the scope of individuals covered by FINRA Rule 2165 remain the same at this time.

While that is SIFMA's position with regard to FINRA Rule 2165, we recognize that fraud against cognitively intact, non-vulnerable, non-senior populations is on the rise and is a cause for concern. We would suggest that FINRA consider similar tools to address those situations outside of the context of FINRA Rule 2165.

As the industry, regulators, and other stakeholders begin to transition from a focus on rulemaking (including FINRA Rule 2165 and the laws in place in 43 states) to a focus on the implementation of protection efforts, SIFMA would like to highlight where there may be opportunities for FINRA to strengthen its investor protection rules and guidance:

- FINRA should consider either adding broker-dealers and/or investment advisor, to the definition of "Qualified Individual" or adding individuals who serve in a senior investor protection capacity in a firm to the definition of "Qualified Individual." Many firms have established dedicated, centralized senior investor protection teams that coordinate a firm's senior investor protection efforts – including determining whether a hold should be placed on a suspicious disbursement or transaction, investigating a concern, reporting to the relevant state agencies, and more. However, these teams are not always located in a firm's legal or compliance departments, and they are not made up of only supervisors. This restriction is leading to situations where 25% or less of trained, oversight staff that are specifically trained and specialize in these issues can authorize a hold. This also creates an unnecessary slowdown and lowers the rate of positive outcomes for impacted adults. As such, SIFMA urges FINRA to consider making one of the two above changes to the rule – both of which would further align the FINRA Rule with existing state laws.

- The industry also believes it would be helpful for firms that are building out their senior investor protection efforts if FINRA added a reference to FINRA Rule 2165 about individuals that may be contacted under the Gramm-Leach-Bliley Act or Regulation S-

P when there is a belief of fraud or exploitation. Such a reference has been incorporated into numerous state laws, whether through permission to reach out to a "reasonably associated person," or "any other person permitted by law." This has proven to be an effective tool in combating exploitation. Despite the fact that such outreach is already explicitly allowed under federal law,[32] it is SIFMA's experience that firms that are building, expanding or strengthening their programs are not always aware of these existing anti-fraud tools, and a reference in FINRA Rule 2165 could help bridge that divide.

- One of the more common problematic situations firms are currently working to address is a situation where there is significant evidence to support the conclusion that exploitation is occurring or being attempted, but no state or local agency of competent jurisdiction is willing or able to investigate or share information with a reporting firm. We understand that FINRA has undertaken efforts partnering with state and local agencies to provide education to facilitate uptake of cases and information sharing, which the industry appreciates. The industry also requests that FINRA consider accounting for such situations in the body of FINRA Rule 2165 by allowing a safe harbor to extend beyond 55 business days absent contact from an agency of competent jurisdiction if a certain threshold of proof can be met.

- Finally, the industry once again urges FINRA to expand the scope of the safe harbor to apply to customer complaints, or to issue guidance that permits firms to disclose complaints related to an investor protection hold on the firm's Form U5 instead of the individual's Form U4. As per FINRA Rule 2165, the individual advisers are not the ones deciding whether to hold a suspicious transaction or disbursement and should not have a complaint on their record for an activity in which they have no discretion – or, when the adviser did the right thing by escalating the concern. While we recognize that most complaints will naturally fit the criteria for a Form U5 report, there are times when a complaint comes in that – by the letter of the current standards – firms have felt obligated to report on a Form U4 instead of a Form U5 based on the language of the complaint, and even though the complaint was clearly in response to a hold (and believed to be filed by the bad actor and not the customer). Without additional guidance, where these situations occur, there can be a significant chilling effect on reporting within a firm – an outcome that no one wants. Providing firms with greater comfort that they will not trigger a foot fault by classifying a hold-related complaint as a Form U5 disclosure would effectively undermine one of a bad actor's malicious tools.

c. Mandatory Statement Mailings: Closing a Point of Attack for Bad Actors

Contrary to the effective tools to combat financial exploitation found in FINRA Rules 2165 and 4512, SIFMA and its members remain concerned that FINRA Rule 2231.02 increases the risk of exploitation – particularly for older and vulnerable adults. This rule requires firms to send account statements (or copies of account statements if the client has identified an alternative mailing address) to the client's residence if the client has not enrolled in e-delivery. For customers living in congregant settings, such as assisted living facilities, this means their personal and private

[32] 16 CFR 313.15(a)(2).

information – including detailed financial and account balance information which firms take great steps to secure – often become accessible by a wide variety of staff and independent contractors that work in such locations, which creates an unnecessary risk for exploitation. As such, SIFMA strongly urges FINRA to, at the customer's request, not require firms to send sensitive information to a customer with a potentially known vulnerability.[33]

d. Technology and Fraud

The use of emerging technologies to combat fraud is extremely promising. Similarly, the ability of bad actors to use those same technologies to perpetrate fraud is extremely concerning. Firms are investing significant resources in developing technology-based tools to help identify and protect against fraud and exploitation, as well as tools and procedures designed to directly counter the technology-driven efforts of bad actors. While there are a few guiding principles and promising avenues, it is still much too early in the process to have valuable, reliable data to share on potentially effective practices.

That being said, there are some technology-based initiatives that FINRA may be able to undertake that would be beneficial in the fight against fraud and exploitation:

- A free-to-use open-to-the-public platform or database (or even a mobile application) that can be used to efficiently identify scams or fraudulent investments. This would be consumer-usable technology similar to the one's regulators are currently using to identify potentially fraudulent websites and investment schemes, and would complement FINRA's Financial Intelligence Fusion center, which is in the final stages of development.

- Similarly, the development of a "Standardized Scam Pattern Library," which could serve as a living repository of identified scams, scam typologies or behavioral red flags observed across firms, that is not publicly accessible and could be updated by both industry members and regulators.

- Finally, the development of a fast-alert system or data sharing framework would also be helpful—something akin to suspicious activity bulletin-sharing in the banking sector that would provide real-time alerts across broker-dealers regarding emerging scams. FINRA might consider adding a field where firms can identify a point of contact for these alerts in the FINRA Gateway.

8. Leveraging FINRA Systems to Support Member Compliance

FINRA's development and use of its own systems to support member compliance with regulatory obligations has been appreciated by members in promoting efficiencies and transparency in interactions with FINRA. Developments focused on reducing redundancy and taking advantage of technology updates would further support compliance efforts and reduce

[33] Given that incapacitated individuals may not be able to make such a request, we ask FINRA to provide flexibility and permit a firm to redirect or withhold mailings in certain instances where a customer has demonstrated both incapacity and vulnerability.

unnecessary burdens. Our members ask that FINRA consider the following updates to its processes, platforms, and guidance in order to increase functionality, efficiency, and compliance.

a. Recruiting and Onboarding

Our member firms suggest that FINRA streamline the recruiting and onboarding processes by making relevant data regarding job candidates more easily accessible to firms, improving the ability to communicate with candidates, and revising registration requirements and applications to ease the administrative burden on firms and clarify the information sought for new hires.

First, we suggest that FINRA consider publishing data regarding the educational and professional backgrounds relevant to an assessment that a candidate is likely to pass licensing exams. Similarly, we suggest that FINRA update BrokerCheck to reflect not only the examinations that an individual has taken and passed, but also the status of such registrations (*e.g.*, active, inactive, expired) and make this information easily searchable so that firms can search for, and recruit individuals by, exam status and registration. Our members note that this information would assist them in identifying and recruiting new talent.

Next, we suggest that FINRA streamline the onboarding process for new hires. Specifically, FINRA should enhance FinPro/Gateway to allow firms to easily communicate with candidates and new hires. Likewise, FINRA should consider updating the CRD process to allow firms to consolidate onboarding packages by including internal documentation requirements along with Form U4. We also ask that FINRA eliminate FINRA Rule 3110(e) and Item 15B on Form U4's employment verification requirements. The requirements are duplicative and do little to substantiate the details included in an employee's Form U4, while significantly increasing the administrative burden on firms during the onboarding process.[34] As an alternative, we ask FINRA to consider at least limiting verification to recent and relevant employment history. Finally we ask that FINRA simplify Form U4 by (1) updating the OBA section to the specific data fields required in the rule rather than a single text field; and (2) separating Form U4, Item 14K(1) into two separate questions, one regarding bankruptcy, and one regarding compromises with creditors, as applicants are often confused by the meaning of compromise and assume it relates to bankruptcy.

b. Terminations

We ask that FINRA consider alleviating administrative burdens relating to terminations by updating Form U5 requirements relating to delivery. First, we suggest that FINRA auto-deliver Forms U5 and their amendments to individuals using the email address of record in FinPro, rather than requiring firms to deliver these documents manually. Alternatively, FINRA should allow firms to make these documents available to its former registrants either via e-delivery, or by uploading them to a portal created and managed by FINRA. Finally, and somewhat relatedly, we suggest that FINRA consider increasing the monetary threshold for reporting discipline under FINRA Rule 4530(a)(2). Given inflation since the adoption of FINRA Rule 4530(a)(2), $2,500 is

[34] This burden includes allocating personnel to conduct thorough background checks, investing in third-party services to manage the verification process, and conducting follow-up, as candidates often provide incomplete and inadvertently inaccurate information when providing years of detailed employment history.

no longer as material, and raising the threshold will relieve the administrative burden on firms of reporting.

In the reason for termination section of Form U5 (Section 3), it provides for the following:

O Discharged **O** Other **O** Permitted to Resign **O** Deceased **O** Voluntary

We proposed that another button should be added for "Retired." Additionally, for ease of use and review, the buttons should be rearranged as follows:

- Voluntary
- Retired
- Deceased
- Permitted to resign
- Discharged
- Other

c. Recordkeeping and Reporting

FINRA should consider allowing firms to use FINRA repositories as the "gold standard" for books and records where appropriate, such as for registration related data for representatives and branches. Gateway/CRD/IARD should be the source for all electronic filings made in their systems. This includes all Forms U4, U5, BD, ADV and subsequent amendments and annual filings. Additionally, FINRA should give firms the ability to view and access historical registrant data to meet ongoing filing obligations/amendments to records where a surviving firm no longer has access due to a merger, mass transfer or other acquisition. FINRA should also work with the SEC to remove the notary requirement on the Form BD (*e.g.*, Form ADV no longer requires a notary). This practice is outdated and needs to be revisited.

We also suggest that FINRA align the various disclosures and notifications required under Rule 4530 and Forms BD, U4 and U5 (*e.g.*, customer complaints, regulatory actions, civil litigation, internal discipline) so they use consistent definitions and avoid duplicative reporting requirements.[35]

d. FINRA Gateway

FINRA should consider the following updates to Gateway:

- Determine whether to use Gateway or Classic CRD. Our members report that it can be confusing and challenging to use two different systems and have suggested a preference for Classic CRD. At a minimum, the branch search and view functionality in Gateway should be expanded with advanced search features and full branch attributes for users

[35] Using proposed FINRA Rule 3290 as an example, instructions on Form U4 should match the text of the proposed/final rule. The Instructions to Question 13 on Form U4 would still require Member Firms to follow current disclosure rules that are already in place. If FINRA is going to propose a rule change, they should simultaneously propose changes to other applicable Forms/Instructions to ensure consistency.

to easily select without opening each location. The branch details should include all information that is available in FINRA's Classic CRD system and data navigation should be improved for ease of use.

- Allow firms to designate a secondary or backup FINRA Gateway Super Account Administrator ("SAA"). Providing SAA access to a second individual will help firms navigate business continuity events and personnel availability.

- Educate member firms regarding FINRA Gateway entitlements and user profiles. FINRA replaced guidance on entitlements by certain user profiles (*i.e.,* Form U5 processing, Form U4 processing) with a large list of functionality at a field level which members are having difficulty interpreting.

- Allow firms with more than one broker-dealer to access the Gateway via a single user account versus independent logins.

- Evaluate real time process capability for FINRA API versus periodic daily batch cycles.

- FINRA API data sets do not have a consistent approach for what is considered the "current" record requiring firms to maintain different logic per data set to pick the most current record. If FINRA provided a consistent way across their datasets to identify the current record, it would simplify firm processes in loading and maintaining data.

- Allow firms to run ad hoc reports in Gateway (*e.g.*, OSJ Supervisors or Person-in-Charge for each registered location, number of associated individuals per registered location, chains of command, and all non-registered/non-branch locations), with the attributes available in Form U4 and Form BR.

e. Disciplinary Actions and FINRA Rule 4530 Portals

FINRA should increase the functionality of its Disciplinary Actions Online and FINRA Rule 4530 systems. FINRA should update the Disciplinary Actions Online system to enable searches for certain fact patterns and specific enforcement action details. Current online enforcement actions do not fully detail the violations FINRA alleges firms/representatives engaged in; such decisions without explanations do not assist firms with their compliance programs. When possible, the searchable files should include exhibits and other evidence used to reach enforcement and arbitration decisions. This search functionality and additional documentation will allow firms to better understand and map legal and regulatory risks, and, consequently, develop better compliance policies, procedures, and technology. We also suggest that FINRA expand the scope of the disciplinary database to include arbitration decisions.

FINRA should also consider updating the FINRA Rule 4530 system to (1) include a search function, and (2) allow users to amend submitted filings after 30 days. Prohibiting amendments after 30 days requires firms to submit a new, superseding filing, and results in a late filing assessed. Furthermore, the various disclosures and notifications required under FINRA Rule 4530 and Forms BD, U4 and U5 (*e.g.*, customer complaints, regulatory actions, civil litigation, internal

discipline) should be harmonized with consistent definitions and to avoid duplicative reporting requirements.

f. FINRA Membership

We ask that FINRA consider making the following changes to make maintaining membership with FINRA easier:

- Allow member firms to set up auto pay for all member firm service fees from the flex account.

- Consider using e-delivery for all locations because, as we noted above, paper mailings may result in delays or mail fraud. Likewise, consider permitting member firms to e-deliver all state/territory registration paperwork.

- Coordinate with NASAA and state regulators to develop a centralized clearing house of information for members of any rule changes, notices, or announcements to members and registrants.

- Align with states as a clearinghouse for variable appointments.

- Consider eliminating the manual, annual renewal requirement for Guam.

g. FINRA Requests

FINRA should allow firms to designate points of contact for additional business units for notices sent via FINRA Gateway. As it stands, FINRA requests that firms provide a contact for a handful of business areas, including a contact for regulatory inquiries.[36] Our members report that FINRA then sends all regulatory inquiries, and occasionally other notices, to a firm's regulatory inquiries contact. For many larger firms who receive hundreds of requests a year, it is incredibly burdensome and time-consuming for that contact to handle each request by logging into FINRA Gateway, downloading the request, discerning the request's substance, and then identifying the appropriate handling department within the firm. Unsurprisingly, this process often also leads to delays as a firm's regulatory contact may take a couple of days to field each request, given the constant stream of requests directed at larger firms. While this may sound minimal, as FINRA is well aware, requests are often on short deadlines, meaning that even a one- or two-day delay impacts a firm's ability to prepare a timely response.

While we note that FINRA does allow firms to submit a distribution list as the email address for their regulatory inquiries contact, we understand that this alone cannot resolve the issue. This is because the email alert accompanying each notice does not identify the subject of the request, meaning that even if a firm assigned a contact person in all relevant departments to the regulatory inquiries list serve, each contact person would still need to log into FINRA Gateway and review each request to determine whether the request was intended for their department. This is not a manageable solution for most large firms. Instead, we ask that FINRA allow firms to

[36] FINRA requests these contacts pursuant to FINRA Rule 4517.

designate different contact persons for different types of requests so that FINRA's requests go directly to the appropriate department.[37] Short of that, we suggest that FINRA include a summary in their email alert that will make the subject of the request clear to recipients, allowing the appropriate member of a firm's wider regulatory inquiries email distribution list to access the request and begin the response process.

h. Fingerprinting

FINRA can improve its fingerprinting program for representatives and member firms by working to reduce redundancies and facilitating monitoring by law enforcement. Our members have reported that their representatives are often required to provide fingerprints to multiple regulators (*e.g.*, state insurance regulators, mortgage regulators*, etc.*). These representatives often complain that they are required to repeat the fingerprinting process for each regulator, leading our members to suggest that FINRA allow individuals to opt into a program that would allow FINRA to share fingerprinting records with other regulators. Relatedly, we ask that in instances where an individual is associated with affiliated broker-dealers, the affiliated broker-dealers be allowed to rely on a single record of fingerprints, versus requiring each broker dealer to record fingerprints.

On the other end of the spectrum, we ask that FINRA address underlying interpretative questions regarding the scope for fingerprinting more broadly and consider eliminating fingerprinting for associated persons located outside of the United States, regardless of employer. Fingerprinting offshore personnel is of limited utility and, in a number of countries, conflicts with privacy laws and regulations that prohibit such a practice (*e.g.*, European Union General Data Protection Regulation as implemented by EU countries). We urge FINRA to work with the SEC to grant an industry-wide exemption under Exchange Act Rule 17f-2(a)(2) for at least those offshore personnel engaged in back-office functions that may cover the onshore broker-dealer. Further, we ask that FINRA implement a mechanism through which it may notify firms when vendor fingerprints are received and processed. Finally, we suggest that FINRA enroll in the FBI's Rap Back program. The FBI uses Rap Back to continuously monitor associated persons' fingerprints. Firms enrolled in the program receive notice of any arrest or criminal occurrence as these incidents are reported to the FBI, as long as the channeler of the prints – here FINRA – is also enrolled. FINRA's participation in this program would improve efficiencies associated with fingerprinting for both FINRA and member firms.

i. Clarity regarding Personnel and Offshore Vendors

Finally, we ask that FINRA clarify the definition of an associated person and provide guidance on the use of third-party offshore vendors. With regard to associated persons, we ask that FINRA clarify associated persons' roles and responsibilities to exclude operational support functions that have no direct interaction with customers, and to harmonize disparate definitions used in the Exchange Act and by FINRA.[38] With regard to the use of third-party offshore vendors, we ask (1) for guidance on the use of subcontractors; and (2) whether the engaging firm or vendor that supplies resources to a firm as a broker-dealer is responsible for supervision and other FINRA

[37] Our members welcome the opportunity to meet with FINRA to discuss developing a list of request categories.

[38] *See also* SIFMA, Letter to FINRA Re: Regulatory Notice 25-04: Rule Modernization (June 11, 2025), https://www.sifma.org/wp-content/uploads/2025/06/SIFMA-Comment-on-RN-25-04-June-11-2025.pdf.

compliance. More specifically, members would appreciate if FINRA would share observed best practices on reviewing the onboarding of vendor resources, including frequency, and remediation of any findings.

Conclusion

SIFMA appreciates the opportunity to provide comment and feedback in these identified areas. SIFMA believes that these suggestions would reduce burdens, costs and confusions, and provide greater efficiencies and opportunities for the investing public. We appreciate your consideration of these comments and would be pleased to answer any questions you have. Given the breadth of topics covered herein, and the interconnections between many of these comments, we respectfully request a meeting with our counsel, Elizabeth Marino and Corin Swift of Sidley Austin, as a next step to discuss potential impact to our members and to investors, and to review these topics in more detail, at your earliest convenience.

Sincerely,

Bernard V Canepa
Bernard V Canepa
Managing Director and Associate General Counsel

Alyssa Pompei
Alyssa Pompei
Vice President and Assistant General Counsel

cc: MSRB
Mark T. Kim, CEO
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