



Securities Arbitration Clinic
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Via Email to pubcom@finra.org
Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006-1505

Re: FINRA Regulatory Notice 26-02; Fraud Protection

Dear Ms. Mitchell,

Thank you for the opportunity to provide feedback in response to FINRA's request for comment on proposed rule revisions to help member firms protect senior investors from financial exploitation and all investors from fraud. We write this comment on behalf of the Securities Arbitration Clinic at St. John's University School of Law. The Clinic is part of the St. Vincent de Paul Legal Program, Inc., a not-for-profit legal services organization. The Clinic represents underserved investors with small dollar claims and is committed to investor protection and education. The Clinic is regularly approached by victims of fraud and financial exploitation, who often have lost their life savings due to scams and are unable to recover their funds once the money has left their accounts.

The Clinic supports FINRA's efforts to modernize its rules to further assist member firms in protecting customers from fraud and financial exploitation. Amidst alarming increases in the rates of fraud and losses suffered by vulnerable Americans, financial institutions and member firms often become the "first line of defense."¹ The Clinic welcomes FINRA proposals aimed at

¹ Paul Span, *Banks Are Becoming Bulwarks for Vulnerable Seniors*, N.Y. Times (Feb. 28, 2026), available at <https://www.nytimes.com/2026/02/28/health/scams-elderly-banks.html>.

better positioning members to effectively respond to the threat while remaining cognizant of the potential impact on small investors.

Trusted Contact versus Emergency Contact

As FINRA modernizes its rules regarding the trusted contact framework, investor ease and protection should remain a priority to ensure that the process strengthens safeguards against fraud while enabling investors to feel confident that their autonomy and privacy is preserved. Because third-party intervention and consultation with others have been shown to reduce the likelihood that a target will suffer losses, maintaining a contact on file whom a member firm may notify in cases of suspected fraud or financial exploitation may serve as an effective tool in preventing fraud.² The effectiveness of this approach, however, necessarily depends on whether the customer has such a contact on file. The term “emergency contact” may be more familiar to many investors than the term “trusted contact,” and that familiarity may encourage a greater number of investors to designate an individual to serve in this role. Further, allowing a single designation to apply across all accounts held at a member firm should help increase the likelihood that investors will have an emergency contact on file when concerns regarding fraud or financial exploitation arise.

One additional aspect of the efficacy of the trusted/emergency contact framework is ensuring that all investors are fully aware of the authority that is – and is not – given to this individual. In the Clinic’s experience, investors do not always understand the scope of a trusted contact’s authority in this context. For example, Clinic clients have expressed confusion about whether a named trusted contact held a power of attorney for their accounts. In such situations, investors may be more inclined to designate an emergency contact if they are fully informed about the scope and limits of the role. Accordingly, in addition to the written disclosures required by Rule 4512 regarding the circumstances under which a trusted or emergency contact may be contacted, FINRA should encourage member firms to disseminate educational materials, including links to FINRA resources, to further increase customer awareness and comfort with the emergency contact framework.

The Reasonable Belief Requirement

Seniors and other small investors who have suffered significant and often irreversible losses due to fraud routinely contact the Clinic, and we recognize that investigations involving suspected fraud may require significantly more time than that allowed by current limitations on extension periods. By allowing member firms increased flexibility to issue firm-initiated or regulator-requested extensions, even in the absence of formal written orders, we believe the proposed amendments may help limit potential damage.

The governing standard under Rule 2165 and proposed Rule 2166 is based on a reasonable belief standard. Member firms are provided a safe harbor for discretionary temporary holds on disbursements or transactions as long as they have a “reasonable belief” that financial

² FINRA Investor Education Foundation, *Exposed to Scams: What Separates Victims from Non-Victims?* (Sept. 2019), available at https://www.finrafoundation.org/sites/finrafoundation/files/exposed-to-scams-what-separates-victims-from-non-victims_0_0.pdf.

exploitation has occurred, is occurring, or may occur.³ Additionally, member firms are required to retain records of the basis for the reasonable belief of fraud. However, as written, the Rules do not define what constitutes such reasonable belief. We respectfully suggest that, even if broadly defined, reasonable belief should be included in the Definitions subsection (a) of Rule 2165 and proposed Rule 2166. This would provide clearer guidance to member firms and may enhance accountability. Because member firms may choose when to institute a hold, this should help ensure that their discretion is exercised only in adherence to the reasonable belief standard as defined.

Temporary Holds Under Proposed Rule 2166

In situations involving fraud or financial exploitation, a brief pause can offer a much-needed opportunity for potential victims to reevaluate the situation. Accordingly, the Clinic is supportive of the “speed bump” envisioned by proposed Rule 2166 because it may interrupt fraudulent schemes and prevent investors from suffering monetary loss. “One of the most common tactics scammers employ is a false sense of urgency or isolation.”⁴ We believe that FINRA’s proposed Rule 2166 would increase protection for investors of any age by allowing member firms to institute a temporary five-day hold to negate the effects of key tactics used by perpetrators of fraud.

However, affected customers may experience frustration when a temporary hold is imposed unexpectedly. In such circumstances, requiring written – rather than merely oral – notification clearly explaining the basis for the firm’s reasonable belief, as defined by FINRA, may help customers feel that their autonomy is being given due consideration.

³ FINRA Rule 2165(b)(1)(A); Proposed Rule 2166(b)(1)(A).

⁴ Federal Bureau of Investigation > News > Press Releases, *FBI Announces Nationwide ‘Take a Beat’ Campaign to Increase Awareness of Frauds and Scams*, FBI National Press Office (August 19, 2024), available at <https://www.fbi.gov/news/press-releases/fbi-announces-nationwide-take-a-beat-campaign-to-increase-awareness-of-frauds-and-scams>.

Thank you for the opportunity to comment on these crucial aspects of fraud protection and for your consideration of our comments.

Respectfully Submitted,

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