NASAA

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Submitted By SEC Webform[1]

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: File No. SR-FINRA-2026-018: Notice of Filing of a Proposed Rule Change to Amend FINRA Rules 0150 (Application of Rules to Exempted Securities Except Municipal Securities), 2165 (Financial Exploitation of Specified Adults) and 4512 (Customer Account Information) and to Adopt FINRA Rule 2166 (Temporary Delays for Suspected Fraud)

Dear Ms. Countryman:

On behalf of the North American Securities Administrators Association, Inc. ("NASAA"),[2] I am writing in response to the U.S. Securities and Exchange Commission ("SEC" or the "Commission") Release No. 34-106275, *Notice of Filing of a Proposed Rule Change to Amend FINRA Rules 0150 (Application of Rules to Exempted Securities Except Municipal Securities), 2165 (Financial Exploitation of Specified Adults) and 4512 (Customer Account Information) and to Adopt FINRA Rule 2166 (Temporary Delays for Suspected Fraud)* (the "Proposal"), recently filed with the SEC by the Financial Industry Regulatory Authority, Inc. ("FINRA") as SR-FINRA-2026-018. The Proposal seeks to expand and update the framework through which member firms may address financial exploitation of specified adults and suspected fraud affecting customer accounts. NASAA broadly supports the investor protection objectives underlying the Proposal and appreciates FINRA's efforts to modernize and strengthen these safeguards. However, we recommend targeted refinements in three areas: the trusted contact and emergency contact framework under Rule 4512, including clearer written disclosures and periodic reconfirmation of cross-account designations; the temporary hold framework under Rule 2165, including additional

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[1] https://www.sec.gov/comments/sr-finra-2026-018/notice-filing-proposed-rule-change-amend-finra-rules-0150-application-rules-exempted-securities#no-back.

[2] Organized in 1919, NASAA is the oldest international organization devoted to investor protection. NASAA's membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, México, Puerto Rico, the U.S. Virgin Islands, and Guam. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

guidance on the reasonable belief standard, notification for each hold extension, and retention of hold authority within supervisory and compliance functions; and the temporary delay framework for suspected fraud under proposed Rule 2166, including specific factors to guide discretionary notification to trusted contacts and timely internal supervisory review of imposed delays.

I. The Trusted Contact/Emergency Contact Framework

Rule 4512 currently requires, in part, that member firms make reasonable efforts to obtain information for a trusted contact person upon the opening of all non-institutional customer accounts.[3] The trusted contact designation is an important investor protection tool and NASAA agrees with FINRA's assessment that "having one or more trusted contacts provides another layer of security on the account and puts the financial firm in a better position to help keep the account safe."[4]

A. The "Emergency Contact" Terminology Should Be Clear to Customers.

The Proposal would permit member firms to use the term "emergency contact" as an alternative to "trusted contact person," provided that firms' supervisory procedures and training reflect identical meaning and obligations.[5] The Proposal would also require equivalence within firms' supervisory procedures and training; however it does not appear to prescribe how the terminology must be explained to customers.[6] NASAA does not object to this flexibility in the use of the terms, provided that member firms are required to make clear to customers that, regardless of the terminology used, the designation serves a specific financial protection function.[7] To that end, FINRA should consider requiring member firms to provide clear written disclosures explaining the circumstances under which they may contact a trusted contact or emergency contact, and promote standardized expectations for how firms should explain the designation to customers.

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3 Proposal at 4 ("The trusted contact person is intended to serve as a resource for the member firm in various situations, including helping to update customer contact information when a customer becomes unavailable, assisting when concerns arise over possible diminished capacity or other health issues, protecting assets, and responding to possible financial exploitation.").

4 NASAA, FINRA, *NASAA and SEC OIEA Urge Investors to Establish a Trusted Contact to Increase Investor Protection* (Sept. 28, 2021).

5 Proposal at 10-11.

6 Proposal at 10-11.

7 *See* Letter from Marni Rock Gibson, NASAA President, to Jennifer Piorko Mitchell, FINRA Deputy Corporate Secretary, Re: Regulatory Notice 26-02: *Rule Revisions to Help Member Firms Protect Senior Investors From Financial Exploitation and All Investors From Fraud* at 2 (Mar. 9, 2026).

B. Cross-Account Designations Should Not Become Indefinite Authorizations.

The Proposal would permit a customer, subject to customer choice, to have a trusted or emergency contact apply to the customer's existing and future accounts with the member firm.[8] Further, while member firms may choose whether to offer their customers this option, if a firm chooses to do so, it must also offer customers the choice to assign trusted contact persons on an account-by-account basis rather than to all accounts.[9] This flexibility, though potentially beneficial, does not adequately address the issue of establishing continued customer intent.

FINRA acknowledged NASAA's caution that members should not be permitted to obtain a single authorization for a trusted contact person at the outset that would apply broadly and indefinitely to all future accounts, without periodically confirming that this remains the customer's intent.[10] In addressing this concern, FINRA noted that Rule 4512 requires members to seek to update trusted contact information for accounts subject to Rule 17a-3 under the Securities Exchange Act of 1934 and, for other accounts, members consider asking customers to review and update their trusted contact information periodically or when there is reason to believe the customer's circumstances have changed.[11]

II. <u>Amendments to the Temporary Hold Framework Under Rule 2165</u>

A. The Reasonable Belief Standard Should Be Supported by Additional Guidance.

According to FINRA, the "reasonable belief" standard applicable to both Rule 2165 and proposed new Rule 2166 is intentionally designed to accommodate a wide variety of facts and circumstances.[12] NASAA acknowledges the value of a flexible standard, but, consistent with our prior comments, we encourage FINRA to provide additional guidance, so that the standard is applied in a manner that centers on customer protection and mitigates the risk of significant variations in reasonable belief determinations across firms and situations, which could lead to inconsistent outcomes.[13] FINRA noted that it has developed several programs to provide member firms with intelligence, resources, and practical guidance useful in identifying red flags of fraud

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8 Proposal at 11, 37-38.

9 Proposal at 37-38.

10 Proposal at 39.

11 Proposal at 39-40.

12 Proposal at 48.

13 *See* Letter from Marni Rock Gibson, NASAA President, to Jennifer Piorko Mitchell, Deputy Corporate Secretary, FINRA, Re: Regulatory Notice 26-02: *Rule Revisions to Help Member Firms Protect Senior Investors From Financial Exploitation and All Investors From Fraud* at 6 (Mar. 9, 2026).

and protecting customers from increasingly sophisticated fraud schemes.[14] NASAA supports FINRA's continued member education efforts and the provision of resources to identify fraud and protect customers.[15]

To better accomplish the policy goals of Rules 2165 and 2166, FINRA should provide members firms with additional illustrative guidance on the types of facts or circumstances sufficient to form a reasonable belief of financial exploitation or fraud. Further, the standard should operate within a firm's broader supervisory and escalation framework, rather than being viewed as an isolated threshold that exists only when a firm decides to impose a hold or delay. FINRA should consider explaining that unusual activity should trigger appropriate investigation and escalation where warranted, but should not by itself automatically justify the imposition of a hold. This approach would address both the risk of under-intervention (where firms wait too long to act) and over-intervention (where firms equate any unusual activity with exploitation).

B. Customers Must Retain Access to Legitimate Transactions During Prolonged Holds.

The proposed Rule 2165 extension framework would require documentation of any extension, including follow-up efforts with the relevant authorities, lack of response, and the basis for the continued reasonable belief of financial exploitation.[16] Further, the proposed documentation would require "dates of communication attempts, methods used, and *any* communications received."[17] FINRA should consider whether the rule should also explicitly address other types of responses from authorities. As currently proposed, each extension is conditioned in part on the member not having received a response from the relevant authority.[18] However, an automated acknowledgment, generic reply, or response indicating that the matter is nonpublic or under review may not, in a member firm's view, provide sufficient information to determine whether to maintain or lift the hold. Without direction on how to treat such responses, firms may either lift holds prematurely while exploitation is ongoing or extend them indefinitely on the basis that a response was unhelpful. FINRA should encourage member firms to memorialize communications with the relevant authority to ensure a shared understanding of status and that the customer's interests are not lost in the gap between investigation and resolution.

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[14] Proposal at 48, n.88.

[15] Proposal at 48.

[16] Proposal at 13-14, 42, 262.

[17] Proposal at 14 (emphasis added).

[18] Proposal at 13.

C. Customers Should Be Notified of Each Hold Extension, Not Just the First.

The Proposal requires notification to all parties authorized to transact business on the account and to the trusted contact person for the first extension beyond 55 business days, but does not clearly require subsequent notifications for each additional 30-business-day extension.[19] However, the rationale for notifying a customer of the first extension applies equally, if not more strongly, to subsequent extensions.[20]

Each additional extension represents a further period during which a customer's access to his or her own assets may be restricted in some way. As the hold extends beyond initial expectations, the customer's need for updated information increases rather than diminishes. FINRA should require notification for each additional extension, providing the same information required for the first extension—namely the reason for the extension, its potential duration, how the member firm can be contacted with questions or concerns, and how the customer may obtain additional information about the hold or take steps to challenge or resolve the restriction.[21]

D. Hold Authority Should Remain with Supervisory and Compliance Personnel.

The Proposal would expand the categories of associated persons authorized to place, terminate, or extend temporary holds under Rule 2165 to include—in addition to persons serving in supervisory, compliance, or legal capacities—associated persons serving in specialized senior investor protection or fraud prevention roles.[22] Given the seriousness of the issues addressed in the rule and the significant extension of the hold periods, FINRA should maintain the current decision-making authority within supervisory, compliance, or legal functions while allowing those decision-makers to rely on the investigative findings and recommendations of specialized personnel.[23] Persons with specialized training provide important investigative and evaluative capabilities, but adding a heightened level of review in the form of supervisory and compliance personnel will allow for a more fulsome assessment of the overall customer relationship, account history, and appropriateness of a hold. Maintaining a smaller group of individuals authorized to approve hold actions also eases training requirements, facilitates regulatory examinations of firm decisions, and reduces the risk of inconsistency in decision-making criteria.

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19 *See* Proposal at 13.

20 *See* Letter from Marni Rock Gibson, NASAA President, to Jennifer Piorko Mitchell, FINRA Deputy Corporate Secretary, Re: Regulatory Notice 26-02: *Rule Revisions to Help Member Firms Protect Senior Investors From Financial Exploitation and All Investors From Fraud* at 6 (Mar. 9, 2026).

21 *See* Proposal at 13.

22 Proposal at 15-16.

23 *See* Letter from Marni Rock Gibson, NASAA President, to Jennifer Piorko Mitchell, FINRA Deputy Corporate Secretary, Re: Regulatory Notice 26-02: *Rule Revisions to Help Member Firms Protect Senior Investors From Financial Exploitation and All Investors From Fraud* at 7 (Mar. 9, 2026).

If FINRA proceeds with the broader authorization, it should consider establishing minimum training, supervisory review, documentation, and escalation expectations for these specialized personnel.[24] In particular, the training that specialized persons receive should be substantively equivalent to any training provided to principals, supervisors, and compliance officers who currently exercise this authority, so that all authorized persons are working from a common understanding of the standard and its application.

III. Temporary Delays for Suspected Fraud Under Proposed Rule 2166

Recognizing that financial fraud can impact investors of all ages, proposed Rule 2166 is designed to prevent customer losses by giving member firms a brief intervention window of up to 10 business days to contact customers, authorized parties, and trusted contacts, gather information, provide fraud-education resources, and attempt to prevent transactions or disbursements resulting from suspected fraud.[25] This new rule should be carefully calibrated to balance the prevention of fraud losses with respect for the rights of customers to direct the management of their funds absent some legal determination of incapacity, while remaining mindful of best execution requirements and the effects on the individual's account.[26]

A. Discretionary Notification to Trusted Contacts Should Be Guided by Specific Factors.

The Proposal would require a notification to the customer within two business days of placing a delay, while notification to trusted contacts and other authorized persons would be discretionary.[27] Several commenters to Regulatory Notice 26-02 raised concerns that mandatory notification to parties other than the customer may be unnecessary to address suspected fraud, could be viewed as overreaching by customers, could create confusion and unnecessary customer friction, and could discourage trusted contact adoption or even chill the willingness of member firms to rely on the safe harbor.[28]

In many situations, the trusted contact may be the most effective means of helping the customer understand the risk, particularly when the customer is unreachable or appears to remain

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[24] *See* Letter from Marni Rock Gibson, NASAA President, to Jennifer Piorko Mitchell, FINRA Deputy Corporate Secretary, Re: Regulatory Notice 26-02: *Rule Revisions to Help Member Firms Protect Senior Investors From Financial Exploitation and All Investors From Fraud* at 7 (Mar. 9, 2026).

[25] Proposal at 19.

[26] *See* Letter from Christopher Gerold, NASAA President, to Jennifer Piorko Mitchell, Deputy Corporate Secretary, FINRA, Re: Regulatory Notice 19-27: Retrospective Rule Review at 2- 3 (Oct. 8, 2019) (emphasizing the importance of balancing investor protection with customer autonomy and noting that customers retain the right to direct the management of their funds absent a legal determination of incapacity).

[27] Proposal at 21.

[28] Proposal at 45.

under the influence of the suspected perpetrator. Because FINRA would vest this decision in the firm's discretion, NASAA recommends that FINRA provide guidance to assist firms in assessing the factors to be considered when deciding whether to notify a trusted contact or other authorized persons. Such factors may include the size or significance of the transaction, whether the customer has previously requested involvement of the trusted contact, and whether contacting the trusted contact itself could create additional risk. Without compromising fraud investigations, notifications should include enough context for customers to understand why the transaction was delayed. The objective should be to make the notification useful as an investor-protection intervention, rather than merely a procedural formality.

B. Internal Review and Supervisory Procedures Should Be Required Under Rule 2166.

Proposed Rule 2166 would authorize individual associated persons to place temporary delays when they reasonably believe fraud has occurred, is occurring, has been attempted, or will be attempted.[29] While the Proposal would require written supervisory procedures and training,[30] it does not appear to require internal supervisory review of a decision to impose a delay before or promptly after the delay is placed.

When an associated person acting on his or her own initiative places a delay on a customer transaction, that person is effectively making a decision on behalf of the entire firm to restrict the customer's access to his or her assets. FINRA should consider whether the rule should include a provision requiring timely internal review or supervisory concurrence after a delay is imposed, similar to the internal review framework under Rule 2165, to ensure that the decision is consistent with the firm's supervisory procedures and appropriately calibrated to the circumstances. Such a safeguard would reduce the risk that delays are imposed without adequate institutional consideration and would provide a mechanism for firms to self-correct before the full 10-business-day period expires.

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29 Proposal at 6.

30 Proposal at 266.

IV. Conclusion

The recommendations set forth in this letter are intended to strengthen the Proposal's framework by promoting greater transparency for customers, more consistent application of firm obligations, and appropriate institutional oversight over decisions that restrict customers' access to their own assets. NASAA urges FINRA to adopt these refinements to ensure that the final rules achieve the careful balance between robust investor protection and respect for customer autonomy that the Proposal envisions.

NASAA appreciates the opportunity to comment on the Proposal. Thank you for considering these views. Should you have any questions about this letter, please contact either the undersigned or NASAA's General Counsel, Vince Martinez, at (202) 737-0900.

Sincerely,

Marni Rock Gibson

Marni Rock Gibson
NASAA President