

MEMO# 30424

November 25, 2016

ICI Files Comment Letter with SEC Supporting FINRA Rules to Protect Senior Investors

[30424] November 25, 2016 TO: Broker/Dealer Advisory Committee
Principal Underwriters Working Group
Transfer Agent Advisory Committee RE: ICI Files Comment Letter with SEC Supporting
FINRA Rules to Protect Senior Investors

As we previously informed you, in October FINRA filed with the SEC a proposal designed to enable FINRA's members to better protect senior investors.[\[1\]](#) In particular, FINRA proposes to revise Rule 4512, relating to customer account information, and create a new Rule 2165, relating to Financial Exploitation of Specified Adults. The revisions to Rule 4512 would require each member to maintain, as part of its customer account information for non-institutional accounts, the "name and contact information for a trusted contract person aged 18 or older who may be contacted about the customer's account." New Rule 2165 would enable FINRA members, subject to the new rule's requirements, to put a temporary hold on disbursements from a customer's account in the event the member reasonably believes that financial exploitation of a senior investor or an investor aged 18 or older with a mental or physical impairment is the subject of financial exploitation.

The Institute has filed a comment letter with the SEC supporting FINRA's proposal because it will better enable members of FINRA to protect the interests of their senior or vulnerable account holders. The letter notes that the current version of the proposal addresses many of the concerns we had raised with FINRA when it first published the proposal in October 2015.[\[2\]](#) Notwithstanding our support for the current version, the Institute's letter recommends that Rule 2165 be revised to:

- Expressly provide that any temporary hold a member places on disbursements from an account be lifted as soon as the member determines that continuing such hold is not necessary to protect the account owner;
- Address the effect of a hold on a jointly-held account when the hold is imposed based on concerns about only one owner of the account; and
- Expressly provide that a member's failure to impose a hold shall not be deemed to be an abrogation of the member's duties under FINRA's rules. In our view, this revision will help protect FINRA's members from liability in the event the member does not exercise its discretion to place a hold on disbursements from the account.

A copy of the Institute's letter is attached.

Tamara K. Salmon
Associate General Counsel

[Attachment](#)

endnotes

[1] See [Institute Memorandum No. 30388](#) (November 8, 2016), which summarizes the FINRA proposal and seeks members' comments on it.

[2] See [Institute Memorandum No. 29516](#) (November 25, 2015) for a summary of the comment letter the Institute filed with FINRA. A copy of the letter is attached to this memorandum.

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