

MEMO# 35550

December 15, 2023

ICI Files Comment Letter on Proposed Amendments to FINRA Rule 2210

[35550]

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TO: ICI Members SUBJECTS: Advertising

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Investment Advisers RE: ICI Files Comment Letter on Proposed Amendments to FINRA Rule 2210

Last month, FINRA filed with the SEC proposed amendments to Rule 2210 (Communications with the Public) (the "rule").[\[1\]](#) If adopted, the amendments would permit a FINRA member to project the performance or provide a targeted return with respect to a security or asset allocation or other investment strategy in an institutional communication (or a communication distributed solely to qualified purchasers that promotes or recommends specified non-public offerings), subject to several investor protection-oriented conditions.

Linked below is the comment letter that ICI filed today. We believe that performance projections and targets, subject to proper investor protection guardrails, can help inform investors'—including retail investors'—decision-making process. Because the current rule largely proscribes the use of performance projections in communications, adoption of the proposal would modestly improve the status quo. To further extend the informational benefits of performance projections and targets, we urge FINRA to align more fully any final amendments with the performance standards that the SEC adopted in its 2020 marketing rule for investment advisers. Specifically, we recommend that FINRA (i) broaden the reach of any final rule amendments to include retail investors, and (ii) further streamline the rule's related conditions.

Matthew Thornton
Associate General Counsel

Notes

[1] Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 2210 (Communications With the Public) To Permit Projections of Performance of Investment Strategies or Single Securities in Institutional Communications; SEC Release No. 34-98977, 88 Fed. Reg. 82482 (Nov. 24, 2023) (the "proposal"), available at <https://www.govinfo.gov/content/pkg/FR-2023-11-24/pdf/2023-25881.pdf>. See ICI Memo No. 35516 for background and a more comprehensive summary of the proposal.

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