

October 29, 2019

Submitted electronically to: pubcom@finra.org

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: RN 19-27: Rules and Issues Relating to Senior Investors

Dear Ms. Mitchell,

Raymond James appreciates the opportunity to comment on Regulatory Notice 19-27 (the “Notice”) regarding Rules and Issues Relating to Senior Investors. It is only through a collaborative and thoughtful approach that we will all accomplish our shared goal of protecting our senior clients. In that spirit, we respectfully submit the following comments and recommendations for your consideration.

Rule 2165

Raymond James supports extending Rule 2165’s safe harbor to apply to transactions in securities. Damage to a client’s financial well-being can result by executing a transaction that is based on exploitation just as it can by allowing an exploitative disbursement. A permissive extension to transactions is a valuable tool in the fight against senior exploitation. It is true that changes in security prices could occur while an investigation is being conducted. If the hold is done with the same criteria as currently required for disbursements, i.e., as a result of a member’s reasonable belief that financial exploitation of the Specified Adult has occurred, is occurring, has been attempted, or will be attempted, then we believe the safe harbor should apply regardless of the result of the investigation, just as it does for disbursements.

Raymond James also supports extending Rule 2165’s safe harbor to apply where there is a reasonable belief that the client has an impairment that renders that individual unable to protect his or her own interests. As a result of knowing their clients, advisors are often uniquely qualified to detect when all is not as it should be with a client. A permissive pause on a disbursement and/or transaction when, based on the facts and circumstances observed in the member’s business relation with the person, an advisor is reasonably concerned about the client’s ability to protect his or her own interests would go a long way toward protecting clients in all

stages of cognitive decline. It would allow the member to investigate and either alleviate or substantiate its suspicions before any damage to the client's financial well-being is done.

Finally, Raymond James supports extending the temporary hold period in the rule or, in the alternative, providing for an application of extension to FINRA in circumstances that warrant a longer hold period. Members are often relying on one or more agencies to conduct their own investigation into situations of possible exploitation in order to inform their next steps with respect to a client in possible crisis. It is our experience that these agencies rarely have the resources to complete such an investigation within the 25 business days currently subject to the application of the safe harbor. To release a hold in the midst of either our own or an agency investigation is counterproductive to the purpose of the rule. We would recommend either extending the hold period to coincide with the length of an agency's investigation or providing for some mechanism by which firms could apply to FINRA for an extension of the hold period based on extenuating circumstances, including an ongoing agency investigation.

Rule 4512

The trusted contact provision in Rule 4512 has been effective in helping to combat exploitation and in other situations as well. Having a third party to whom we may reach out in certain circumstances, without giving that person the ability to give instructions or receive certain information, allows us to resolve many situations with minimal disruption to the client. Without the trusted contact as an option, we cannot legally speak to anyone other than those authorized on the account(s) and may be left with very limited options to help the client. We would respectfully recommend that FINRA consider assisting in client education regarding trusted contact to further validate its importance and legitimacy.

Reporting Requirements

Raymond James supports extending Rule 2165's safe harbor to reporting requirements pursuant to Rule 4530 or, in the alternative, developing a specific problem code for Rule 2165-related reporting. Due to the allegation based nature of the complaint process, an advisor could find himself or herself the subject of a U4 and U5 reportable complaint simply for doing what Rule 2165 allows him or her to do. As FINRA knows, an advisor's U4 or U5 is incredibly important and any blemish, even one eventually "dismissed", is anathema to his or her very livelihood. Further, the mere possibility of receiving a complaint is enough to cause some advisors not to avail themselves of the good that can be done through the use of Rule 2165.

We would also support development of a specific problem code for the trusted contact provision in Rule 4512. It is true that a client gives a member the name and contact information for a trusted contact and receives the required disclosures and explanations of when the member might contact that person. It is also true that clients, particularly when in the grips of a talented fraudster, may come to resent the member's use of that trusted contact and complain against the

member and/or the advisor. We would again point out the vital importance an advisor's U4 and U5 is to their professional lives and submit that the mere possibility of receiving a complaint is enough to cause some advisors not to reach out to a trusted contact in situations where such contact is warranted.

In conclusion, Rule 2165 and the trusted contact provision in Rule 4512 have been very welcome tools in the fight against the crisis that is senior and vulnerable adult exploitation. We thank you for the opportunity to comment and look forward to your continued partnership.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Linehan', with a long horizontal flourish extending to the right.

Erin K. Linehan, Esq.
Associate General Counsel - Compliance