



May 18, 2023

The Honorable Brenda Carter, Chair
The Honorable Mike McFall, Majority Vice Chair
The Honorable Mike Harris, Minority Vice Chair
House Committee on Insurance and Financial Services
House Office Building, Room 521
124 N. Capitol Avenue
Lansing, MI 48933

RE: Support of HB 4197

Dear Chair Carter, Vice Chair McFall, Vice Chair Harris and Members of the House Committee on Insurance and Financial Services:

The Financial Industry Regulatory Authority writes to you today to provide comments on HB 4197, which would authorize temporary holds on certain suspicious activity to protect senior and vulnerable adults from financial exploitation. FINRA sincerely applauds this effort and HB 4197, in particular Section 539, which would allow state and local investigating agencies (including adult protective services, law enforcement and other investigators) to share certain information about a case or investigation with reporting broker-dealers and investment advisers. The inclusion of this section would help FINRA-regulated broker-dealers protect Michigan investors by facilitating communication between reporting broker-dealers and state and local investigators – communication that is vital to the proper functioning of FINRA Rule 2165, as outlined in more detail below.

FINRA is dedicated to investor protection and market integrity. It regulates brokerage firms doing business with the public in the United States – including the more than 200,000 financial advisors registered to do business in Michigan and the nearly 5,000 brokerage offices in the state. Overseen by the Securities and Exchange Commission, FINRA writes rules, examines for and enforces compliance with FINRA rules and federal securities laws, registers broker-dealer personnel, offers them education & training, and informs the investing public.

FINRA's Report & Hold Rule

FINRA rules apply to brokerage firms and their associated persons. In 2018, FINRA [Rule 2165](#) went into effect. This rule is the first uniform national standard for placing temporary holds on suspicious disbursements to combat financial exploitation of seniors and vulnerable adults.

FINRA's temporary hold on a suspicious disbursement can only last for a certain period of time unless it is extended through communication with a state agency (such as a state securities regulator, APS or law enforcement) or court of competent jurisdiction. This recognizes the important role of state agencies in dealing with financial exploitation¹ and allows for the hold safe harbor to apply for the duration of an investigation.

¹ [SR-FINRA-2016-039](#), pg. 22.

However, for the safe harbor to be extended, an agency of competent jurisdiction must be able to communicate some basic information back to the brokerage firm that made the report. In fact, the closing of this “feedback loop” – basic communication between the investigators and the reporters of financial exploitation – was highlighted as a best practice in a 2015 U.S. Senate Special Committee on Aging hearing on this very topic.²

Take a situation where a brokerage firm reasonably believes that a client is a victim of financial exploitation, and the client has requested that the firm send their life savings to the suspected bad actor. The firm makes a report to APS and places a hold on that disbursement. FINRA Rule 2165 permits the firm to hold on to the funds for up to 55 business days if a report is made. As the end of the 55 days approaches, the firm reaches out to APS and APS states that they will need an additional 15 days to complete their investigation and asks the firm to not release the funds until the investigation is complete. Under FINRA Rule 2165, this communication would be sufficient to extend the Rule 2165 safe harbor which would help the firm continue to hold those funds while the state or local investigation is ongoing.

How HB 4197 Can Help

Section 539 of HB 4197 would explicitly permit investigating agencies to share general status and final disposition information with reporting broker-dealers and investment advisers. This communication could then be used to extend the safe harbors provided by both HB 4197 and FINRA Rule 2165. This small change will have a very real impact on the protection of seniors and vulnerable adults in Michigan – and helps our national rule function as intended.

Thank you for your time and effort on this issue. If there is any additional information we can provide or if you have any questions, please contact Kyle Innes of FINRA at kyle.innes@finra.org or 646-315-7367.

Sincerely,

Gregory Dean

Gregory Dean
Senior Vice President
Office of Government Affairs
FINRA

² U.S. Senate Special Committee on Aging, “[Broken Trust](#): Combating Financial Exploitation of Vulnerable Seniors.” February 4, 2015.