



Carrie L. Chelko, Chief Counsel
Lincoln Financial Network
3400 One Commerce Square
Philadelphia, PA 19103
[REDACTED] (Phone)

November 28, 2016

By Electronic Mail (rule-comments@sec.gov)

Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

**Re: File Number SR-FINRA-2016-039
SEC Notice of Filing of FINRA Proposed Rule Change to Amend FINRA Rule
4512 (Customer Account Information) and Adopt FINRA Rule 2165 (Financial
Exploitation of Specified Adults)**

Dear Mr. Fields:

Lincoln Financial Network (LFN or Lincoln) is the marketing name for Lincoln Financial Group's two dually-registered broker-dealers/investment adviser entities: Lincoln Financial Advisors Corp. and Lincoln Financial Securities Corp.¹ Currently, LFN maintains an affiliation with over 8,500 financial advisors, which include registered representatives, investment advisor representatives, insurance brokers and agents. LFN has an open architecture business model, allowing its financial advisors the ability to offer a variety of investment products, including securities (e.g., stocks, bonds, mutual funds, variable annuities), advisory services, and non- securities products (e.g., fixed annuities and life insurance, including insurance sold by insurance companies others than LFG).

LFN appreciates the opportunity to submit this comment letter to the Securities Exchange Commission ("SEC") in response to the Notice of Filing SR-FINRA-2016-039 (the "Notice"), which was published in the Federal Register on November 7, 2016 by the SEC.² The Notice requests comment on a proposal by the Financial Industry Regulatory Authority, Inc. ("FINRA") to amend FINRA Rule 4512 (Customer Account Information) and adopt new FINRA Rule 2165 (Financial Exploitation of Specified Adults) (collectively referred to as the "Proposed Rules") in the Consolidated FINRA Rulebook.

I. Background

The Proposed Rules would require firms to make a reasonable effort to obtain the name and contact information of a "trusted contact person" for any non-institutional account and permit, "qualified persons" of a firm to place a temporary hold on disbursements of funds or securities from the accounts of

¹ LFN is an affiliate of Lincoln Financial Group, whose other affiliated companies act as issuers of insurance, annuities, retirement plans and individual account products and services. The affiliates include, but are not limited to the Lincoln National Life Insurance Company ("LNL"); Lincoln Life and Annuity Company of New York ("LLANY") and Lincoln Financial Distributors ("LFD"), Lincoln's wholesaling arm, a broker-dealer registered with the SEC and a member of FINRA.

² 81 Fed. Reg. 78,238 (Nov. 7, 2016), which is available at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-07/pdf/2016-26797.pdf> (last visited 11.22.2016)

certain “specified adults” where there is a reasonable belief that financial exploitation of those adults has occurred. The Proposed Rules would permit firms to reach out to the trusted contact person that has already been identified by the customer or put a temporary hold on the disbursement of funds under certain circumstances when financial exploitation is suspected in order to protect seniors and other vulnerable adults from financial exploitation.

A rule proposal related to financial exploitation of seniors and other vulnerable adults was first circulated by FINRA in 2015 under Regulatory Notice 15-37, *Financial Exploitation of Seniors and Other Vulnerable Adults: FINRA Requests Comment on Rules Relating to Financial Exploitation of Seniors and Other Vulnerable Adults* (Oct. 2015) (“RN 15-37”).³ LFN submitted a comment letter on that initial proposal on November 30, 2015.⁴

After reviewing the comments submitted by all commenters, FINRA filed the Proposed Rules for approval by the SEC on October 19, 2016. Lincoln is very supportive of FINRA’s efforts to protect vulnerable clients. This is an issue of growing concern for the financial industry and Lincoln appreciates how diligently FINRA is working to identify solutions and options for firms and advisors when a vulnerable client could be subject to exploitation. The basic principles of protecting vulnerable adults are present in the Proposed Rules. However, LFN requests a few additional items so that the Proposed Rules will be more effective and allow member firms to operationalize a process which is consistent with all regulations across the industry, as described more fully below.

II. Conflicting Regulatory Framework

The existing regulatory environment for dually registered broker-dealers and investment advisers is complex and robust. LFN’s broker-dealers and investment advisers are subject to regulation by FINRA, the SEC and the states. At times, these regulatory regimes conflict or are inconsistent.

A. NASAA

In the area of elder abuse, a number of states have more mature regulations and statutes. Lincoln would encourage FINRA to evaluate whether changes can be made to this proposal to allow for more harmonization with state regulations or with the Model Rule recently adopted by the North American Securities Administrators Association (“NASAA”). In the Notice, FINRA stated that FINRA and NASAA have discussed both initiatives but inconsistencies still exist. As an example, many states have different criteria (e.g., age) to determine whether an individual qualifies as a vulnerable adult. Additionally, states have varying reporting requirements or obligations of financial institutions if fraud or exploitation is suspected. Also, the “safe harbor” provisions vary among the states. While uniform rules and regulations are not always attainable, Lincoln would encourage FINRA to address any inconsistencies or possible violations of regulations from the SEC, NASAA and any individual state securities regulators to develop a harmonized proposal acceptable to all constituents.

B. Investment Company Act of 1940

The Proposed Rules allow for a broker-dealer to place a temporary hold on the disbursement of funds to a customer for up to 15 business days (and possibly for a successive 10 business day period pending the firm’s internal review). LFN is concerned that placing a temporary hold on disbursements

³ RN 15-37 is available at http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-15-37.pdf. (last visited 11.22.2016)

⁴ See LFN comment letter filed on November 30, 2015. Available on the FINRA website at: http://www.finra.org/sites/default/files/15-37_LFN_comment.pdf (last visited 11.22.2016)

may not comply with the requirements of Section 22(e) of the Investment Company Act of 1940 (the “’40 Act”). In particular, LFN is concerned that the SEC may interpret a broker-dealer’s disbursement hold as indirectly preventing a mutual fund from processing a redemption request in violation of Section 22(e). LFN respectfully requests clarification on this issue.

III. Additional Comments

In its Regulatory Notice, FINRA sought feedback from member firms on other topics. One related to whether Rule 2165 should be expanded to cover other requirements. LFN suggested that Rule 2165 be expanded to cover additional situations in which a vulnerable adult may be harmed, including activities resulting from diminished capacity. FINRA has indicated that these issues will be addressed later. LFN respectfully suggests that all matters related to a rule filing be addressed simultaneously to ease the burdens on member firms from multiple regulatory changes relating to the same rule. Diminishment is just as important a risk as exploitation and occurs just as frequently. Allowing firms to use Rule 2165 to protect customers in these situations is imperative.

IV. Conclusion

LFN is supportive of FINRA’s efforts and commitment to protecting senior customers and providing firms in addressing financial exploitation of senior customers. If you have any questions, please do not hesitate to contact me at [REDACTED] or [REDACTED].

Respectfully Submitted,



Carrie L. Chelko, Esquire
Chief Counsel
Lincoln Financial Network