ALERT MEMORANDUM

FINRA Relaxes Rules on Performance Projections and Targeted Returns in Broker-Dealer Marketing

November 24, 2026

On November 18, 2026, the Financial Industry Regulatory Authority, Inc. (FINRA) issued Regulatory Notice 26-24 (the Notice), announcing amendments to FINRA Rule 2210 (Communications with the Public) (FINRA Rule 2210) that will permit broker-dealers to include projected performance and targeted returns in communications to institutional and retail investors, subject to specified conditions. The amendments will take effect on February 1, 2027.[1]

For situations where a registered broker-dealer is distributing the materials of an SEC-registered investment adviser (e.g., private fund sponsors and their placement agents), the amendments should provide meaningful flexibility to discuss a fund's prospective returns in broker-dealer-distributed marketing materials, in line with the requirements for projected performance imposed by Rule 206(4)-1 (the Marketing Rule) under the Investment Advisers Act of 1940, as amended (the Advisers Act). However, the change is not a general authorization to distribute projections to any retail investors. The permissibility of projections depends upon the broker-dealer's assessment of the intended audience, the quality of the accompanying disclosures, and the ability to substantiate the projected performance. In addition, other regulatory restrictions under the Securities Act of 1933, as amended (the Securities Act) and the Investment Company Act of 1940, as amended (the 1940 Act) with respect to registered investment companies and business development companies impose slightly different or more stringent requirements than those applicable to broker-dealers under the FINRA rules, and thus may still restrict the manner and usage of certain projected performance and targeted returns with respect to those products.

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[1] FINRA, Regulatory Notice 26-24, "Communications with the Public" (Nov. 18, 2026), at 1.

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I. FINRA Rule 2210

FINRA Rule 2210 generally prohibits communications distributed by member firms from predicting or projecting performance, implying that past performance will recur, or making exaggerated or unwarranted claims, opinions, or forecasts, subject to specified exceptions. The amendments add a narrowly-tailored exception for communications projecting performance or presenting a targeted return for a security, a securities portfolio, or an asset allocation or other investment strategy.

To take advantage of these amendments, a broker-dealer must:

1. Adopt and implement written policies and procedures reasonably designed to ensure that the communication is relevant to the likely financial situation and investment objectives of the intended audience;
2. Provide sufficient information to enable the intended audience to understand
    a. the criteria used and assumptions made in calculating the projected performance or targeted return; and
    b. the risks and limitations of using the projected performance or targeted return in making investment decisions; and
3. Retain records of information concerning the source of any projection of performance or targeted return.

It is important to note that, notwithstanding these amendments, the general content standards of FINRA Rule 2210 continue to apply to broker-dealers' marketing materials. In this regard, communications must be fair and balanced, provide a sound basis for evaluating the relevant facts, and avoid false, exaggerated, unwarranted, promissory, or misleading content. Permission to include a projection should not be considered a safe harbor for the substance of the projection or its overall presentation within a communication.

II. Permitted Audiences

A broker-dealer relying on the exception must adopt and implement written policies and procedures reasonably designed to ensure that the communication is relevant to the likely financial situation and investment objectives of its intended audience. In the Notice, FINRA stated that projections should be distributed only to investors whom the broker-dealer reasonably believes have access to resources to independently analyze the information and have the financial expertise to understand the risks and limitations of the presentation.

Broker-dealers should not assume that identifying an investor as accredited or otherwise eligible for a particular investment necessarily establishes that the investor is an appropriate recipient of projected performance. Broker-dealers must consider the intended audience's likely financial situation, investment objectives, analytical resources, and expertise.

In the Notice, FINRA recognized that reasonably designed policies and procedures do not require a broker-dealer to address individual investors' particular circumstances, instead permitting firms to group investors into categories or types and make reasonable judgments about the likely investment objectives and financial situation of the categories or types.

FINRA did note that broker-dealers generally may not include projections or targeted returns in communications directed to a mass audience or intended for general circulation, including a general retail investor audience, as a firm would generally not be able to form the necessary expectations about the relevance of the communication to the financial situation and investment objectives of a general retail investor audience.

Importantly, however, the rule amendments do not restrict the presentation of projected performance to institutional investor audiences. Broker-dealers will be able to distribute communications including projected performance to retail investors, provided they can form the necessary expectations of relevance, which would

require an evaluation of specific factors of a retail investor audience which would make the performance projections relevant.

III. Communication and Recordkeeping Requirements

The amendments require sufficient information to enable the intended audience to understand both (i) the criteria and assumptions used to calculate the projection or target and (ii) the risks and limitations of using that information in making investment decisions.

Methodology and assumptions. FINRA expects member firms to include a general description of the methodology sufficient to explain the basis of the projections, together with the underlying assumptions in the communication. For example, firms generally should disclose whether the projected performance or targeted return is net of anticipated fees and expenses. The amendments do not prescribe a particular methodology or calculation and do not require public disclosure of proprietary or confidential methodology or criteria. In the Notice, FINRA recognized that disclosure may be tailored to the particular communication and audience.

Risks and limitations. FINRA generally expects the communication to provide enough information for investors to understand why actual performance could differ from the projection or target. FINRA noted that this disclosure requirement is intended to help ensure that investors do not unreasonably rely on a projection or targeted return.

Substantiation and recordkeeping. The amendments require member firms to maintain records of the information concerning the source of any projection or targeted return, which includes the information necessary to substantiate the basis of the presented projections and targets. For broker-dealers acting as placement agents for fund sponsors, this requires the broker-dealer to identify the sources and obtain sufficient supporting information to assess the basis of the projections, rather than merely rely on the fund sponsor's production of the marketing materials.

IV. Convergence with the Advisers Act Marketing Rule

The requirements of the amendments with respect to targets and projections are consistent with the requirements for SEC-registered investment advisers imposed by the "Marketing Rule. In particular, the policies and procedures requirements with respect to the intended audience and the disclosure requirements with respect to the underlying criteria and assumptions and the risks and limitations match exactly those imposed on SEC-registered investment advisers with respect to hypothetical performance. Therefore, these amendments will make it easier for a registered broker-dealer to distribute materials prepared by an SEC-registered investment adviser because their regulatory requirements will be more in line with each other, including, for example, where a broker-dealer is acting as a placement agent for an SEC-registered private fund sponsor. However, there is not significant guidance from either the SEC or FINRA on (i) how to determine whether projections or targets are relevant to the likely financial situation and investment objectives of the intended audience or (ii) what is sufficient information concerning the criteria, assumptions, risks and limitations associated with the projections and targets. As a result, there may be some divergence in the approaches taken by particular broker-dealers and investment advisers that may cause conflict concerning to whom such targets and projections can be shown and the nature and extent of disclosure that is required to be provided.

V. Regulatory Overlay for Registered Funds and Business Development Companies

While FINRA Rule 2210 governs general communications, including those directed at retail investors, there may be additional regulatory requirements that apply in the case of retail-oriented registered investment companies and business development companies regulated under the 1940 Act, including in particular those conducting public offerings under the Securities Act. For example, Rule 34b-1 under the 1940 Act applies a separate regulatory restriction on the use of sales literature by registered funds and business development companies that may

be deemed to be misleading. In addition, Rule 482 under the Securities Act, which applies to certain advertisements used by registered funds and business development companies, also includes express restrictions regarding the use of performance data by such regulated funds. Accordingly, the use of targeted returns and projections in the case of registered funds and BDCs should also be evaluated in the context of the relevant 1940 Act and, if applicable, Securities Act provisions that govern advertisements and marketing communications with respect to such products.

VI. Key Takeaways

— ***Greater regulatory alignment for broker-dealers and investment advisers***. The closer alignment between the FINRA Rule 2210 amendments and the Marketing Rule requirements should reduce the need to omit information from materials distributed by broker-dealers that could otherwise be included in materials distributed by investment advisers, and should therefore help ensure that investors receive the same information. The amendments should also make it easier for dual registrants and broker-dealers affiliated with investment advisers, to develop and distribute marketing materials containing projections or targeted returns for use across their brokerage and advisory businesses.

— ***Target audience analysis***. In practice, broker-dealers will need to adapt the compliance frameworks for classifying investors and analyzing the financial situation and investment objectives of an intended audience. Broker-dealers will also continue to need to control distribution, review disclosures, and retain supporting information to substantiate projected performance.

— ***Differences across placement agents***. The principles-based framework leaves room for different judgments about appropriate audiences and sufficient support for projected performance. Fund sponsors using multiple distributors may therefore continue to face different diligence requests and require different versions of marketing materials.

— ***Flexibility for portfolio and strategy marketing***. The relief provided by the amendments extends to projections and targeted returns for individual securities, securities portfolios, and asset allocation or other investment strategies. Broker-dealers should therefore have greater flexibility to explain the prospective outcomes of portfolio construction and investment strategies to appropriate audiences. To do so, broker-dealers will need to develop compliance procedures to ensure that the assumptions underlying those outcomes can be justified and that communications with investors properly explain those assumptions and the reasons that actual results may differ from projections, and maintain corresponding books and records, capturing the documents and information supporting such assumptions.

— ***Be mindful of other more stringent regulatory provisions***. In the case of registered investment companies and business development companies, broker-dealers should remain mindful of the additional regulatory overlay that applies to such products under the 1940 Act, and if publicly-offered, under the Securities Act, as such regulatory provisions may still continue to restrict the use of projections and targeted returns with respect to such products.

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