

PUBLIC POLICY, MARKET-STRUCTURE & AMENDATORY COMMENT

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Agency:	U.S. Securities and Exchange Commission
File No.:	4-931
Release:	Release No. 33-11445 (Sept. 30, 2026); Federal Register publication pending
Title:	Rule 501(a)(10) — Potential Designation of Passage of an Accredited Investor Exam to Be Developed by FINRA

The Native Claim Firm supports designating a well-built FINRA accredited investor exam under Rule 501(a)(10). It is the one proposed designation that lets a person qualify on demonstrated knowledge alone, without wealth, income, or an industry job. The designation should issue only with the targeted amendments below. Every operative feature of the Exam in the Notice is stated in the future or conditional tense, and Rule 501(a)(10) requires the Commission to designate a credential, not an intention. The amendments convert FINRA’s plan into a durable record using FINRA’s existing Section 19(b) process and a verification service the Notice already assumes.

This comment responds to the Commission’s request for comment on whether to designate Exam Holders, whether the designation raises investor-protection concerns unique to those who would qualify, and the Exam’s content, format, administration, result verification, fees, and validity period. It does not ask the Commission to add an experience prerequisite, impose investment caps, change the anticipated fee or the ten-year validity period, or delay the other four designations noticed on the same date.

I. Executive request

- Rule 501(a)(10) and Note 1: make the designation effective on a defined Exam Launch Date, and route later material changes to the Exam through FINRA’s existing Section 19(b) process.
- Good standing: define the status, preserve an unexpired result when a renewal attempt fails, and fix the ten-year boundary.
- Rule 501(a)(10)(iv): require a free, holder-controlled verification service at launch that confirms status without publishing retail test-takers or disclosing scores.
- Rules 501(a)(10)(ii)–(iii): require a published technical summary, scenario-based items, and testing of capacity to bear loss; answer the adverse comments on experience.
- Common provisions: time-of-sale, change-notice, and severability text proposed identically in all five dockets.

II. The designation must attach to an Exam that exists

The Notice would designate “passage of the Exam,” but the Exam has not been built. Section II.A.3 describes content that “would” be tested, a question count “anticipated” to fall between 65 and 85, a fee “anticipated” to resemble the SIE Exam’s \$100, and a validity period that is “anticipated.” Footnote 39 states that every such description reflects only what FINRA currently “intends.” Note 1 to Rule 501(a)(10) requires designation by order after notice and comment. An order that designates a future-tense exam invites two failures: a challenge that the Commission found Rule 501(a)(10)(ii) satisfied for a

test no one can inspect, and post-designation drift, in which content weights, the passing standard, validity, or delivery change after the Commission's findings without any Commission determination.

The cost of the gap falls first on issuers. A rational Rule 506(c) issuer will not rely on a credential whose defining terms can change underneath it, and the credential then goes unused. The cost of avoiding the gap is low because FINRA already routes changes to its qualification and fee programs through Section 19(b) (Notice nn.46, 51, 60). The amendment only sequences effectiveness and borrows that process.

Add Order ¶ 1: "Pursuant to Note 1 to 17 CFR 230.501(a)(10), the Commission designates passage of the FINRA Accredited Investor Exam (the 'Exam') as qualifying a natural person who is an Exam Holder in good standing for accredited investor status. This designation takes effect on the Exam Launch Date. The 'Exam Launch Date' is the first date on which FINRA administers the Exam after (i) a FINRA rule change establishing the Exam has become effective under section 19(b) of the Exchange Act and (ii) FINRA has published the Exam content outline, section weightings, passing-standard methodology, validity period, and the verification procedure in paragraph 3. The designation applies to the Exam as so established. A material change to the Exam's content areas, passing standard, validity period, delivery, or verification procedure becomes effective for purposes of this designation only upon effectiveness of a FINRA rule change under section 19(b) that addresses the change; in connection with that action the Commission may continue, condition, or withdraw the designation as to the changed Exam."

III. Good standing and the ten-year clock need three sentences

The Notice treats passage plus a ten-year validity period as good standing. It does not say what ends standing early, what happens when a holder retakes the Exam before expiration, or when status is tested. The Notice itself shows that FINRA's retake intervals are moving (30 and 180 days now; 15 and 60 days proposed, n.60) and that conduct violations carry consequences for results (n.58). A holder who fails a renewal attempt in year nine should not lose a result that is still valid, and an issuer should not have to guess whether a holder who re-passes in year nine has a gap.

Add Order ¶ 2: "An 'Exam Holder in good standing' is a natural person who (i) received a passing score on the Exam, (ii) is within ten years after the date of that result, and (iii) whose result has not been invalidated under FINRA rules of conduct. A passing score on a later attempt begins a new ten-year period on the date of that result, without interruption. A failed attempt does not affect an unexpired passing result. This order does not incorporate any FINRA retake interval."

IV. Verification must exist at launch and must not become a list of retail investors

Rule 501(a)(10)(iv) requires that holder status be publicly available or independently verifiable. The Notice says only that FINRA "would develop a process." That leaves no commitment on timing and no design constraint. Timing matters because Rule 506(c) issuers must take reasonable steps to verify status, and without a working lookup on day one the credential is unusable. Design matters because the Exam, unlike the Series 7, 65, and 82, requires no association with a member firm. A public BrokerCheck-style listing would turn newly accredited retail investors into a solicitation list. The Commission asked about investor-protection concerns unique to this population; that is one.

The fix is a holder-controlled confirmation. FINRA gives each Exam Holder an identifier, the holder gives it to the issuer or intermediary, and a free FINRA lookup returns only status, passage date, and expiration date. That is "independently verifiable" within Rule 501(a)(10)(iv), and it requires no system beyond the lookup the Notice already assumes.

Add Order ¶ 3: "Before the Exam Launch Date, FINRA shall make available, at no charge to issuers and intermediaries, a procedure by which an issuer or its agent may confirm, using an identifier furnished by the Exam Holder, whether the person (i) passed the Exam, (ii) remains within the validity period, and (iii) has not had the result invalidated, together with the dates of passage and expiration. The procedure shall not disclose the Exam Holder's score, number of attempts, or contact information, and FINRA shall not publicly list an Exam Holder without that person's affirmative consent. Confirmation under this paragraph obtained within 30 days before a sale will ordinarily constitute reasonable steps to verify the purchaser's status for purposes of 17 CFR 230.506(c)(2)(ii)."

V. The Rule 501(a)(10)(ii)–(iii) record is conclusory and ignores the adverse comments

Section II.B.2 reasons that an exam designed to meet Rule 501(a)(10)(ii) “would also satisfy” Rule 501(a)(10)(iii), and stops. The other four notices rest on the exam plus education, supervised experience, or continuing education. NASAA and Nasdaq told the Commission that an exam without experience is not a satisfactory measure (n.28); the Notice does not answer them. It also does not address reliability and validity: the Exam is modeled on the SIE Exam, an entry-level industry test, and the Notice cites no practice analysis or pilot of the kind the CFA and CFP notices describe. And the Notice concedes that newly eligible holders may have “fewer financial resources” (n.77), yet no listed section tests capacity to bear loss.

This is the designation most exposed to challenge. The fix is not an experience prerequisite, which would defeat the access purpose and delay adoption. The Commission can close the record with items FINRA must produce anyway to standard-set the Exam: a published technical summary, scenario-based items, one added content line, and an aggregate data report that gives the Commission the evidence it has so far lacked.

Add Order ¶ 4: “(a) Before the Exam Launch Date, FINRA shall publish a technical summary describing item development and pretesting, the standard-setting method, evidence of reliability, and the relationship between each Exam section and the competencies described in 17 CFR 230.501(a)(10)(ii) and (iii), and shall update the summary at least every five years. (b) Not less than 20 percent of scored items shall be scenario-based, requiring the candidate to evaluate excerpts of materials of the kind used in offerings under Regulation D, Regulation A, or Regulation Crowdfunding. (c) The Investment Risks section shall test capacity to bear loss, including the possibility of total loss, the size of an investment relative to liquid net worth, and illiquidity relative to near-term liquidity needs. (d) For the first three years after the Exam Launch Date, FINRA shall furnish Commission staff annually with aggregate, de-identified data on candidates, pass rates, retakes, expirations, and invalidations.”

Add to the Commission’s findings: “The Commission has considered the comments of NASAA and Nasdaq, Inc. that a designation based on examination should also require experience. For this designation the Commission concludes that an experience prerequisite is unnecessary because the Exam tests applied judgment and capacity to bear loss, status renews only by retaking the Exam every ten years, the designation confers status on the individual only, and the Commission will review the data furnished under paragraph 4(d) and may amend or withdraw the designation.”

VI. Common provisions

The five notices were issued together and share three omissions: none says when a holder’s status is tested, none provides for changes in the credentialing body’s requirements after designation, and none says the designations are severable. We propose identical text in each docket, with the credentialing body named, so the Commission can issue the five orders on one form.

Add Common Provisions ¶ C: “(a) Time of sale. Whether a natural person holds a designated credential in good standing is determined at the time of the sale of securities to that person. A later lapse, expiration, suspension, termination, or revocation does not affect the person’s status for that sale, or an issuer’s reliance on 17 CFR 230.501(a), if the issuer reasonably believed at the time of sale that the person held the credential in good standing.

(b) Change notice and reservation. The Commission may amend or withdraw this designation by order, after notice and opportunity for comment, if the requirements on which this designation rests are materially changed by FINRA. The Commission requests that FINRA notify the Office of Small Business Policy, Division of Corporation Finance, at least 60 days before such a change takes effect.

(c) Severability; no effect on other law. Each designation in the orders issued with this order is separate, and the invalidation, stay, or withdrawal of any one does not affect the others. A designated holder qualifies only in the holder’s own right and may not rely on that status to purchase securities on behalf of another person. Nothing in this order alters Federal or State antifraud law or any restriction on a person’s participation in an offering arising under other law, rule, or contract.”

VII. Proven least-cost alternative

The Notice’s own parameters show why targeted text beats a larger compliance structure: about 75 items, about two hours, a fee near \$100, a 120-day scheduling window, and a ten-year validity period. None of the amendments changes any of them. Twenty percent of 75 items is about 15; the technical summary and standard-setting evidence are work FINRA performs to set a passing score; the verification lookup is already assumed; and the data report is aggregate only.

Gap	Cost of leaving the gap	Cost of the fix
Future-tense designation	Issuers cannot rely on terms that can change; findings made for an Exam no one can inspect	Sequencing text; borrows FINRA’s existing Section 19(b) process
Undefined good standing	Failed-renewal cliff; guesswork at the ten-year boundary	Three sentences; no change to fee, length, or validity
No committed verification	No Rule 506(c) verification on day one; the designation is a dead letter at launch	The lookup the Notice already assumes, built to return status only
Public-listing model	A searchable list of newly accredited retail investors	A design choice; no added system
Conclusory (ii)–(iii) record	The only designation with no experience prerequisite is the most exposed to challenge; the lowest-resource designees bear the loss	Technical summary, about 15 scenario items, one content line, aggregate report

VIII. Track A / Track B alternative

Track A — preferred. Adopt Order ¶¶ 1 through 4 and Common Provisions ¶ C on issuance.

Track B — phased fallback. Adopt Order ¶¶ 1, 2, and 3 and Common Provisions ¶ C on issuance. Require the ¶ 4 technical summary, content line, and data report by the Exam Launch Date, and phase in the 20 percent scenario-item share at the first Exam revision within 24 months, with narrative scenario content from launch.

Track B is defensible because ¶ 1 prevents the designation from operating before the Exam exists, so no deferral reaches any investor.

IX. Technical corrections

Define “Exam” and “Exam Holder” in the order text rather than only in the preamble, and use one term for the validity period.

Do not hard-code question counts: the text says approximately 75, while note 44 says 65 to 85 plus five to ten unscored items.

Reference FINRA Rule 1210 as in effect rather than the 30- and 180-day retake intervals in the text, because SR-FINRA-2026-014 would change them. Do not elevate cosmetic punctuation or spacing to a principal rulemaking objection.

X. Conclusion

The Commission has identified a real gap in the accredited investor definition: a person can have demonstrated knowledge of private-market risk and still fail every wealth, income, and employment test. An exam designation can close that gap only if the credential exists when the designation takes effect, can be verified without exposing the holder, and rests on a record that answers the objections it will draw. The amendments above meet that standard.

The Commission should issue the order with Order ¶¶ 1 through 4 and Common Provisions ¶ C set out above. Thank you for the opportunity to comment.

Respectfully submitted,

/s/ Shawn SN

Chief Executive Officer
The Native Claim Firm
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