

Broker-Dealer Client Alert | July 17, 2024

With Great Power Comes Great Responsibility: FINRA Underscores Regulatory Implications of Using AI



With the ever-increasing use of artificial intelligence (AI) — including large language models (LLMs) and other generative AI (gen AI) tools — the Financial Industry Regulatory Authority (FINRA) issued [Regulatory Notice 24-09](#) (the notice) on June 27 as a reminder that broker-dealers should be mindful of their regulatory obligations when using gen AI. FINRA was quick to point out that the notice does not create new legal or regulatory requirements or new interpretations of existing requirements, nor does it relieve firms of any existing obligations under the federal securities laws.

The notice reminds firms that FINRA’s rules, which are intended to be technology-neutral, and securities laws generally continue to apply when firms use gen AI or similar technologies in the course of their business, just as they apply when firms use any other technology or tool. For example, if a firm uses gen AI as part of its supervision system to review electronic correspondence, “its policies and procedures should address technology governance, including model risk management, data privacy and integrity, reliability and accuracy of the AI model.” In addition, the notice cautions that regulatory obligations apply regardless of whether a firm uses its own proprietary gen AI tools or leverages the technology of a third party.

When considering the use of gen AI, a firm should evaluate such tools before deploying them to ensure that the firm can comply with applicable FINRA rules. The specific FINRA rules applicable to the use of gen AI will depend on how a firm deploys the technology. FINRA is considering the issuance of further guidance on the application of FINRA rules to specific situations. For example, the notice reminds firms of FINRA’s guidance that the content standards of Rule 2210 apply regardless of whether firm communications are generated by a human or technology tool.

Because a firm’s use of gen AI could implicate every area of the firm’s regulatory obligations, the notice encourages firms to engage with FINRA on the potential supervisory and compliance implications of using gen AI tools.



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