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Vanessa A. Countryman, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Via email: rule-comments@sec.gov

Re: Comment Letter on SR-FINRA-2025-017 — Proposed Amendments to FINRA Rule 4210 (Margin Requirements) to Replace the Day Trading Margin Provisions with Intraday Margin Standards

SEC Rel. No. 34-104732 (Jan. 28, 2026)

Dear Commissioners and Staff:

The Investor Choice Advocates Network (“ICAN”) appreciates the opportunity to comment on the Financial Industry Regulatory Authority, Inc. (“FINRA”) proposal to amend Rule 4210. ICAN is a nonprofit public interest law firm and advocacy organization dedicated to expanding access to markets and protecting the fundamental right of investors to make their own informed financial decisions.

ICAN strongly supports the proposal to reduce the minimum equity requirement for pattern day traders from \$25,000 to \$2,000. As discussed by ICAN founders and industry experts, the current Pattern Day Trading (“PDT”) threshold is an outdated, paternalistic relic of the 2001 post-dot-com era that fails to protect investors and, in many cases, actively increases their risk exposure.



1. Empowering Investor Choice and Education

At ICAN, we believe investors are the best judges of their own risk tolerance and financial situation, and today's market makes that easier than ever. When the \$25,000 rule was adopted in the early 2000s, formal trading education was limited. Now, retail investors have broad, often free access to tutorials, courses, webinars, and plain-English guides on broker websites and other widely used platforms. The democratization of information helps explain order types, risk controls, and common pitfalls before investors put money at risk. Widely available information empowers informed decisions without requiring a wealth threshold.

Financial literacy also grows through participation. Small accounts let beginners learn by doing and, if they make mistakes, absorb “low-stakes” losses while they adjust their approach. Forcing people to wait until they have \$25,000 ensures that when they finally trade, each mistake is costlier. The current PDT rule turns beginner errors into high-stakes outcomes, which is the opposite of how learning should work for new market participants. Furthermore, PDT minimum balances disproportionately sideline younger and lower-income investors, delaying their market participation and the opportunity to build knowledge, discipline, and potential long-term gains. The PDT balance minimums reserve same-day trading flexibility for those who already have substantial capital, while denying others the opportunity to learn and improve in manageable, incremental steps.

2. The Paradox of Forced Capitalization

The \$25,000 PDT minimum equity rule was designed to ensure that only “sophisticated” or well-capitalized individuals could engage in day trading, thereby shielding less-capitalized investors from the risks associated with this trading strategy. This well-intentioned safeguard, however, has created a troubling paradox: rather than protecting less-capitalized investors, it would often expose these investors to greater financial harm.

The High-Stakes Barrier: The \$25,000 minimum equity rule forces small investors to risk significantly more capital than they otherwise might



wish to risk. With a lower required minimum, a novice trader could begin investing with \$2,000, and limit potential losses to a modest amount that may be more financially manageable. Conversely, with the \$25,000 minimum in place, some novice traders may expose themselves to riskier activities just to amass sufficient funds necessary to participate. As noted in responses to the original proposal for this rule, commenters warned that the minimum equity requirement could prompt investors to borrow funds from external sources to meet the threshold, including by accessing credit cards or second mortgages¹, high-interest personal loans, or liquidation of long-term savings. Such borrowing could incentivize investors to conceal from their brokers the source of funds to evade the brokers' know-your-customer diligence.

This dynamic transforms what would have been a low-stakes learning experience into a high-stakes financial gamble, where a single trading mistake can inflict severe damage on an individual's financial stability. Instead of protecting investors, the rule inadvertently magnifies the consequences of these investors' early missteps, turning manageable losses into significant balance-sheet stress.

The Leverage Trap: Under the current rule, a \$25,000 account is granted 4:1 intraday leverage, enabling even inexperienced traders to control positions as large as \$100,000. While normal market fluctuations may be manageable with smaller trades, at this scale, those same movements can quickly result in devastating losses. Furthermore, the ready availability of high leverage can encourage novice traders to take riskier actions than they might otherwise consider, rather than adopting a more measured and gradual

¹ As noted in NASD Regulation's response to comment letters, multiple commenters warned that the minimum equity requirement could prompt investors to borrow funds from external sources to meet the threshold. See NASD Response Letter at 3 (summarizing comments warning that investors would "borrow from credit card or remortgage home," "take out second mortgages," or "mortgage his house to meet ME"), File No. SR-NASD-00-03, Margin Requirements for Day-Trading Customers; Response to Comments, at 3 (S.E.C. October 3, 2001).



approach to trading. Empirical research has shown that “leverage is a major catalyst for speculative trading,” often driving excessive trading activity and risk-seeking behavior.² These tendencies are frequently linked to underperformance and increased losses in retail investor accounts,³ undermining the very goal of investor protection.

3. Eliminating Regulatory Arbitrage and Offshore Risk

The PDT rule has inadvertently subsidized a cottage industry of offshore brokerages, which pose challenges to investor protection. By gating day trading behind a \$25,000 threshold for U.S. domestic securities brokers, the rule pushes many U.S. residents with modest capital to seek workarounds. One of the most widely recognized workarounds is opening accounts with offshore brokers who do not impose such requirements. Numerous online articles and investor forums openly discuss and encourage this approach specifically as a means to bypass the minimum equity rule, often providing lists of recommended offshore brokers.⁴

Retail investors contemplating using an off-shore broker face significant difficulty in making informed choices about which brokers can be trusted. Reviews of various offshore brokers reveal troubling patterns: lack of transparency regarding commissions, fees, and spreads; frequent reports of scams, bankruptcy, and opaque business practices;⁵ delayed or problematic withdrawals; weak regulatory oversight; and unresponsive customer support.⁶ Many offshore brokers also offer extremely aggressive margin—some allowing up to 100:1 leverage with

² R.Z. Heimer & A. Simsek, *Should Retail Investors’ Leverage Be Limited?*, 1–6 (2017).

³ *Id.*

⁴ No PDT Brokers: Find an Offshore Broker Without a Day Trading Rule, WallStreetZen, <https://www.wallstreetzen.com/blog/no-pdt-brokers/> (last visited February 3, 2026).

⁵ *Id.*

⁶ Best Brokers For No PDT In 2026, DayTrading.com, <https://www.daytrading.com/rules/pattern-day-trading/no-pdt> (last visited February 3, 2026)



as little as \$1,000 in capital⁷—exposing inexperienced traders to risks far greater than those present in regulated U.S. markets.

Retail investors who do not meet the PDT rule’s minimum requirements, but who would prefer to day trade with a U.S.-based securities brokerage firm subject to U.S.-based regulatory oversight, are denied that opportunity. The resulting migration moves retail traders out of the robust, regulated U.S. environment and into jurisdictions with minimal oversight, higher commissions and fees, no SIPC protection, and a significantly greater risk of fraud or loss.

As a result, the PDT rule, which is intended to protect small investors, funnels them into venues where basic safeguards are weaker and the risks to their accounts are far greater, fundamentally undermining investor protection. Reducing the minimum equity requirement to \$2,000 would help bring these retail traders back into the regulated U.S. ecosystem, representing a significant net gain for investor safety and market integrity.

4. Decoupling Settlement Margin from Buying Power

The current \$25,000 floor unnecessarily conflates the need for instant settlement with the provision of high leverage. A core need for day traders is the flexibility to use their own capital for multiple trades within a single day, without being constrained by the T+1 settlement cycle. Day trading depends on speed and the efficient redeployment of capital—not necessarily on leverage. Many active traders simply want to recycle proceeds from earlier trades into later trades the same day, relying on cash they already have rather than borrowed funds. Yet, the current framework ties this legitimate need for efficient same-day settlement to an automatic grant of high leverage, conferring 4:1 buying power as long as the \$25,000 threshold is met. This coupling is both unnecessary and counterproductive. Making high leverage accessible risks steering some investors into larger positions than they would otherwise take. Even those who intend to remain unlevered may

⁷ No PDT Rule Brokers for US-Stocks, CEED.trading, <https://www.ceedtrading.com/no-pdt-rule-brokers-professional-leverage/> (last visited February 3, 2026).



find themselves nudged toward margin use by platform defaults and buying power displays. This introduces additional risks to many retail traders and may lead to greater losses, which are fundamentally at odds with the rule's investor-protection purpose.

Lowering the minimum equity requirement to \$2,000 would allow traders to utilize settlement margin without mandating that brokers provide 4:1 leverage. Brokers may then use their own risk management tools and judgment to determine the appropriate leverage levels for smaller accounts, rather than a one-size-fits-all grant of leverage. This market-based approach would empower brokers to restrict leverage for retail investors who may not be suited for it, while still allowing higher leverage for those who demonstrate the risk tolerance and financial capacity to manage it responsibly. In this way, the rule change would better align regulatory requirements with the diverse needs and risk profiles of today's retail investors.

5. Correcting Inconsistency Across Asset Classes

The current rule draws an arbitrary line across markets. In equities, a retail investor must clear a \$25,000 wealth test to trade actively, while in futures, forex, or crypto—markets that are often far more volatile—the same investor can typically open an account with just a few hundred dollars, face no trading pattern minimum balance restrictions, and access high leverage (commonly well above 10:1, and in some venues, up to 100:1). Yet, equities are generally the most transparent and regulated market available to retail investors. It is difficult to justify why equities should be the only venue where a high-capital barrier keeps ordinary traders out (or induces them to risk more than they may wish to), while far riskier and less regulated markets remain open to small deposits.

This regulatory asymmetry has real consequences. It can inadvertently push retail investors toward riskier markets that lack comparable protections. Many online articles and trading forums⁸ explicitly advise aspiring day traders to consider

⁸ How to Avoid the PDT Rule by Trading Futures, MetroTrade, <https://www.metrotrade.com/how-to-avoid-the-pdt-rule/> (last visited February 3, 2026); How to Avoid the Pattern Day Trading Rule in

futures or crypto trading as a workaround to the PDT restrictions, because these markets allow for high leverage and frequent trading with much lower capital requirements and fewer restrictions. Instead of safeguarding investors, the \$25,000 minimum equity rule may encourage them to seek out less-regulated, more volatile markets where the risks of loss are significantly higher. This regulatory imbalance undermines the intended investor protection goals and may expose retail investors to greater financial harm than if they were permitted to day trade equities within the robust framework of U.S. securities regulation.

Conclusion

The proposed amendment to Rule 4210 is a common-sense modernization of a rule that has long outlived its utility. It removes a barrier that has unfairly penalized smaller investors while doing little to mitigate risk. ICAN urges the Commission to approve this change.

Thank you.



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