



## **CRD Public Records Validation Initiative**

### **Background**

In April 2014, FINRA announced it would conduct a review of public records available for the entire population of active registered representatives (RRs)—approximately 630,000 RRs—for financial disclosures that may not have been reported and for criminal disclosures that may not have been reported by RRs who have not been fingerprinted within the last five years.

FINRA is working with a public records data aggregator (vendor) to facilitate this review. FINRA compared information obtained from the vendor with information reported to the CRD system to determine whether there were possible unreported disclosures. FINRA staff excluded matters that were reported to the CRD system and matters that are not required to be reported on uniform registration forms (for example, bankruptcies older than 10 years old when the RR entered the industry and judgments and liens that were satisfied prior to the RR joining the industry).

### **Tools Provided to Firms to Assist Them with This Initiative**

FINRA notifies firms of these possible unreported disclosures by individual disclosure letter, which are summarized in rosters where a firm receives a substantial number of disclosure letters.

- **Individual Disclosure Letters in CRD:** Each RR who may have a possible undisclosed event will have an individual disclosure letter added to his or her CRD record for tracking purposes. If an RR needs to report more than one disclosure item, one or more amendment Form U4s may be filed. FINRA will track each disclosure item against the associated disclosure letter. Firms should note that it is more cost effective to resolve all multiple events in a single filing since the \$110 Disclosure Review Fee is assessed against each disclosure filing.
- **Rosters:** Large firms with a substantial number of possible unreported disclosures are provided with rosters available in Microsoft Excel spreadsheet format for ease of sorting and filtering. The spreadsheet contains the RR's name, CRD#, event date, type (bankruptcy, judgment or lien), dollar amount and, where applicable, creditor.

### **Correspondence Accepted in Lieu of Disclosure**

If a firm determines that a disclosure via a Disclosure Reporting Page is not required, the firm is required to send correspondence to FINRA explaining why the disclosure is not being submitted. The firm is not required to submit any documentation along with this correspondence, although firms are encouraged to retain any documentation they obtain with their files as a record of the research performed. In situations where multiple RRs refute the reporting of public record information (*e.g.*, asserting that the judgment/lien does not involve them), firms may send FINRA a single letter along with an attached roster of the individuals covered by the letter. The firm should take steps to independently verify the RRs' assertions and state in the letter that the firm has done so. Firms should keep a copy of the RRs' statements on file for review if requested by FINRA or other regulators.

Similarly, if the RR satisfied a judgment/lien within the time afforded him or her by statute or decision, so that the judgment/lien would not be considered to be unsatisfied for reporting purposes, a letter, in lieu of disclosure, should be submitted to FINRA. It should be noted that based on the staff's experience this particular situation is not common.

### **Refund, Credit and Adjustment of Late Disclosure Fees**

FINRA expects firms to work diligently to resolve their disclosure letters. For purposes of assessing late fees, FINRA does not consider the reporting within 30 days requirement to necessarily begin upon receipt of the rosters or disclosure letters described above. Instead, the 30-day period starts once the firm and RR determine that the event or proceeding renders a previous response filed on Form U4 inaccurate or incomplete.

FINRA also has provided appropriate relief from Late Disclosure Fees and issued guidance regarding the crediting and adjustment of such fees in specific situations.

As stated in FINRA Rule 3110.15, FINRA will issue a refund to firms of Late Disclosure Fees assessed for the late filing of responses to Form U4 Question 14M (unsatisfied judgments or liens) if the Form U4 amendment is filed between April 24, 2014, and December 1, 2015, and one of the following conditions is met:

1. The judgment or lien has been satisfied, and at the time it was unsatisfied, it was under \$5,000, and the date the judgment or lien was filed with a court (as reported on Form U4 Judgment/Lien DRP, Question 4A) was on or before August 13, 2012; or
2. The unsatisfied judgment or lien was satisfied within 30 days after the individual learned of the judgment or lien (as reported on Form U4 Judgment/Lien DRP, Question 4.B).

While the temporary program is in effect, FINRA will initially assess firms a Late Disclosure Fee and subsequently refund the fee in the firm's FINRA Flex-Funding Account if the firm can establish, or if FINRA otherwise determines, that the conditions of the program have been satisfied.

In addition, FINRA has provided guidance, through frequently asked questions (FAQ) available on its website, regarding the relief of Late Disclosure Fees in specific situations. See [Late Disclosure Fee Calculations/Assessments](#).

As noted in the FAQ, if an individual's current firm reports a judgment/lien that should have been reported by a prior firm and that was satisfied before the individual became registered with the current firm, FINRA will automatically credit any Late Disclosure Fees assessed in connection with the current firm's reporting of such judgment/lien through March 31, 2016. Similarly, FINRA will automatically credit any Late Disclosure Fees assessed in connection with the current firm's reporting of a bankruptcy event that should have been reported by a prior firm and that was older than 10 years at the time the individual became registered with the current firm through March 31, 2016. Beginning April 1, 2016, credits for filings that meet these criteria will be issued only upon request.

The FAQ also provide guidance regarding the maximum Late Disclosure Fee for a firm that reports a judgment/lien that was satisfied prior to the date that the firm reports it. Specifically, given the structure of Question 14M on Form U4, in situations where a firm reports late a judgment or lien that was satisfied when a registered person was associated with that firm, FINRA will automatically apply the fee schedule in effect at the time the judgment or lien was satisfied through March 31, 2016. Accordingly, if a firm reports late a judgment or lien on or before March 31, 2016 that was satisfied prior to the effective date of the current maximum Late Disclosure Fee, which was January 2, 2013, FINRA will automatically adjust the Late Disclosure Fees assessed in connection with the firm's reporting of such judgment or lien to reflect the maximum fee that was in effect at the time the judgment or lien was satisfied. For instance, if today, a firm reports a lien that was satisfied by an individual associated with the reporting firm prior to January 2, 2013, FINRA will adjust the Late Disclosure Fees assessed in connection with the firm's reporting of the lien to reflect the maximum fee that was in effect prior to January 2, 2013, which was \$300.

Beginning April 1, 2016, appropriate Late Disclosure Fee reductions to those in effect in a prior period will be issued only upon request.

The credits and adjustment addressed in the FAQ will be made to the firm's FINRA Flex-Funding Account.

Further, based on existing guidance, FINRA will not assess a Late Disclosure Fee if the date the individual first learned of the event is within 30 days of the date the firm files the amended Form U4 disclosing it. See [Form U4 and U5 Interpretive Questions and Answers](#). Keep in mind, that if the RR is learning of the event for the first time, the RR should capture that date on the DRP (date he/she learned of the event—item 4B on Judgment/Lien DRP). Provided the filing is made within 30 days after that date, a late filing fee is not triggered.

Finally, FINRA is prepared to consider providing additional guidance or relief for Late Disclosure Fees as issues arise during firm review of disclosure letters. Should a firm encounter another scenario where it believes that the late fee should not apply, the firm can submit correspondence to FINRA outlining its reasons and analysis, and FINRA will evaluate these requests on a case-by-case basis.

### **Automatic Processing**

The refunds, credits and adjustments described above will be processed automatically approximately once a week through March 31, 2016, including the tallies appearing on the Firm's Late Disclosure Report Card. Firms wishing to verify these credits to their Flex-Funding accounts can generate a free standard CRD report named "Accounting - Late Disclosure Fee Report and Download," which provides all late disclosure charges and credits in both PDF and CSV format. Firms may want to run this report weekly or bi-monthly—whichever makes most sense given the firm's volume. See the "[Web CRD Quick Reference Guide on Reports](#)" for report download instructions.

### **Additional Resources**

Consistent and complete disclosure is required by FINRA rules. Nonetheless, FINRA recognizes the administrative burden this initiative places upon firms and their compliance staff. FINRA is committed to working with firms to address operational and other issues as we work through this initiative. FINRA's Registration and Disclosure department has established an email address and dedicated phone line so that inquiries can be responded to promptly. Questions or concerns can be directed to (240) 386-4193. Correspondences and requests for refunds should be sent to [disclosurereviewdocuments@finra.org](mailto:disclosurereviewdocuments@finra.org).