

# Disclosure Video Series

## Disclaimer

FINRA's webinars are the sole property of FINRA and the information provided is for informational and educational purposes only. The content of the webinar does not constitute any FINRA rule or amendment or interpretation to such rules. Compliance with any recommended conduct presented does not mean that a firm or person has complied with the full extent of their obligations under FINRA rules, the rules of any other SRO, or securities laws. Use of this webinar does not create a safe harbor from regulatory responsibility. This webinar is provided "as is". FINRA and its affiliates are not responsible for any human or mechanical errors or omissions. Parties may not reproduce the webinars in any form, nor reference them in any publication, without the express written consent of FINRA.



# Disclosure Video Series

---

Criminal Events

August 25, 2022

# Agenda

- 01 | Criminal Disclosure Questions
- 02 | Criminal Disclosure Reporting Page (DRP)
- 03 | Criminal Disclosure SD Implications
- 04 | CRD Expungement Request
- 05 | Questions & Answers

# U4 Criminal Disclosure Questions

## 14A – Felony Questions

(1) Have you ever:

(a) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?

(b) been *charged* with any *felony*?

(2) Based upon activities that occurred while you exercised *control* over it, has an organization ever:

(a) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic or foreign court to any *felony*?

(b) been *charged* with any *felony*?

# U4 Criminal Disclosure Questions

## 14B – Misdemeanor Questions

(1) Have you ever:

- (a) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a misdemeanor involving: investments or an investment-related business or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses
- (b) been *charged* with a misdemeanor specified in 14B(1)(a)?

(2) Based upon activities that occurred while you exercised *control* over it, has an organization ever:

- (a) been convicted of or pled guilty or nolo contendere ("no contest") in domestic or foreign court to a misdemeanor specified in 14B(1)(a)?
- (b) been *charged* with a misdemeanor specified in 14B(1)(a)?

## U5 Criminal Disclosure Questions

7C. While employed by or associated with your firm, or in connection with events that occurred while the individual was employed by or associated with your firm, was the individual:

1. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, foreign or military court to any *felony*?
2. *charged* with any *felony*?
3. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a *misdemeanor involving*: investments or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?
4. *charged* with a *misdemeanor* specified in item 7(C)(3)?

## *“A misdemeanor involving ...”*

A criminal event in which an individual was charged a misdemeanor involving at least one of the following elements is reportable:

- investments
- an investment-related business
- any ...
  - fraud
  - false statements or omissions
  - wrongful taking of property
  - bribery
  - perjury
  - forgery
  - counterfeiting
  - extortion
  - a conspiracy to commit any of these offenses

# Criminal DRP Demo

FINRA<sup>®</sup>





# Criminal Reporting – Document Follow-up

**Complete criminal documents are required for all reported matters that occurred within the past ten years.**

Complete criminal documents include:

- Original charging document (e.g., summons, indictment, or criminal complaint)
- Any amended charging document (e.g., amended complaint, superseding indictment)
- Upcoming court date(s) for pending matters
- Judgment / sentencing document
- Final disposition document (e.g., probation completion, final dismissal order)

**Documents may be required for matters older than ten years to determine reportability and/or ensure complete & accurate reporting.**

Documents may be uploaded in an active Disclosure Letter or emailed to [DisclosureReviewDocuments@FINRA.org](mailto:DisclosureReviewDocuments@FINRA.org)

# Criminal Reporting – SD Implications

- Criminal DRPs may result in a statutory disqualification (SD) review.
- Statutory Disqualification results from a conviction, within ten years, of:
  1. Any felony.
    - OR -
  2. Certain misdemeanors.
- Not all reportable misdemeanors result in disqualification.
- The Membership Continuance process (MC-400) is available if a person is determined to be disqualified.

See <https://www.finra.org/rules-guidance/guidance/eligibility-requirements> for more details.

# Expungement Information

What is an Expungement?

- To expunge is to “erase or remove completely.”
- The process by which a record is destroyed or sealed from state or federal record.

Types of Expungement:

- Criminal
- Customer Complaint
- Employment/Termination
- Regulatory Actions

# Expungement Information

## Criminal Expungements

- Expungements are governed by state statutes, not by FINRA Rules.
- State statutes are reviewed by FINRA staff attorneys.
- Every state does not provide for criminal expungement, particularly for securities industry personnel.
- Are juvenile cases ever expunged/sealed automatically?  
It depends; each state determines criminal expungement statutes.

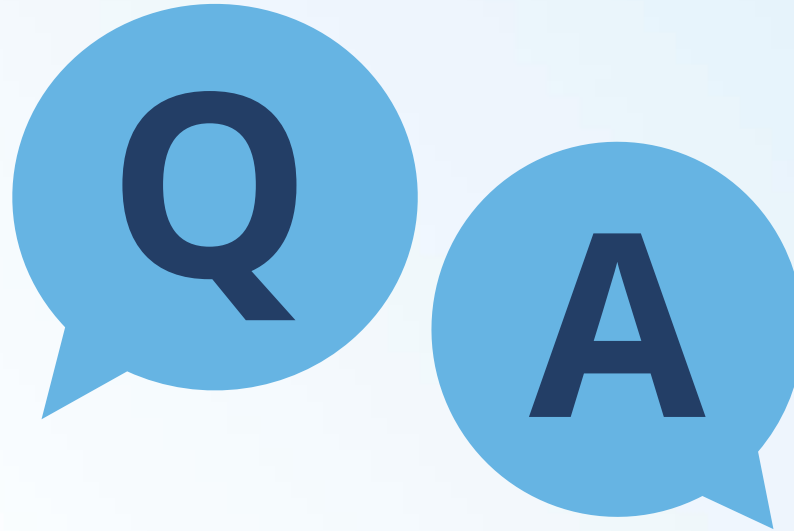
# Expungement Information

## Criminal Expungement Process:

- Email the final (signed/sealed) Expungement Order for review: [CRDExpungementRequest@FINRA.org](mailto:CRDExpungementRequest@FINRA.org) (Documents only)
- If the Order is valid, the matter will be expunged from CRD in approximately 10 business days.
- If a matter has been expunged, and a confirmation letter has been received, the matter should not be reported in CRD.
- If you have a question, please call 301-869-6699 and ask to speak with an Expungement analyst.

# Tips & Best Practices

1. Individual reporting is required on Form U4 or U5.
2. Answer all applicable questions “Yes” – more than one may apply.
3. Be sure to complete the correct DRP – Individual or Organization.
4. Disclose reportable matters in a timely manner.
5. Be sure to update DRPs in a timely manner as matters progress.
6. Ensure descriptions are complete, accurate, and understandable.
7. Ensure the Criminal Charge Details are complete and accurate.
8. Avoid reporting sensitive, personal, and/or confidential information.
9. Be mindful of DRP comments; amend/update when necessary.
10. Submit documents as required.



For questions regarding specific disclosure reporting issues,  
Call **301-869-6699**, **Option 4** for Disclosure Review