

April 12, 2012

By Email (<u>pubcom@finra.org</u>) Marcia E. Asquith Office of the Corporate Secretary FINRA 1735 K Street, NW Washington, DC 20006-1509

Re: FINRA Regulatory Notice 12-10

Dear Ms. Asquith,

The Association of Registration Management, Inc. ("ARM") would like to take the opportunity to comment on FINRA Regulatory Notice 12-10 ("Notice 12-10") which proposes significant changes to BrokerCheck. ARM supports FINRA's efforts to streamline and improve BrokerCheck and appreciates the opportunity to submit this letter.

ARM has participated in some of the discussions with The Securities Industry and Financial Markets Association ("SIFMA") and is in full agreement regarding the comments submitted in their letter dated April 5, 2012. ARM supports FINRA's efforts to improve BrokerCheck, however, feels strongly that FINRA must ensure that BrokerCheck information is accurate, clear, concise and relevant to the investor. ARM also believes that BrokerCheck information must be presented in a manner that is fair, balanced and takes into consideration the privacy concerns of the firms and their registered representatives.

Although FINRA did not request comments on the recommendations below, ARM provides the following comments:

Unification of BrokerCheck and IAPD Search Results

ARM understands the respective benefits of broker-dealer and RIA disclosure under the BrokerCheck and IAPD systems. However, unification of search results without clear disclaimers regarding the different roles, regulatory obligations, and reporting requirements for the two systems may cause investor confusion. Since the registration forms differ in requirement, ARM recommends FINRA and the SEC seek to harmonize BrokerCheck and IAPD with a stated purpose to decrease investor confusion. Clear instructions and information in each site should be included. For example, disclosure information which may be Ms. M. Asquith April 12, 2012 Page 2

contained on a Form U4 will be found on BrokerCheck for a registered representative. That same registered representative who appears on IAPD may not have disclosure information since the information pulled from Form ADV does not contain those details. Likewise, education will be available on IAPD which pulls details from Form ADV but may not be included on BrokerCheck because educational information does not appear on a Form U4. Without clear guidance an investor may fail to locate information because the investor chose the wrong database to search. Rather than provide uniformity, it may increase investor confusion.

Zip Code Search

BrokerCheck was initially put in place and its purpose is to provide information to the investing public who want to review information on member firms and associated persons with whom they are, or are considering, conducting business. BrokerCheck should not be used for proposed commercial use and ARM is concerned that Zip Code searches will surely pick-up registered persons who work from their private home or vacation home as a branch. These locations may or may not be registered locations of the BD; either way these locations should not be promoted for commercial use. ARM feels that allowing this information to become available could violate the privacy of the registered person by allowing their residence address to become publicly available.

ARM believes that there already exists ample information which is readily available through standard internet searches concerning location and services offered. ARM recommends that any addition of Zip Code search functionality be delayed pending further consideration of the issues raised herein.

Addition of Educational Content

ARM is concerned regarding the recommendation in the 919B Study to add educational content since educational information is not readily available for the vast majority of registered persons. The Form U4 does not include educational history and that information may only appear under the employment history of a Form U4 if the candidate was a student within the preceding 10 years of form submission. ARM is concerned that the investing public may be confused when they see educational information for some but not for all Registered Representatives they may be researching.

ARM suggests that FINRA carefully consider how education will be displayed so that potential clients are not misled by a section of education which in many cases will be blank. ARM is concerned because adding educational information for all will require revising the U4. This will require extreme effort by Industry to amend all U4s to ensure educational content is available. Finally, this effort would appear to be of limited benefit since general education information is readily available through a simple internet search. Additionally, many Registered Representatives have such information available on their firm website, FA.com, Linked In or other social media that are used by Registered Representatives today.

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Broker check should focus on industry related content. For example, the inclusion of industry related "passed" examinations and qualification information is what should be highlighted to the investing public. This is the information which is of value to a potential or existing client. Hyperlinks within these reports to the source definitions will allow investors who are reviewing the information, via the internet, to have direct access to terms, thus enhancing the overall user experience. ARM does strongly agree that the existing hyperlinks are helpful and the addition of further terms in the BrokerCheck summary would be very helpful to the investing public.

FINRA has specifically requested comments on the following items:

Information Displayed

ARM completely agrees with SIFMA regarding limiting BrokerCheck disclosure details to Registered Representatives who have direct client contact responsibilities. BrokerCheck's purpose is to help investors make informed choices about member firms and associated persons with whom they are, or are considering, conducting business. We see no purpose served in having information available to the public for numerous individuals who are required to be registered as a result of their duties and who will never deal with the public.

Report Design, Format and Content

ARM agrees with the comments made by SIFMA.

Investor Awareness of BrokerCheck

The stated goal of the changes and proposed changes is to "increase investor use of BrokerCheck information." We do not agree that the proposed changes will achieve that goal. Adding content that is already available to the public through general internet searches, adding content that is not available on the U4, etc. will not increase investor use. If the goal is to increase usage, ARM suggests that FINRA take an approach similar to what the SEC has done recently with Form ADV 2b. Form ADV 2b requires firms to provide specified information about an advisor to the client upon opening of an advisory or managed account. Similarly, FINRA should simply require firms to include in the account opening documents or in the new account packages the link to the BrokerCheck website. We believe this will do more to increase investor usage than making changes to the content.

Commercial Use

ARM <u>strongly</u> opposes the commercial use of BrokerCheck information on commercial websites. This will not increase awareness or usage of BrokerCheck. BrokerCheck information could get combined with other information and potential investors will not be able to tell what information came from BrokerCheck and what information came from other sources. To the extent that other information on a commercial site is inaccurate, it may be perceived as

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accurate because it is being clothed with regulatory information from BrokerCheck. FINRA loses control over the accuracy and content once it is shared with a third party commercial enterprise. BrokerCheck contains private and confidential information and ARM is concerned that such information could mistakenly become available to the public if shared with a commercial enterprise. BrokerCheck search is free and most other information as stated above is free through the internet. There is no benefit to the industry or potential clients from making the information commercially available. The only benefit will be the company that makes a profit from this enterprise.

ARM supports and commends FINRA for wanting to improve BrokerCheck. However, we respectfully submit that FINRA can accommodate the expansion and update to BrokerCheck in a more simplified fashion. We caution against using all information contained on a Form U4 for BrokerCheck since the Form U4 was meant for regulators to make an informed registration decision and for member firms to make an informed hiring decision. ARM fully appreciates the need to protect the investing public, however, we must ask then how we can continue to meet a Registered Representative's right to privacy against the need to fully represent the individual to the investing public? We ask that FINRA carefully consider the privacy interests of member firms and their employees in moving forward with Notice 12-10.

We thank you for your consideration of these comments.

Respectfully submitted,

Marían H. Desílets

Marian H. Desilets, President On behalf of Association of Registration Management, Inc.'s Executive Committee