

April 12, 2012

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Comment on Regulatory Notice 12-10

I am an attorney in Atlanta, Georgia, and my practice areas include the representation of public customers in securities arbitrations.

I write in response to FINRA's request for comment on ways to facilitate and increase investor use of BrokerCheck information. I am fully supportive of all efforts to make BrokerCheck a robust resource for investors to have full and complete disclosure about the education, employment history, complaint record, and other material information concerning their current or prospective brokers.

The federal securities laws and regulatory scheme reject the concept of "caveat emptor" and, instead, as a matter of public policy, require full disclosure and a high standard of business ethics in the securities industry. In the words of the Supreme Court, the goal is "to substitute a philosophy of full disclosure for the philosophy of caveat emptor." *Affiliated Ute Citizens v. United States*, 406 U.S. 128, 151 (1972) (emphasis added), quoting *SEC v. Capital Gains Research Bureau*, 375 U.S. 180, 186 (1963). BrokerCheck should be an important part of the goal of full disclosure.

I accordingly suggest the following:

- BrokerCheck should be easily accessible by the public. I have recently discovered that there is a glitch in FINRA's Adobe system that can make it difficult for some users to secure the "detailed" Adobe pdf report offered on the site. I experienced this problem myself. Upon contacting FINRA, they recommended that the user change their Adobe reader settings by doing the following: "Go to Adobe Reader/ Edit/ Preferences/ Internet/ Uncheck PDF in Browser/ Hit ok/Close." Presumably, this glitch has stymied many investors trying to get reports, causing them to forgo this important information. FINRA has an obligation to make its records easily accessible, and this is a technical problem that ought to easily be fixed – by FINRA, and not by requiring that the users of BrokerCheck change their computer settings. Notably, there are no instructions on this site on how to address this problem.
- All information about both concluded and pending customer complaints, lawsuits and arbitration proceedings should be identified, including contact information for the

customer, or if represented by counsel, the customer's attorney. If the brokerage industry did not force customers to arbitrate their cases, information that is otherwise concealed by the FINRA arbitration process would be publicly available from court filings.

Information on other proceedings often reveals a pattern of repeated improper conduct that would otherwise go undetected.

- The period of time information is available through BrokerCheck should be unlimited.
- BrokerCheck should state verbatim the reasons given on the U-5 when a broker is terminated, as well as stating verbatim any response by the broker, and all subsequent amendments to the U-5.
- The broker's full educational background after high school, and all degrees obtained, should be listed.
- The scores obtained by the broker on all licensing exams should be disclosed.
- All designations claimed by the broker should be listed, along with a link to the FINRA page which provides information on "Understanding Professional Designations," <http://apps.finra.org/DataDirectory/1/prodesignations.aspx>
- BrokerCheck should either link to, or provide contact information for, the securities regulator of each state, with notice to the investor that a more comprehensive report might be obtained from that source.

Thank you for this opportunity to comment.

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