



May 5, 2009

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: SR-FINRA-2009-008 – Proposed Rule Change Relating to Proposed Changes to Forms U4 and U5 – Response to Comments

Dear Ms. Murphy:

The Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) hereby responds to comment letters received by the Securities and Exchange Commission (“Commission” or “SEC”) in response to the publication in the Federal Register of Notice of Filing of SR-FINRA-2009-008. The purpose of the proposed rule change is to amend the Uniform Application for Securities Industry Registration or Transfer (“Form U4”), the Uniform Termination Notice for Securities Industry Registration (“Form U5”), and FINRA Rule 8312 (FINRA BrokerCheck Disclosure).

The Commission received 1654 comment letters on SR-FINRA-2009-008.¹ FINRA’s response to the issues raised in these letters is set forth below.

Proposed Revisions to Forms U4 and U5 Regarding Willful Violations

Twenty-nine commenters support the proposed amendments to the Forms U4 and U5 (“Forms”) to enable FINRA and other regulators to identify more readily persons subject to statutory disqualification as a result of willful violations.² Several of these commenters note

¹ See Exhibit A for a list of comment letters received.

² See comment letters from PIABA, NSCP, Tornngren, S. Brown/LPL, T. Rowe Price, Hefren-Tillotson, Janney, ARM, Raymond James, CGMI, Goldman Sachs, Mougey/Kraszewski, NASAA, Fidelity, Wells Fargo, SIFMA, UBS, St. John’s, Morgan Stanley, NAIBD, Sherman, BofA, Deutsche Bank, Charles Schwab, Sutherland, Malecki, Edward Jones, PFS, and TIAA-CREF.

that the changes will provide greater transparency regarding those individuals who are subject to such disqualifications.³

Most of the commenters who support this proposal,⁴ as well as the five commenters who oppose it,⁵ raise concerns regarding the administrative burden that the proposal will have on firms. Specifically, these commenters contend that it will be extremely difficult for firms to amend the Forms U4 for all of their registered persons and answer the six new willful violation questions within the 120-day period provided for in the proposal. In order to help alleviate this burden, most of the commenters propose one or more of the following suggestions: (1) allow firms additional time to amend their registered persons' Forms U4;⁶ (2) during the implementation period (i.e., the 120-day period), disable the CRD system completeness check so that Form U4 amendments may be processed without requiring firms to immediately answer the new questions or, alternatively, have FINRA populate or allow firms to populate the six new questions with "no" answers; (3) eliminate the requirement that a registered person sign the Form U4 amendment; and (4) provide a mechanism to "batch file" the answers to the new questions for those registered persons who have all "no" answers to the questions. One commenter suggests that FINRA compile a database of individuals who are statutorily disqualified, as well as implement a phase-in schedule for the Form U4 amendments that is based on the number of registered persons at each firm.⁷

As mentioned in its filing with the Commission, FINRA appreciates that adding new disclosure questions to Form U4 will require firms to amend such forms, and that firms have represented that this requirement will place significant additional administrative burden on firms in completing the amendments. In order to help alleviate this burden, FINRA proposed in its filing to provide firms with up to 120 days from the effective date of the proposed rule change to amend their registered persons' Forms U4 to answer the new questions, rather than the 30 days provided under Article V, Section 2 of the FINRA By-Laws for the filing of such amendments. After considering the comments submitted to the SEC, FINRA has concluded that certain further relief for firms is appropriate. As such, FINRA has determined to provide firms with additional time to amend their registered persons' Forms U4 by increasing the implementation period from 120 days to 180 days. Furthermore, FINRA will provide firms with the ability to upload a "batch" file of Form U4 amendments into the CRD system for all of their registered persons that do not have a "yes"

³ See comment letters from PIABA, Torngren, S. Brown/LPL, Mougey/Kraszewski, NASAA, St. John's, and Malecki.

⁴ See comment letters from NSCP, S. Brown/LPL, T. Rowe Price, Hefren-Tillotson, Janney, ARM, Raymond James, CGMI, Goldman Sachs, Fidelity, Wells Fargo, SIFMA, UBS, Morgan Stanley, NAIBD, BofA, Deutsche Bank, Charles Schwab, Sutherland, Edward Jones, PFS, and TIAA-CREF.

⁵ See comment letters from Capital Investment, Nelson, Genworth, MWA, and FSI.

⁶ The additional time requested ranged from two months to eight months.

⁷ See comment letter from Wells Fargo.

answer to any of the new questions. This feature will allow firms to submit a single batch (or bulk) file for purposes of filing “no” answers to the new Regulatory Action questions for multiple registered persons.⁸ In addition, FINRA proposes to allow firms, at their discretion, to file “no” answers to the six new questions during the 180-day implementation period during which time firms would be required to ensure such answers are correct as filed or amended as necessary (no later than the 180-day implementation period). FINRA understands that this means that “no” answers may appear on Web CRD for some registered persons during the implementation period when “yes” answers are, in actuality, the appropriate response for those persons. However, given the commenters’ representations as to administrative burden and the current proposed requirement that firms file answers to the new questions on the first Form U4 amendment filed on behalf of their registered persons, in many cases, the 180-day implementation period is effectively vitiated without such further relief upon the filing of the first amendment.⁹ Any “no” answers filed during the implementation period that are not amended before the implementation period expires will become final, and the firm and subject registered person will be deemed to have represented that the person has not been the subject of any finding addressed by the question(s).¹⁰ Lastly, FINRA has filed a proposed rule change with the Commission to allow firms to file amendments to the Form U4 disclosure information without obtaining the registered person’s manual signature under certain circumstances.¹¹

Three commenters suggest that FINRA waive the fees associated with the Form U4 amendments that are filed to address the six new questions.¹² In response, FINRA notes that there will be no charge for the submission of “no” answers to the new questions. A disclosure review fee will be assessed only in those situations where a “yes” answer is

⁸ FINRA will provide additional specific details regarding this feature to firms that elect to utilize it. However, in sum, the feature will enable firms to sign onto Web CRD and file “no” answers for as many as 65,000 registered persons at one time. The feature will be available to all firms upon the implementation of the new Forms, and throughout the 180-day period during which firms are required to submit answers to the questions. After the 180-day period, the feature will be disabled.

⁹ FINRA notes that this approach represents an effective alternative to relaxing Web CRD system completeness checks for the new questions, which FINRA is not able to accomplish because of programming and system constraints. For practical purposes, this approach achieves the same result and provides all firms with the full implementation period to conduct the due diligence necessary to respond to the new questions.

¹⁰ FINRA notes that various commenters have suggested that FINRA populate the six new questions with “no” answers at implementation to the extent an individual has only “no” answers to the current regulatory action disclosure questions. FINRA does not believe that such a course of action is appropriate, in large part because registered persons who have “no” answers to the current regulatory action disclosure questions may nevertheless need to affirmatively answer one of the new questions.

¹¹ See Securities Exchange Act Release No. 59784 (April 17, 2009), 74 FR 18779 (April 24, 2009) (Notice of Filing of Proposed Rule Change; File No. SR-FINRA-2009-019).

¹² See comment letters from T. Rowe Price, FSI, and MML.

submitted, which is necessary to defray the costs associated with staff review of the disclosure event and is consistent with current practice.

Three commenters recommend that the new questions be rewritten to include more “plain English” so that they may be more easily understood by firms and their registered persons.¹³ FINRA notes that the new questions, out of necessity, track the language found in the Securities Exchange Act of 1934 and FINRA’s ability to change the questions therefore is limited. In the event that firms identify related interpretive issues, firms may wish to contact FINRA, or the relevant regulator that was involved in the action, for further guidance.

Amendments to Forms U4 and U5 to Require the Reporting of Allegations of Sales Practice Violations Against Registered Persons Made in an Arbitration or Civil Litigation in Which the Registered Person is not a Named Party

Fifty-two commenters support this provision of the proposed rule change.¹⁴ Generally, these commenters indicate that allegations of sales practice violations made in arbitration claims or civil complaints are no different than those made in written customer complaints and that they therefore should be treated in the same manner for reporting purposes.¹⁵ In addition, many of the commenters believe that investors will benefit by the closing of what they perceive as a “loophole,” since investors will have access to additional information regarding alleged sales practice violations against registered persons.¹⁶ Several commenters also note that there are various strategic reasons for claimants not to name a registered person in an arbitration or civil litigation, and that these reasons should not prevent the reporting of allegations of sales practice violations against such persons.¹⁷ Another

¹³ See comment letters from St. Bernard Financial, NPH, and Sutherland.

¹⁴ See comment letters from Pounds, Layne, Caruso, Bakhtiari, Neuman, Stephens, Sadler, PIABA, Steiner, Torngren, Aidikoff, J. Miller, Lipner, Feldman, Rosca, Dunlap, Haigney, Fellows, Thompson, Schultz, Banks, Amato, Davis, Keeney, Ilgenfritz, Ostwald, Silver, Van Kampen, Lewins, Kruske, Graham, Harrison, Cornell, Mougey/Kraszewski, NASAA, Savage, Burke, J. Evans, Greco, St. John’s, Port, Bernstein, Meyer, Farmers Financial, Gladden, Gana, Shewan, Canning, Taldone, Shepherd, Sherman, and Malecki.

¹⁵ See comment letters from Pounds, Layne, Caruso, Bakhtiari, Neuman, Stephens, Sadler, PIABA, Miller, Torngren, Aidikoff, Lipner, Feldman, Rosca, Dunlap, Haigney, Fellows, Schultz, Banks, Davis, Keeney, Ilgenfritz, Ostwald, Silver, Van Kampen, Lewins, Graham, Harrison, Cornell, NASAA, Burke, J. Evans, St. John’s, Port, Krosschell, Shockman, Bernstein, and Malecki.

¹⁶ See comment letters from Pounds, Layne, Caruso, Bakhtiari, Neuman, Stephens, Sadler, PIABA, Steiner, Torngren, Aidikoff, Feldman, Rosca, Dunlap, Haigney, Fellows, Thompson, Schultz, Banks, Amato, Davis, Keeney, Ilgenfritz, Ostwald, Silver, Van Kampen, Lewins, Kruske, Graham, Harrison, Cornell, Mougey/Kraszewski, NASAA, Savage, Burke, J. Evans, Greco, St. John’s, Port, Bernstein, Gana, Shewan, and Malecki.

¹⁷ See comment letters from Pounds, Layne, Caruso, Bakhtiari, Neuman, Stephens, Sadler, PIABA, Stark, Buchwalter, J. Miller, Torngren, Aidikoff, Lipner, Feldman, Rosca, Dunlap, Haigney, Fellows, Thompson, Schultz, Banks, Davis, Keeney, Ilgenfritz, Ostwald, Silver, Van Kampen, Meissner,

commenter opines that the change is appropriate because the CRD system was designed to capture all customer complaints rather than to be an adjudicated awards database.¹⁸

The proposed changes to require the reporting of a sales practice violation against a registered person who is not named as a party is opposed by 1566 commenters.¹⁹ Most of these commenters state that they oppose the change based on concerns regarding the fairness of registered persons having their reputations tarnished by the reporting of unadjudicated allegations and the potential that these individuals will not be afforded a meaningful opportunity to defend themselves in the face of the allegations.²⁰ A significant number of commenters expressed this view through the submission of form letters.²¹ A separate commenter states that allegations presented in a customer complaint are different from those presented in an arbitration or civil litigation due to the formality of the proceedings, and that

Lewins, Kruske, Graham, Harrison, Cornell, Carlson, Burke, St. John's, Port, Krosschell, Vasquez, Shockman, Bernstein, Gladden, Gana, Shewan, and Malecki.

¹⁸ See comment letter from Haigney.

¹⁹ See comment letters from Taggart, Coon, Webb, Casey, Koll, Small, Raymond James Financial, NEXT, Coe Financial, Klimis, M. Allen/Royal Alliance, M. Williams/Woodforest, Thomas Financial, Bonnett Financial, Cambridge Wealth, Triad, FNIC, McDaniel, Jeff White, H. Garrett/Financial Network, Roberts, J. Austin/Financial Network, Cadaret Grant, Grace, Lutrick, Seay, BankFinancial, Geronimo Financial, Mutual Service, MWA, Financial Synergies, Capital Investment, K. Miller, NSCP, G. Sernett/Ameritas, S. Brown/LPL, Frailey, Clark, Mann, Moffet, Wanek, Schmidt, Green, Barringer, McIntyre, Seedhouse, Lewis, Drake, Oancea, Olawsky, Livingston, MacDonald, Preston, Carpenter, James White, Johns, G. Young, Gainer, Brooks, Schwartz, Kojetin, Neill, Schuberth, T. Greene/Woodforest, University Financial, Wall Street Financial, Kish, Broussard, Van Scoik, Chisholm, Dougherty, Kosek, Hildebrand, Ladas, Logan, Cooney, Dorsett, N. Young, Miller, Buss, Mccluskey, Guess, Theobald, Kidd, Stockemer, Paulsen, Taylor, Self, Woodard, Wood, S. Stambaugh/LPL, Herrick, M. Dean/Ameritas, Calley, EIAIFA, Vasilik, Nielsen, Valle, Slattery, Maurice, Shrom/FSC, NAIFA, Martin, FSI, IBSI, AALU, Boyer Financial, NAIBD, Tait, Mabe, Still, Farrell, J. Rice/Royal Alliance, H. Evans/Financial Network, and Richards. See also Letter Type A and Letter Type B comment letters.

²⁰ See comment letters from Small, Raymond James Financial, NEXT, Coe Financial, Klimis, M. Allen/Royal Alliance, M. Williams/Woodforest, Thomas Financial, Bonnett Financial, Triad, FNIC, McDaniel, Jeff White, H. Garrett/Financial Network, Roberts, J. Austin/Financial Network, Cadaret Grant, Grace, Lutrick, Seay, BankFinancial, Geronimo Financial, Mutual Service, MWA, Financial Synergies, Capital Investment, K. Miller, G. Sernett/Ameritas, S. Brown/LPL, Frailey, Clark, Mann, Moffet, Wanek, Schmidt, Green, Barringer, McIntyre, Lewis, Drake, Oancea, Olawsky, Livingston, MacDonald, Preston, Carpenter, James White, Johns, G. Young, Gainer, Brooks, Schwartz, Kojetin, Neill, Schuberth, T. Greene/Woodforest, University Financial, Kish, Broussard, Van Scoik, Chisholm, Dougherty, Kosek, Hildebrand, Ladas, Logan, Cooney, Dorsett, N. Young, Miller, Buss, Mccluskey, Guess, Theobald, Kidd, Stockemer, Paulsen, Taylor, Self, Woodard, Wood, S. Stambaugh/LPL, Herrick, M. Dean/Ameritas, Calley, EIAIFA, Vasilik, Valle, Slattery, Maurice, Shrom/FSC, NAIFA, Martin, FSI, IBSI, AALU, Boyer Financial, NAIBD, Tait, Mabe, Still, Farrell, and J. Rice/Royal Alliance. See also Letter Type A and Letter Type B comment letters.

²¹ Commenters submitting Letter Type A and Letter Type B comment letters comprised 1451 of the 1554 commenters opposing the proposed change on these grounds.

such allegations can result in a greater impact on an individual's reputation and registration with state securities agencies.²²

FINRA appreciates the concerns raised by the commenters regarding the potential harm to a registered person's reputation based on allegations of sales practice violations made in an arbitration claim or civil complaint. FINRA received comments expressing similar, if not identical, concerns in response to *Regulatory Notice 08-20*. FINRA has carefully and thoroughly considered these comments and continues to believe that such allegations, which are made in writing and filed in a formal proceeding, are not appreciably different than those made in written customer complaints. Accordingly, FINRA believes that, on principle, such allegations should be treated the same for reporting purposes and, in turn, available to investors.

Seven commenters allege that the standard for determining whether an arbitration or civil litigation should be reported against a registered person that is not named in the proceeding is too vague and will result in a variety of difficulties for firms (including administrative burdens and litigation exposure), and will lead to the inconsistent reporting of such matters.²³ One commenter - who supports the proposed change - believes that, in order to reduce the burden on firms and to ensure that proceedings are reported only against the correct registered persons, the reporting requirement should apply only in those situations where an individual is specifically named in the body of an arbitration claim or civil lawsuit.²⁴ In response, as noted in the original rule filing, FINRA has included instructions regarding reporting, and the staff is prepared to develop additional guidance, if necessary, to assist firms in determining when reporting is required under the proposed questions.

One commenter opposes the change because he believes that it will incentivize firms to delay arbitration proceedings in order to avoid reporting such complaints in a timely manner.²⁵ In response, FINRA notes that any customer complaint, arbitration or civil litigation, whether pending or final, that meets the reporting requirements set forth in the Forms must be disclosed in a timely manner. Therefore, FINRA respectfully disagrees with this commenter's assertion that the change will prompt firms to delay arbitration or civil proceedings in order to avoid reporting such matters.

One commenter requests that FINRA continue to provide the public with information on registered persons even after such persons cease to be registered with FINRA.²⁶ FINRA

²² See comment letter from Charles Schwab.

²³ See comment letters from Nelson, NPB, MWA, NSCP, G. Sernett/Ameritas, Wall Street Financial, and S. Brown/LPL.

²⁴ See comment letter from T. Rowe Price.

²⁵ See comment letter from Estell.

²⁶ See comment letter from Cambridge Wealth.

agrees with this commenter and notes that, pursuant to Rule 8312, it currently provides information to the public through its BrokerCheck system on individuals that are currently registered with FINRA as well as those individuals who are not currently registered with FINRA but were so registered within the prior two years. Furthermore, FINRA recently filed a proposed rule change with the Commission seeking to expand BrokerCheck with respect to former associated persons to provide public access to certain information about such persons, regardless of when they were associated with a member, if they were the subject of any final regulatory action that is required to be reported on the Forms.²⁷

One commenter states that since the proposed change will apply only to arbitrations or civil litigations filed on or after the effective date, it could result in the differential treatment of registered persons who are at firms that already have settled auction rate securities claims versus those who have not yet been subject to litigation over these securities.²⁸ While FINRA acknowledges the commenter's point, it notes that disparity will always result from changes that are implemented on a prospective basis only. Furthermore, FINRA believes that a retrospective application of the change in this reporting requirement would be unworkable.

One commenter raises concerns regarding the difficulty and expense for registered persons to remove from CRD unsubstantiated complaints made against them that turn out to be meritless.²⁹ In response, FINRA reiterates that allegations of sales practice violations made in writing and filed in a formal proceeding are not appreciably different than those made in written customer complaints that are currently required to be reported. As is currently the case with such customer complaints, registered persons will be able to provide context to a reported matter, including an opinion that an allegation lacks merit. FINRA further notes that the outcomes of such matters, which also will be reported, should help a reader come to an informed conclusion regarding the overall circumstances involving a matter. Finally, FINRA acknowledges that expunging information from the CRD system is not done easily; however, FINRA believes that the existing procedural safeguards for obtaining expungement are appropriate, given that it is an extraordinary remedy.

Lastly, one commenter indicates that the proposed change is "overkill" because customer complaints are required to be reported to FINRA pursuant to NASD Rule 3070 and that if enough customer complaints regarding a specific registered person are reported to FINRA, regulators could investigate the registered person.³⁰ FINRA respectfully disagrees with this commenter's description of the proposal and notes that information reported pursuant to NASD Rule 3070 is not disclosed through BrokerCheck. As such, the public would be

²⁷ See SR-FINRA-2009-029, available at <http://www.finra.org/Industry/Regulation/RuleFilings/2009/index.htm>.

²⁸ See comment letter from T. Greene/Woodforest.

²⁹ See comment letter from Charles Schwab.

³⁰ See comment letter from Nelson.

denied access to information regarding allegations of sales practice violations against a registered person made in an arbitration claim or civil complaint in which the registered person is not named as a party.

Proposed Revisions to Raise the Monetary Threshold for Reporting a Customer Complaint, Arbitration or Litigation from \$10,000 to \$15,000

Eleven commenters support increasing the monetary threshold for reporting a customer complaint, arbitration or litigation from \$10,000 to \$15,000.³¹ One of these commenters postulates that raising the threshold will increase the ability of public investors with small claims to receive compensation without the necessity of participating in a hearing.³² Another commenter suggests that the threshold should be raised to \$30,000 as this figure more accurately reflects the business criteria firms consider when deciding whether to settle claims, and the higher threshold will provide parties greater flexibility with respect to settlements.³³ Another commenter suggests raising the threshold to at least \$25,000.³⁴

Eight commenters oppose the proposed revision of the monetary threshold.³⁵ These commenters believe that the monetary threshold should be eliminated completely and that all settled matters should be reported. The commenters state that public investors should have access to information on all settled matters so that they may determine how, or whether, such matters impact a registered person's integrity and trustworthiness.

FINRA believes that it is appropriate to have a monetary threshold amount below which settled matters are not reported since firms and registered persons may wish to settle claims they consider non-meritorious for a *de minimis* amount rather than incur the costs associated with litigation. Furthermore, FINRA believes that raising the reporting threshold from \$10,000 to \$15,000 is appropriate because it reasonably reflects the increase in litigation costs that has occurred since the \$10,000 threshold was established in 1998.³⁶

One commenter, who supports the increase, opposes raising the corresponding threshold in Rule 8312 from \$10,000 to \$15,000.³⁷ In response, FINRA notes that the increase of the

³¹ See comment letters from Capital Investment, S. Brown/LPL, T. Rowe Price, Canning, Cornell, NASAA, FSI, St. John's, NAIBD, Charles Schwab, and TIAA-CREF.

³² See comment letter from Cornell.

³³ See comment letter from Sutherland.

³⁴ See comment letter from T. Greene/Woodforest.

³⁵ See comment letters from Layne, PIABA, Torngren, Steiner, Meyer, Mougey/Kraszewski, NAIBD, and Malecki.

³⁶ According to the Bureau of Labor Statistics, \$10,000 in 1998 has the same buying power as \$13,049.63 in 2009.

³⁷ See comment letter from NASAA.

monetary threshold in Rule 8312 to \$15,000 is merely a conforming change to the description of "Historic Complaint" that will only be applied to settlements that occur after the effective date of the proposed rule change. In this regard, FINRA notes that, under the proposal, matters settled for more than \$10,000 prior to the proposed monetary change would continue to be disclosed through the BrokerCheck program.

Proposed Revisions to Form U5 to Allow Firms to Amend the "Date of Termination" and the "Reason for Termination"

Twelve commenters support the proposal to allow firms to amend the "Date of Termination" and the "Reason for Termination" sections of the Form U5.³⁸ Some of these commenters note that the change will help to ensure the accuracy of information contained in the CRD system.³⁹

Seven commenters oppose the proposal to allow firms to amend the "Reason for Termination" section of the Form U5.⁴⁰ These commenters assert that allowing firms to make such a change increases the potential for abuse and collusion. Specifically, these commenters state that, in some circumstances, departing registered persons have financial disputes with their firms and that amending the reason for termination of a registered person may become the subject of a bargained-for exchange as the parties negotiate a resolution to their financial dispute. All of these commenters, except for one,⁴¹ believe that the current practice of requiring firms to obtain a court order or an arbitration award to revise the "Reason for Termination" section of the Form U5 should be maintained. This commenter suggests that firms be allowed to amend the reason for termination without a court order or arbitration award only in those circumstances where the change is based on a clerical error. This commenter, unlike the other commenters, also opposes allowing firms to amend the date of termination. This commenter raises similar concerns as those expressed with respect to the reason for termination changes. Specifically, this commenter contends that a change in the date of termination may be subject to manipulation and negotiation. The commenter suggests that, in order to avoid any potential issues, firms be allowed to amend the date of termination only in those cases involving clerical errors.

FINRA believes that a firm should have the ability to correct inaccurate information that it filed on a Form U5 through an amendment to that original filing. In this regard, FINRA notes that the majority of requests that it has received to revise the date of, or reason for,

³⁸ See comment letters from Capital Investment, S. Brown/LPL, T. Rowe Price, Canning, NASAA, Lincoln Investment, FSI, AALU, Charles Schwab, Sutherland, PFS, and TIAA-CREF.

³⁹ See comment letters from Canning and FSI.

⁴⁰ See comment letters from Layne, PIABA, Torngren, Meyer, Cornell, Mougey/Kraszewski, and Malecki.

⁴¹ See comment letter from Cornell.

termination are the result of clerical errors. Furthermore, any inaccurate information originally reported currently remains on a registered person's CRD record unless the registered person is able to obtain an order in arbitration (in some circumstances)⁴² or a court order directing that the original entry be expunged or exchanged. FINRA does not believe that allowing firms to amend the date of, or reason for, termination will result in misuse by firms because firms will be required to provide a reason for each amendment. Furthermore, FINRA will monitor closely all amendments and notify other regulators and the broker-dealer with which the person is currently associated (if the person is associated with another firm) when a date of termination or reason for termination is amended. For these reasons, FINRA also does not believe that it is necessary to limit the changes to those situations involving only clerical errors.

Proposed Revisions to Clarify the Manner in Which Individuals and Firms Must Report Sales Practice Violations Alleged Against Registered Persons

Four commenters opine that the clarification regarding written or oral complaints actually expands what constitutes a complaint and represents a significant change in the current reporting requirements.⁴³ In response, FINRA notes that it has issued interpretive guidance for approximately the past decade indicating that an oral complaint by itself is not reportable under Question 14I(3), but an oral complaint that alleges a sales practice violation that is settled for \$10,000 or more is reportable under Question 14I(2).⁴⁴ The rule proposal does not alter or expand this interpretation.

Proposed Technical and Conforming Changes to the Forms

Four commenters support these proposed changes.⁴⁵ One commenter believes that the proposed revisions to the Forms will make them more user-friendly and, in the case of the Form U4, more likely to elicit from a registered person all pertinent information necessary to complete the form accurately and completely.⁴⁶ Another commenter states that the incorporation of the definition of the term "found" into the Form U5 instructions will remove any possible ambiguity and achieve consistency in the interpretation and application of the reporting requirements.⁴⁷

⁴² See NASD Notice to Members 99-09 (February 1999) and NASD Notice to Members 99-54 (July 1999).

⁴³ See comment letters from T. Rowe Price, Lincoln Investment, FSI, and Sutherland.

⁴⁴ For interpretive guidance pertaining to the Forms, see <http://www.finra.org/Industry/Compliance/Registration/CRD/FilingGuidance/p005243>.

⁴⁵ See comment letters from T. Rowe Price, Lincoln Investment, FSI, and Charles Schwab.

⁴⁶ See comment letter from T. Rowe Price.

⁴⁷ See comment letter from Charles Schwab.

Ms. Elizabeth M. Murphy
May 5, 2009
Page 11

Matters Beyond the Scope of the Proposed Rule Change

A few commenters raise matters that are beyond the scope of the proposed rule change, including (1) marketing of financial products by insurance agents;⁴⁸ (2) amending FINRA Rule 8313;⁴⁹ (3) establishing task forces to address coordinated reporting and the integration of existing FINRA systems;⁵⁰ (4) tasking staff of the SEC and the Commodity Futures Trading Commission with the responsibility for identifying those individuals who are subject to a statutory disqualification as a result of willful violations;⁵¹ (5) amending the reporting timeframe associated with certain questions on the Form U4 that pertain to forgery, theft, misappropriation or conversion of funds or securities;⁵² and (6) requiring FINRA staff, rather than firms, to enter customer complaints and arbitration claims into the CRD system.⁵³ Since these matters are beyond the scope of FINRA's proposed rule change, they will not be addressed herein.

FINRA believes that the foregoing fully responds to the issues raised by the commenters to the rule filing. Please feel free to contact me at (240) 386-4821 if you have any questions.

Very truly yours,



Richard E. Pullano
Associate Vice President and Chief Counsel
Registration and Disclosure

⁴⁸ See comment letter from Reames.

⁴⁹ See comment letter from Wallace.

⁵⁰ See comment letter from NAIBD.

⁵¹ See comment letters from Capital Investment and Genworth.

⁵² See comment letter from T. Greene/Woodforest.

⁵³ See comment letter from Malecki.

Comments on FINRA Rulemaking

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to Proposed Changes to Forms U4 and U5

(Release No. 34-59616; File No. SR-FINRA-2009-008)

Total Number of Comment Letters Received - 1654

1. Comments have been received from individuals and entities using the following Letter Types:
 - a. 770 individuals or entities using Letter Type A
 - b. 681 individuals or entities using Letter Type B
2. Robert Keenan, CEO, St. Bernard Financial Services, Inc., dated March 26, 2009 ("St. Bernard Financial")
3. Patricia A. Nelson, dated March 26, 2009 ("Nelson")
4. Edward J. Wiles, Jr., SVP, CCO Genworth Financial Securities Corp., received April 1, 2009 ("Genworth")
5. John L. Small, dated April 3, 2009 ("Small")
6. Herb Pounds, dated April 3, 2009 ("Pounds")
7. Richard M. Layne, Law Office of Richard M. Layne, received April 6, 2009 ("Layne")
8. Steven B. Caruso, Esq., Maddox Hargett Caruso, P.C., dated April 7, 2009 ("Caruso")
9. Ryan K. Bakhtiari, Aidikoff, Uhl & Bakhtiari, dated April 7, 2009 ("Bakhtiari")
10. Neal E. Nakagiri, President, CEO, CCO, NPB Financial Group, LLC, dated April 8, 2009 ("NPB")
11. John Morey, Financial Advisor, Raymond James Financial Services, dated April 8, 2009 ("Raymond James Financial")
12. John Dardis, Division Manager, NEXT Financial Group, dated April 8, 2009 ("NEXT")

13. J. Richard Coe, President, Coe Financial Services, dated April 8, 2009 ("Coe Financial")
14. Michael Klimis, President and CEO, Klimis & Associates, Inc., dated April 8, 2009 ("Klimis")
15. Mary Allen, Financial Advisor, Royal Alliance Associates, Inc., dated April 8, 2009 ("M. Allen/Royal Alliance")
16. Marsha Williams, Woodforest Financial Services, dated April 8, 2009 ("M. Williams/Woodforest")
17. Daniel Thomas, Jr., Certified Financial Planner, Thomas Financial Group LLC, dated April 8, 2009 ("Thomas Financial")
18. Jerome Bonnett, President, Bonnett Financial Services, Inc., dated April 8, 2009 ("Bonnett Financial")
19. Gregory J. Spinazze, Senior Vice President, Cambridge Wealth Strategies, dated April 9, 2009 ("Cambridge Wealth")
20. Charles Robertson, Financial Planner/Advisory Rep., Triad Advisors, dated April 9, 2009 ("Triad")
21. Thomas Schirmer, Registered Representative & Principal, FNIC, dated April 9, 2009 ("FNIC")
22. Jude McDaniel, President, McDaniel & McDaniel, dated April 9, 2009 ("McDaniel")
23. Jeff White, CFP, Retirement-Coach, dated April 9, 2009 ("Jeff White")
24. Henry W. Garrett, Investment Adviser Representative, Financial Network, dated April 9, 2009 ("H. Garrett/Financial Network")
25. David P. Neuman, Stoltmann Law Offices, P.C., dated April 9, 2009 ("Neuman")
26. Richard A. Stephens, Esq., dated April 9, 2009 ("Stephens")
27. J. Pat Sadler, Esq., Sadler Hovdesven, P.C., dated April 9, 2009 ("Sadler")
28. Daniel W. Roberts, dated April 9, 2009 ("Roberts")
29. John Austin, Registered Principal, Financial Network, dated April 9, 2009 ("J. Austin/Financial Network")
30. Arthur F. Grant, President, Cadaret Grant, dated April 9, 2009 ("Cadaret Grant")

31. William Grace, Registered Representative, dated April 10, 2009 ("Grace")
32. Charles Lutrick, Registered Representative, dated April 10, 2009 ("Lutrick")
33. Suzanne Seay, CFP, dated April 10, 2009 ("Seay")
34. Ken Loebel, Vice President, BankFinancial, dated April 10, 2009 ("BankFinancial")
35. Brian N. Smiley, President, Public Investors Arbitration Bar Association, received April 10, 2009 ("PIABA")
36. Alan Freedman, Financial Advisor, Geronimo Financial, LLC, dated April 10, 2009 ("Geronimo Financial")
37. Hugh Nichols, Registered Representative, Mutual Service Corporation, dated April 10, 2009 ("Mutual Service")
38. Pam Fritz, Chief Compliance Officer, MWA Financial Services, Inc., dated April 13, 2009 ("MWA")
39. Brent Johnson, President, Financial Synergies, Inc., dated April 13, 2009 ("Financial Synergies")
40. Leonard Steiner, dated April 13, 2009 ("Steiner")
41. Steve A. Buchwalter, Esq., dated April 13, 2009 ("Buchwalter")
42. Bradley R. Stark, P.A., dated April 13, 2009 ("Stark")
43. Joan Hinchman, Executive Director, President and CEO, The National Society of Compliance Professionals, Inc., dated April 13, 2009 ("NSCP")
44. Ronald L. King, Chief Compliance Officer, Capital Investment Companies, dated April 13, 2009 ("Capital Investment")
45. Keith Miller, dated April 13, 2009 ("K. Miller")
46. John Miller, Swanson Midgley, LLC, dated April 14, 2009 ("J. Miller")
47. Stephen P. Meyer, Esq., dated April 14, 2009 ("Meyer")
48. William P. Torngren, dated April 14, 2009 ("Torngren")
49. Philip M. Aidikoff, Esq., dated April 14, 2009 ("Aidikoff")

50. Seth E. Lipner, Prof. of Law, Zicklin School of Business, Baruch College, CUNY, Member, Deutsch Lipner, dated April 14, 2009 ("Lipner")
51. Jeffrey A. Feldman, Law Offices of Jeffrey A. Feldman, dated April 14, 2009 ("Feldman")
52. Gregory C. Sernett, Vice President and Chief Compliance Officer, Ameritas Investment Corp., dated April 14, 2009 ("G. Sernett/Ameritas")
53. Stephanie L. Brown, Managing Director, General Counsel, LPL Financial Corporation, dated April 15, 2009 ("S. Brown/LPL")
54. Michael J. Frailey, LUTCF, dated April 15, 2009 ("Frailey")
55. Jill Clark, dated April 15, 2009 ("Clark")
56. Stephen D. Mann, dated April 15, 2009 ("Mann")
57. Christopher Taggart, dated April 15, 2009 ("Taggart")
58. David Moffet, dated April 15, 2009 ("Moffet")
59. Lawrence A. Wanek, CFP, ChFC, LUTCF, dated April 15, 2009 ("Wanek")
60. Tom Schmidt, dated April 15, 2009 ("Schmidt")
61. Bradley J. Green, dated April 15, 2009 ("Green")
62. Ralph Barringer, dated April 15, 2009 ("Barringer")
63. Norajane McIntyre, dated April 15, 2009 ("McIntyre")
64. Shaun Seedhouse, CFP, dated April 15, 2009 ("Seedhouse")
65. Terry Lewis, LUTCF, dated April 15, 2009 ("Lewis")
66. Laura Drake, dated April 15, 2009 ("Drake")
67. Lori Susalla Oancea, J.D., dated April 15, 2009 ("Oancea")
68. Douglas Olawsky, ChFC, FIC, dated April 15, 2009 ("Olawsky")
69. Courtney L. Livingston, LUTCF, FIC, dated April 15, 2009 ("Livingston")
70. Robert T. MacDonald, dated April 15, 2009 ("MacDonald")

71. Richard N. Preston, ChFC Wealth Management Advisor, dated April 15, 2009 ("Preston")
72. Jan Carpenter, CPCU, ChFC, Agent, dated April 15, 2009 ("Carpenter")
73. Stephen Coon, dated April 15, 2009 ("Coon")
74. James A. White, CLU, ChFC, dated April 15, 2009 ("James White")
75. Cynthia Jo Johns, dated April 15, 2009 ("Johns")
76. Gary R. Young, dated April 15, 2009 ("G. Young")
77. Roger Gainer, ChFC, dated April 15, 2009 ("Gainer")
78. Steven P. Brooks, dated April 15, 2009 ("Brooks")
79. Harold A. Schwartz, dated April 15, 2009 ("Schwartz")
80. Raymond Kojetin, dated April 15, 2009 ("Kojetin")
81. Steve Klein, Chief Compliance Officer, Farmers Financial Solutions, LLC, dated April 15, 2009 ("Farmers Financial")
82. Jerry R. Neill, CLU, ChFC, dated April 15, 2009 ("Neill")
83. Marian H. Desilets, President, Association of Registration Management, dated April 15, 2009 ("ARM")
84. James Schuberth, dated April 15, 2009 ("Schuberth")
85. Sarah McCafferty, Vice President and Chief Compliance Officer, T. Rowe Price, dated April 15, 2009 ("T. Rowe Price")
86. R. Drew Kistler, Vice Chairman & Chief Compliance Officer, Hefren-Tillotson, Inc., dated April 15, 2009 ("Hefren-Tillotson")
87. Frederick T. Greene, Senior Vice President and Portfolio Manager, Woodforest Financial Services, Inc., dated April 15, 2009 ("T. Greene/Woodforest")
88. Lance B. Kolbet, RHU, LUTCF, President, University Financial Group, Inc., dated April 15, 2009 ("University Financial")
89. Nancy Kay, CCO, Wall Street Financial Group, dated April 15, 2009 ("Wall Street Financial")

90. John M. Ivan, Senior Vice President and General Counsel, Janney Montgomery Scott LLC, dated April 16, 2009 ("Janney")
91. Michael Kish, dated April 16, 2009 ("Kish")
92. Blair M. Broussard, LUTCF, dated April 16, 2009 ("Broussard")
93. Steven Van Scoik, dated April 16, 2009 ("Van Scoik")
94. Tim Chisholm, dated April 16, 2009 ("Chisholm")
95. Paul Dougherty, dated April 16, 2009 ("Dougherty")
96. Bert Reames, CLU, dated April 16, 2009 ("Reames")
97. Joseph Kosek, dated April 16, 2009 ("Kosek")
98. J. P. Hildebrand, dated April 16, 2009 ("Hildebrand")
99. Anthony P. Ladas, CLU, ChFC, dated April 16, 2009 ("Ladas")
100. Charlene Logan, dated April 16, 2009 ("Logan")
101. Richard J. Cooney, ChFC, dated April 16, 2009 ("Cooney")
102. Nancy A. Dorsett, dated April 16, 2009 ("Dorsett")
103. Nicola Young, dated April 16, 2009 ("N. Young")
104. Mark J. Miller, dated April 16, 2009 ("M. Miller")
105. Maria Buss, LUTCF, RFC, dated April 16, 2009 ("Buss")
106. Jay Mccluskey, dated April 16, 2009 ("Mccluskey")
107. Joseph W. Guess, dated April 16, 2009 ("Guess")
108. Rick Theobald, dated April 16, 2009 ("Theobald")
109. Michael Kidd, dated April 16, 2009 ("Kidd")
110. Daniel G. Stockemer, dated April 16, 2009 ("Stockemer")
111. Alin L. Rosca, Attorney at Law, John S. Chapman & Associates, LLC, dated April 16, 2009 ("Rosca")

112. Linda L. Paulsen, dated April 16, 2009 ("Paulsen")
113. Thomas F. Taylor, CLU, ChFC, dated April 16, 2009 ("Taylor")
114. R. Graham Self, dated April 16, 2009 ("Self")
115. James A. Dunlap Jr., Esq., James A. Dunlap Jr. & Associates LLC, dated April 16, 2009 ("Dunlap")
116. William B. (Blake) Woodard, dated April 16, 2009 ("Woodard")
117. Dayton P. Haigney, III, dated April 16, 2009 ("Haigney")
118. Gwendolyn L. Wood, dated April 16, 2009 ("Wood")
119. Henry D. ("Hank") Fellows, Jr., Esq., Fellows LaBriola LLP, dated April 16, 2009 ("Fellows")
120. Charles M. Thompson, Attorney at Law, dated April 16, 2009 ("Thompson")
121. Laurence S. Schultz, Driggers, Schultz and Herbst, dated April 16, 2009 ("Schultz")
122. Robert S. Banks, Jr., Banks Law Office, P.C., dated April 16, 2009 ("Banks")
123. Ronald M. Amato, Shaheen, Novoselsky, Staat, Filipowski, Eccleston, PC, dated April 16, 2009 ("Amato")
124. Steven W. Stambaugh, Registered Principal, LPL Financial Corporation, dated April 16, 2009 ("S. Stambaugh/LPL")
125. Theodore M. Davis, Esq., dated April 16, 2009 ("Davis")
126. James D. Keeney, Esq., James D. Keeney, P.A., dated April 16, 2009 ("Keeney")
127. Sharon Herrick, dated April 16, 2009 ("Herrick")
128. Merrell Dean, Registered Representative, Ameritas Investment Corp., received April 16, 2009 ("M. Dean/Ameritas")
129. Gerald Calley, dated April 16, 2009 ("Calley")
130. Roscoe O. Orton, CLU, President, Eastern Idaho Association of Insurance and Financial Advisors, dated April 16, 2009 ("EIAIFA")
131. Scott C. Ilgenfritz, Esq., Johnson, Pope, Bokor, Ruppel Burns, LLP, dated April 16, 2009 ("Ilgenfritz")

132. Culpepper Webb, dated April 16, 2009 (“Webb”)
133. Kevin Vasilik, dated April 16, 2009 (“Vasilik”)
134. Janice K. Nielsen, dated April 16, 2009 (“Nielsen”)
135. Mitchell S. Ostwald, Law Offices of Mitchell S. Ostwald, dated April 16, 2009 (“Ostwald”)
136. Mario Dalla Valle, dated April 16, 2009 (“Valle”)
137. Scott L. Silver, Esq., Blum & Silver, LLP, dated April 16, 2009 (“Silver”)
138. William J. Gladden, Securities Arbitration Attorney, dated April 16, 2009 (“Gladden”)
139. Adam J. Gana, Napoli Bern Ripka, LLP, dated April 16, 2009 (“Gana”)
140. Scott R. Shewan, Born Pape Shewan, LLP, dated April 16, 2009 (“Shewan”)
141. Tim Canning, Law Offices of Timothy A. Canning, dated April 17, 2009 (“Canning”)
142. Al Van Kampen, Attorney at Law, dated April 17, 2009 (“Van Kampen”)
143. Diane Anderson, Registrations Manager, Raymond James & Associates, Inc., received April 17, 2009 (“Raymond James”)
144. Justin Slattery, dated April 17, 2009 (“Slattery”)
145. James Livingston, President/Chief Executive Officer, National Planning Holdings, Inc., dated April 17, 2009 (“NPH”)
146. Charles Maurice, dated April 17, 2009 (“Maurice”)
147. Richard G. Wallace, Foley Lardner LLP, dated April 17, 2009 (“Wallace”)
148. Stuart D. Meissner, Esq., Stuart D. Meissner LLC, dated April 17, 2009 (“Meissner”)
149. Richard A. Lewins, Esq., Special Counsel, Burg Simpson Eldredge Hersh Jardine PC, dated April 17, 2009 (“Lewins”)
150. Jeffrey Kruske, Law Office of Jeffrey S. Kruske, P.A., dated April 17, 2009 (“Kruske”)

151. David Shrom, Shrom Associates/FSC Securities Corporation, dated April 17, 2009 ("Shrom/FSC")
152. Nicholas J. Taldone, Attorney, dated April 17, 2009 ("Taldone")
153. Evan J. Charkes, Managing Director and Deputy General Counsel, Citigroup Global Markets, Inc., dated April 17, 2009 ("CGMI")
154. John W. Curtis, General Counsel Global Compliance, Goldman, Sachs Co., dated April 17, 2009 ("Goldman Sachs")
155. Jan Graham, Graham Law Offices, dated April 17, 2009 ("Graham")
156. David Harrison, Esq., Law Offices of David Harrison, dated April 17, 2009 ("Harrison")
157. William A. Jacobson, Esq., Associate Clinical Professor of Law, Director, Cornell Securities Law Clinic, dated April 17, 2009 ("Cornell")
158. William J. Mougey, Esq. and Kristian P. Kraszewski, Esq., dated April 17, 2009 ("Mougey/Kraszewski")
159. Fred Joseph, President, North American Securities Administrators Association, Inc., Colorado Securities Commissioner, received April 17, 2009 ("NASAA")
160. Robert K. Savage, Esq., The Savage Law Firm, P.A., dated April 17, 2009 ("Savage")
161. Gary A. Sanders, Vice President, Securities and State Government Relations, National Association of Insurance and Financial Advisors, dated April 17, 2009 ("NAIFA")
162. Kert Martin, dated April 17, 2009 ("Martin")
163. Carl J. Carlson, Attorney, dated April 17, 2009 ("Carlson")
164. Nancy L.H. Boyd, Director of Compliance, Lincoln Investment Planning, Inc., dated April 17, 2009 ("Lincoln Investment")
165. John S. Burke, Esq., Higgins Burke, P.C., dated April 17, 2009 ("Burke")
166. Charles V. Senatore, Senior Vice President, Chief Compliance Officer, Fidelity Investments, dated April 17, 2009 ("Fidelity")
167. Jonathan W. Evans, Esq., dated April 17, 2009 ("J. Evans")

168. William S. Shepherd, Managing Partner, Shepherd, Smith & Edwards, LLP, received April 17, 2009 ("Shepherd")
169. Ronald C. Long, Director, Regulatory Affairs, Wells Fargo Advisors, dated April 17, 2009 ("Wells Fargo")
170. Dale E. Brown, President & CEO, Financial Services Institute, Inc., dated April 17, 2009 ("FSI")
171. Amal Aly, Managing Director and Association General Counsel, Securities Industry and Financial Markets Association, dated April 17, 2009 ("SIFMA")
172. W. Scott Greco, Greco & Greco, P.C., received April 17, 2009 ("Greco")
173. Eileen O'Connell Arcuri, UBS Financial Services Inc., dated April 17, 2009 ("UBS")
174. Colin S. Casey, dated April 17, 2009 ("Casey")
175. Christine Lazaro and Lisa Catalano, Securities Arbitration Clinic, St. John's University School of Law, dated April 17, 2009 ("St. John's")
176. Laura Lang, IBSI, received April 17, 2009 ("IBSI")
177. Barry D. Estell, Attorney at Law, received April 17, 2009 ("Estell")
178. Robert S. Rosenthal, Chief Legal Officer, MML Investors Services, Inc., dated April 17, 2009 ("MML")
179. Michael P. Corry, President, Association for Advanced Life Underwriting, dated April 17, 2009 ("AALU")
180. Michelle Oroschakoff, Managing Director, and Jill Ostergaard, Managing Director, Morgan Stanley, dated April 17, 2009 ("Morgan Stanley")
181. Geoffrey Boyer, President, Boyer Financial Group, received April 17, 2009 ("Boyer Financial")
182. David M. Koll, dated April 17, 2009 ("Koll")
183. Robert C. Port, Esq., Cohen, Goldstein, Port Gottlieb, LLP, dated April 17, 2009 ("Port")
184. Lisa M. Roth, National Association of Independent Broker-Dealers Member Advocacy Committee Chair, Keystone Capital Corporation, CEO/CCO, dated April 17, 2009 ("NAIBD")

185. Steven M. Sherman, Law Offices of Steven M. Sherman, received April 17, 2009 ("Sherman")
186. Douglas G. Preston, Senior Vice President, Head of Regulatory Affairs, Bank of America Securities LLC, dated April 17, 2009 ("BofA")
187. Stephen Krossschell, Goodman & Nekvasil, P.A., dated April 17, 2009 ("Krossschell")
188. Jessica Vasquez, Willeford Law Firm, dated April 17, 2009 ("Vasquez")
189. Rosemary J. Shockman, Shockman Law Office, dated April 17, 2009 ("Shockman")
190. John R. Tait, dated April 17, 2009 ("Tait")
191. Margie Adams, Director, Deutsche Bank Securities Inc., received April 17, 2009 ("Deutsche Bank")
192. Bari Havlik, SVP and Chief Compliance Officer, Charles Schwab & Co., Inc., dated April 17, 2009 ("Charles Schwab")
193. Clifford Kirsch and Susan Krawczyk, Sutherland Asbill & Brennan LLP, dated April 17, 2009 ("Sutherland")
194. Jenice L. Malecki, Esq., Malecki Law, dated April 17, 2009 ("Malecki")
195. Jesse Hill, Director of Regulatory Relations, Edward Jones, dated April 17, 2009 ("Edward Jones")
196. Scot Bernstein, Law Offices of Scot D. Bernstein, A Professional Corporation, dated April 18, 2009 ("Bernstein")
197. Robert Mabe, Registered Representative, dated April 18, 2009 ("Mabe")
198. John R. Still, dated April 20, 2009 ("Still")
199. David Farrell, dated April 20, 2009 ("Farrell")
200. Daniel Woodring, V.P. and Chief Compliance Officer, PFS Investments Inc., dated April 20, 2009 ("PFS")
201. James Rice, Registered Principal, Royal Alliance Associates, dated April 21, 2009 ("J. Rice/Royal Alliance")
202. Hattie Evans, Registered Representative, Financial Network, dated April 21, 2009 ("H. Evans/Financial Network")

203. Doria G. Bachenheimer, VP, Associate General Counsel, Regulatory Law, and Pamela Lewis Marlborough, Associate General Counsel, TIAA-CREF, dated April 22, 2009 ("TIAA-CREF")
204. Doug Richards, dated April 27, 2009 ("Richards")