

## BrokerCheck

### SEC Approves Changes to Reduce the Waiting Period for the Release of Information Reported on Form U5 Through BrokerCheck

Effective Date: December 12, 2015

#### Executive Summary

The SEC approved a change to FINRA Rule 8312 (FINRA BrokerCheck Disclosure) to reduce the waiting period from 15 days to three business days for the release of certain information reported on the Form U5 (Uniform Termination Notice for Securities Industry Registration) through BrokerCheck.<sup>1</sup> The effective date is December 12, 2015.

The text of the rule amendment is set forth in Attachment A.

Questions concerning this *Notice* should be directed to FINRA's Gateway Call Center at (301) 590-6500.

#### Background & Discussion

FINRA Rule 8312 governs the information FINRA releases to the public via BrokerCheck. BrokerCheck provides the public with information on the professional background, business practices, and conduct of FINRA member firms and their associated persons, as well as on firms and their associated persons registered with national securities exchanges that use the Central Registration Depository (CRD<sup>®</sup>). These firms, their associated persons and regulators report information to the CRD system—the securities industry online registration and licensing database—via the uniform registration forms.<sup>2</sup> FINRA releases to the public through BrokerCheck information derived from the CRD system to, among other things, help investors make informed choices about the individuals and firms with which they conduct business.

#### November 2015

##### Notice Type

- ▶ Rule Amendment

##### Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Registered Representatives
- ▶ Registration
- ▶ Senior Management

##### Key Topics

- ▶ BrokerCheck<sup>®</sup>
- ▶ Central Registration Depository
- ▶ Uniform Registration Forms

##### Referenced Rules & Notices

- ▶ FINRA Rule 8312

### **Reduction of the Waiting Period for the Release of Information Reported on Form U5**

Most of the information that FINRA releases through BrokerCheck generally is made available the day after it is filed with the CRD system.<sup>3</sup> Rule 8312, however, provides for a 15-day delay in the release of disclosure information filed on Form U5, which firms use to terminate registrations with self-regulatory organizations (SROs) and the states.<sup>4</sup> The 15-day waiting period was established to give brokers on whose behalf the Form U5 was submitted an opportunity to comment on the disclosure event either through a Form U4, which firms use to register brokers with SROs and the states, or by submitting a broker comment directly to FINRA.<sup>5</sup>

Beginning on December 12, 2015, the 15-day delay in the release of disclosure information filed on Form U5 will be reduced to three business days.<sup>6</sup> FINRA believes that a three-business-day waiting period is more reasonable than a 15-day period because it allows investors to more quickly access disclosure information reported on Form U5 while at the same time still providing brokers the opportunity to comment on the reported disclosure event.

## Endnotes

1. See Securities Exchange Act Release No. 76359 (November 5, 2015), 80 FR 70016 (November 12, 2015) (Order Approving SR-FINRA-2015-032).
2. FINRA discloses through BrokerCheck information that is reported on the following uniform registration forms: Form U4 (Uniform Application for Securities Industry Registration or Transfer), Form U5, Form U6 (Uniform Disciplinary Action Reporting Form), Form BD (Uniform Application for Broker-Dealer Registration), and Form BDW (Uniform Request for Broker-Dealer Withdrawal).
3. BrokerCheck is periodically “refreshed” based on information filed with the CRD system on the uniform registration forms. Information filed with the CRD system on Monday through Thursday generally is released through BrokerCheck the following day. Information filed with the CRD system on Friday or Saturday generally is released through BrokerCheck on Sunday. The CRD system is not available for filings on Sunday. Information filed with the CRD system that contains details about a disclosure event may require additional processing time.
4. Only disclosure information is subject to the 15-day waiting period. Other Form U5 information, such as the date of termination of a broker’s registrations, is published in BrokerCheck in accordance with the protocols described earlier (*see supra* note 3).
5. See Securities Exchange Act Release No. 55127 (January 18, 2007), 72 FR 3455 (January 25, 2007) (Order Approving File No. SR-NASD-2003-168).
6. The three-business-day waiting period may be curtailed if a broker reports on Form U4 the disclosure event that the broker’s prior firm reported on Form U5 prior to the expiration of the waiting period. For example, if FINRA processes a disclosure event reported on Form U5 on Monday, and on Tuesday processes a Form U4 filed by a broker reporting that event, the Form U5 information would be made publicly available in BrokerCheck on Wednesday, which is the same day that the Form U4 information would be released. In such circumstances, the broker has had a chance to comment on the disclosure event that has been reported by the firm on the Form U5, so continuing to exclude the Form U5 version of the event from BrokerCheck does not serve any purpose.

## ATTACHMENT A

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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### 8000. INVESTIGATIONS AND SANCTIONS

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### 8300. SANCTIONS

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#### 8310. Sanctions for Violation of the Rules

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#### 8312. FINRA BrokerCheck Disclosure

(a) through (c) No Change.

(d) FINRA shall not release:

(1) through (4) No Change.

(5) [Form U5 information] events reported on Section 7 of the Form U5 (other than an "Internal Review Disclosure" event) for three business [fifteen (15)] days [following the filing of such information] after FINRA's processing of the filing. However, if an event is reported on Form U5 and the same event is thereafter reported on Form U4 prior to the expiration of the three-business-day period, FINRA will release the Forms U4 and U5 information simultaneously upon processing. Under such circumstances, the three-business-day period may be curtailed;

(6) through (7) No Change.

(e) through (f) No Change.

••• **Supplementary Material:** -----

.01 through .03 No Change.

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