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

Re: Release No. 34-59-616; File No. SR-FINRA-2009-008
Proposed Rule Change to Amend Forms U4 and U5 and FINRA Rule 8312

Dear Ms. Murphy:

TIAA-CREF Individual & Institutional Services, LLC¹ (“T-C Services”) appreciates the opportunity to comment on the above-referenced proposed rule amendments by the Financial Industry Regulatory Authority (“FINRA”) with respect to the Uniform Application for Securities Industry Registration or Transfer (“Form U4”) and Uniform Termination Notice for Securities Industry Registration (“Form U5”).

Subject to our comments below, we support FINRA’s efforts to modernize and clarify Form U4 and U5 reporting requirements. In particular, we applaud FINRA for: (a) increasing the monetary threshold for reporting customer complaints, arbitrations and litigations to address the passage of time since the initial threshold was set; and (b) permitting firms to correct clerical and administrative errors on Form U5 filings through amendment of “Date of Termination” and “Reason for Termination” amendments. T-C Services also supports FINRA’s goal to better identify, through timely Form U4 and U5 reporting, individuals and firms that are subject to statutory disqualification under Sections 15(b)(4)(D) or (E) of the Securities Exchange Act of 1934 as a result of “willful violations” of federal securities and commodities laws.

T-C Services, however, respectfully requests that FINRA and the Securities and Exchange Commission (the “Commission”) reconsider the proposed implementation period of the rule with respect to responding to the new Form U4 questions regarding “willful violations” given the substantial administrative challenges that it will present to firms with large numbers of registered persons.

¹ TIAA-CREF Individual & Institutional Services, LLC, a registered broker-dealer and investment adviser, is a wholly owned subsidiary of Teachers Insurance and Annuity Association of America (“TIAA”). TIAA, a life insurance company, and the College Retirement Equities Fund (“CREF”), an open-ended diversified management investment company registered with the Securities and Exchange Commission, are the two organizations that form TIAA-CREF. TIAA-CREF is one of the world’s largest retirement plan systems and for nearly 90 years has helped people in the academic, research, medical and cultural fields plan for and live through retirement.

As proposed, firms would be required to file an updated Form U4 for each of its current registered persons within 120 days of the effective date of the rule change once approved by the Commission. Specifically, “yes” or “no” answers to six new questions regarding “willful violations” under federal securities and commodities law will be required to be included in each amended Form U4 filing. Additionally, in the event a firm files U4 amendments for any of its registered persons in the regular course of its business in the intervening period between the effective date of the rule and the expiration of the 120 day period, the six new questions must be answered accordingly at the time of that filing.

While FINRA has acknowledged that the proposed implementation period “may place an administrative burden on firms,” we believe that, for firms with a large number of registered personnel, the administrative burden significantly exceeds FINRA’s estimates. Processes will need to be established to ensure that accurate, complete and timely information is gathered from all registered persons, verified and filed accordingly through the Central Registration Depository (“CRD”). Among other things, firms will need adequate time to canvas their personnel, obtain the associated required registered representative signatures, collect, compile and verify the responses, including performing any necessary interpretive analysis, and enter the updates into the CRD system. These efforts will need to be staffed accordingly. While we appreciate and understand the import from a regulatory review and investor protection standpoint of prompt disclosure of “yes” answers to the six new questions, we question, in the current economic climate that has given rise to industry-wide budgetary constraints and personnel reductions, why the recordation of a “no” answer to the new questions is needed within a 120 day timeframe.

We believe consideration should be given to less disruptive alternatives which achieve the same goal. Alternative mechanisms for gathering the information set forth in the six new questions could include the following:

- Require only Form U4s with “yes” answers to be filed within 120 days of the effective date of the rule change and permit all other Form U4s to be updated over a longer period of time such as a year;
- Default the answers to the six new questions on Form U4 to “no” for all registered representatives that do not currently have “yes” answers to existing questions 14 C, D and/or E of the Form as the each of the six new questions is, in effect, a subset of the existing Form U4 questions regarding Regulatory Action Disclosures; and
- Relax the requirement that firms obtain manual signed copies of Form U4 amendments with respect to “no” answers to the six new questions and enable firms to bulk file Form U4 updates with “no” answers through EFT or other batch filing processes.

Finally, we believe that consideration should be given to suppressing the completeness check functionality of the CRD system with respect to the newly added questions until the expiration of

the implementation period. If such a change is not implemented, the rule change, in effect, will require firms to have processes in place to respond to the new questions on the first day the rule change is declared effective by the Commission.

Sincerely,



Doria Bachenheimer
Vice President, Associate General Counsel



Pamela Lewis Marlborough
Associate General Counsel