

Comments of
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Ms. Florence E. Harmon, Deputy Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

SR-FINRA-2009-050

Dear Ms. Harmon:

I have been practicing securities law for more than twenty years and have worn many hats - respondent's attorney, in-house compliance/defense attorney, NASD enforcement attorney, and public investor's attorney. I have sat for and passed almost every brokerage exam that the brokerage industry offers and I also serve as an arbitrator for FINRA. I am very familiar with the brokerage industry. I have a national and international securities arbitration practice with my base in Philadelphia, Pennsylvania.

I write to comment on rule proposal SR-FINRA-2009-050 with respect to the proposed changes to FINRA Rule 8312.

In a post Bernard Madoff regulatory world, main street investors deserve to have as many tools as possible to protect their nest eggs. FINRA's BrokerCheck has historically been one of those consumer protection tools. However, that tool needs to be further expanded to eliminate the two-year purge provision.

I recognize that brokers who have left the industry seek their privacy. However, what I have found while wearing the hat of the public investor attorney is that brokers who have left the industry due to do their problematic disciplinary history go into unregulated investment type fields. One of those fields is financial planning for senior citizens. Oftentimes the BrokerCheck system remains the only publicly available information on that former broker.

Given that FINRA and the SEC both have the mission to protect the investing public, the balance between a former broker's need for privacy and main street investors need for adequate disclosure tips in favor of the main street investor. The investing public should have access to a former broker's disciplinary history, and such information should be made available by FINRA for up to ten years.

It would be tragic for senior citizens and other investors to have lost their lifetime savings because they could not access valuable information about their unregulated financial planner because that information has been purged from BrokerCheck.

Most investors do not understand the difference between a FINRA registered broker and someone that is assisting them with their investing but who is in an unregulated industry. That investor may simply think based on the public service announcements by FINRA that anyone in the financial service industry can be found on Broker Check.

As such, grandma who now has internet access may end up looking on the Broker Check, finding that the unregulated "financial planner" who recently cold called her has a disciplinary history a mile high and may avoid getting scammed thanks to BrokerCheck. That is why the two-year purge provision must be eliminated and instead that such information must be made available to the main street investor for ten years.

Respectfully submitted,

Debra G. Speyer