

Dear Sirs:

I am writing to urge that FINRA Rule 8312, which governs the information FINRA releases to the investing public via the BrokerCheck system, be changed to eliminate the two-year limitation for information regarding brokers no longer affiliated with a broker-dealer. As currently formulated, Rule 8312 only makes available to the public information about brokers who are currently affiliated with a broker-dealer, or have been affiliated with one within the last two years.

Eliminating the two-year limitation, thus providing information about individuals who are or have been at any time affiliated with a broker-dealer, would greatly benefit the investing public, would increase transparency, and would reduce the instances of securities fraud.

Our law firm often represents victims of fraudulent investment schemes. Many times, we find that such victims invested through individuals who at some time in their past were registered with broker-dealers, but lost their licenses as a result of violating FINRA rules or securities laws or regulations. In many cases, such individuals were sanctioned due to conduct similar to their conduct vis-à-vis the victimized investor, or due to sales of unregistered or fraudulent investment products similar to those offered to the victimized investor. An unsophisticated investor approached by a former broker who lost his license due to violations more than two years earlier has no easy way of learning about such violations, until it is too late.

The current system for gaining access to background information about an ex-broker whose affiliation with FINRA ceased more than two years earlier is Byzantine and extremely cumbersome for the investing public. When having to perform background checks regarding the professional history of a former broker whose name does not show up in the BrokerCheck database, our law firm has to contact the Division of Securities ("DoS"), or similar entity, from the state where the sale occurred, or where the ex-broker is believed to have an office. Depending on the state, the request may have to be made in writing and send by mail or fax. The answer may take days or weeks to arrive. In some states, the Division of Securities will provide that information only if the broker was registered in that state. In others, the DoS individual in charge with providing such information is employed part-time or not available for days. When the information is provided over the phone, the amount of information that is made available varies, it seems, based on whatever the operator at the other end of the line believes he or she is allowed to disclose about the ex-broker. If the name of the ex-broker is too common and more specific information about him is not immediately available, the operator will state that it would take too long to go through every "John Smith" on his or her list, and will ask that we call back with more specific information about the salesman.

An unsophisticated investor who needs to look up a former broker who contacts him to offer a "great investment opportunity with guaranteed returns, available only to a few, select investors" would be in a much better position to protect himself against investment fraud by being able to check that broker online, in the BrokerCheck database. Investor protection considerations should outweigh privacy concerns; such privacy concerns are, in any case, a red herring, given the fact that the more astute investors may still gain access to information about an ex-broker's background through the state divisions of securities, albeit through a much more cumbersome process.

For these reasons, we respectfully urge that the two-year period limitation imposed by Rule 8312 with regard to brokers whose registration with FINRA was terminated, be eliminated. Information about such former brokers should be available just as information about individuals currently registered with FINRA. Thank you for giving us the opportunity to comment regarding this Rule.

Yours truly,

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