



St. John's University School of Law  
Securities Arbitration Clinic

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Via Online Submission

Ms. Elizabeth M. Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Re: File No. SR-FINRA-2010-012  
Proposed Rule Change to Amend FINRA Rule 8312 (FINRA BrokerCheck  
Disclosure)

Dear Ms. Murphy:

The Securities Arbitration Clinic at St. John's University School of Law is very pleased to accept this opportunity to comment on the proposed changes to FINRA Rule 8312 to expand the information released through BrokerCheck, and to provide for a BrokerCheck dispute process. The Clinic supports the current rule proposal in its endeavor to expand BrokerCheck. Any proposal to increase the ease with which investors may gain information about those with whom they are doing business is a positive one; however, we believe that there is still room for FINRA to further expand BrokerCheck.

The Clinic is a not-for-profit organization in which second and third year law students provide free legal representation under our supervision to public investors in their securities disputes who are otherwise unable to obtain legal representation. In addition to representing investors in securities arbitrations, the Clinic also promotes investor education and protection. Accordingly, the Clinic has a strong interest in FINRA rules that protect public investors, particularly those that impact the scope of information available to public investors.

The Clinic supports the expansion of BrokerCheck to include historic customer complaints, to expand the disclosure period for formerly registered persons from two years to ten years, and to expand the amount of information that is permanently available. BrokerCheck is no longer used solely to check on presently registered persons with whom investors are doing business. FINRA recognizes that certain information should remain permanently available, regardless of when the broker left the industry because the broker may move into other investment related industries, or otherwise remain in a position of trust with potential investors. This argument is well founded. It is common for brokers with numerous complaints to leave the securities industry and become employed in a related, but unregulated investment business. The serious problem is that their BrokerCheck information becomes unavailable with the passage of time, and investors dealing with the broker in their new capacity are unable to access that person's BrokerCheck. There may be no other means for the potential investor to easily obtain any background information on this individual. Accordingly, we urge the Commission to approve the proposal.

We do believe that the proposal may go further. FINRA proposes to remove information about formerly registered persons after ten years, unless the information falls into a small category that it considers a final disposition. FINRA clearly recognizes that information about formerly registered persons remains relevant to the investing public years after an individual has ceased to be registered. As a protection to the formerly registered persons, FINRA has procedures whereby an individual may dispute information contained within BrokerCheck. Moreover, in this rule proposal, FINRA proposes to formalize and codify these procedures. We support FINRA's rule proposal in this regard, recognizing the need for a formalized mechanism whereby FINRA may fulfill its obligation to ensure the accuracy and integrity of the CRD system, and by extension, BrokerCheck. Thus, the fact that the information FINRA proposes to remove after ten years is not deemed a "final disposition" is no longer a compelling enough reason to justify the removal of the information. We urge FINRA to consider making all of the information contained within BrokerCheck available permanently.

In addition, we believe there is still room for further expansion of BrokerCheck to unify it with the information available in certain states where the public has access to a broker's CRD. Certain states, such as Florida, will make the broker's CRD available to investors that request it, while other states do not. The information contained in a broker's CRD is much more detailed than the information on BrokerCheck and includes such additional, or more expansive, disclosures such as: information about registrations with previous employers, including the reason for termination, any termination comment, which registrations the individual held while employed with the firm, what position the individual held and whether the employment was investment related; and all exam information, including whether or not the individual has failed any exams. In sum, the information about brokers is not uniform. In certain states, investors have more information about the people with whom they may be doing business. We urge FINRA to consider expanding BrokerCheck to ensure that the investing public has equal access to the information available about brokers regardless of where they do business.

Financial professionals may interact with the public in different capacities over time. Limiting information available to the public because an individual has not worked in a registered capacity within the past ten years is somewhat arbitrary. If the person has a checkered past, the

need to protect the public is that much greater. The Clinic supports the current rule proposal, and urges FINRA to consider further expansions to BrokerCheck as outlined above. We welcome any questions you may have regarding our position. Please do not hesitate to contact us should you have any questions or wish to discuss this matter.

Respectfully submitted,  
ST. JOHN'S UNIVERSITY SCHOOL OF LAW  
SECURITIES ARBITRATION CLINIC

/s/

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