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December 9, 2013

VIA ELECTRONIC SUBMISSION

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

**Re: File No. SR-FINRA-2013-048 – Proposed Rule Change to Amend
FINRA Rule 8312 (FINRA BrokerCheck Disclosure) to Expand the
Categories of Civil Judicial Disclosures that are Permanently
Available in BrokerCheck**

Dear Ms. Murphy:

The Investor Rights Clinic at Pace Law School, operating through John Jay Legal Services, Inc. (“PIRC”),¹ welcomes the opportunity to comment on FINRA’s proposed amendments to FINRA Rule 8312 concerning the expansion of categories of judicial disclosures that are permanently included in BrokerCheck. PIRC supports the proposal to permanently make publicly available on BrokerCheck information about former associated persons of a member who have been the subject of an investment-related civil action brought by a state or foreign financial regulatory authority that was dismissed pursuant to a settlement agreement. The proposed rule change is consistent with the purpose of FINRA Rule 8312, as the rule currently includes certain judicial disclosures on a permanent basis. Additionally, the proposed rule will enhance investor protection and will provide no additional burden on former associated persons and member firms.

Consistent with the purpose of the current Rule 8312, the proposed amendment seeks to permanently provide more relevant information to investors through BrokerCheck. Under current Rule 8312(c)(1), certain judicial disclosures are available on a permanent basis, including, but not limited to, disclosures about former associated persons who were the subject

¹ PIRC opened in 1997 as the nation’s first law school clinic in which J.D. students, for academic credit and under close faculty supervision, provide pro bono representation to individual investors of modest means in arbitrable securities disputes. See Barbara Black, *Establishing A Securities Arbitration Clinic: The Experience at Pace*, 50 J. LEGAL EDUC. 35 (2000); see also Press Release, Securities Exchange Commission, SEC Announces Pilot Securities Arbitration Clinic To Help Small Investors - Levitt Responds To Concerns Voiced At Town Meetings (Nov. 12, 1997), available at <http://www.sec.gov/news/press/pressarchive/1997/97-101.txt>.

of a final regulatory action, who were convicted of or pled nolo contendere to a crime, or who were named as a respondent in an investment-related arbitration or civil litigation that resulted in an arbitration award or civil judgment against that person. These categories signify that the subject individual engaged in substantial wrongdoing, which resulted in a criminal conviction, civil judgment, or unfavorable arbitration award. Similarly, settlement agreements to be included under the proposed amendment could evince unlawful or wrongful conduct by a former associated person, such as fraud, negligence, or other misconduct indicative of a disregard of the investor's interests. Furthermore, a term of these settlement agreements may include a high monetary amount, reflecting alleged harm that resulted from the subject individual's actions. The alleged wrongful conduct that led to a civil proceeding is not necessarily negated when a state or foreign financial regulatory authority and the subject individual pursue settlement. Thus, making such judicial disclosures permanently available on BrokerCheck would be consistent with current FINRA Rule 8312.

PIRC commends FINRA for undertaking efforts to increase investor protection and believes the proposed amendment to FINRA Rule 8312 will further that objective because the proposed rule will enable the disclosure of events that may have involved significant misconduct by former associated persons. This would result in informed customer decision-making regarding the individuals with whom a customer may choose to form professional relationships. The new information to be disclosed under the proposed rule could impact an investor's decision to work with a former associated person who engaged in wrongful conduct. The current ten-year time restriction could prevent customers from accessing information that may be material to their decision.

Expanding the ten-year time frame would not result in additional prejudice to the former associated person. If the subject individual has achieved success in another related industry since the settlement agreement, potential investors can use their own judgment to determine if they want to engage in an investment relationship with the individual. Additionally, such individuals have the opportunity to explain the circumstances of the settlement to a potential customer, diminishing any prejudicial effect of the disclosure. Furthermore, as FINRA notes, the proposed amendment would not impose an additional burden or costs on member firms because it will not subject member firms or their associated persons to any new registration form reporting requirements. Because the benefits of increased disclosure on BrokerCheck outweigh any prejudice or costs to the member firms and subject individuals, PIRC fully supports the proposed amendment to FINRA Rule 8312.

Respectfully yours,

Sneha Parmar and Jeffrey Peters
Student Interns, PIRC

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