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October 24, 2014

VIA ELECTRONIC SUBMISSION

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. SR-FINRA-2014-038, Proposed Rule Change to Adopt FINRA Rule 3110(e) (Responsibility of Member to Investigate Applicants for Registration) in the Consolidated FINRA Rulebook

Dear Mr. Fields

The Pace Investor Rights Clinic at Pace Law School, operating through John Jay Legal Services, Inc. (PIRC), welcomes the opportunity to write this comment letter in support of FINRA's proposed rule change to adopt FINRA Rule 3110(e) (Responsibility of Member to Investigate Applicants for Registration) in the Consolidated FINRA Rulebook. PIRC generally supports the proposal, which seeks to streamline and clarify the rule language and adds a provision to require members to adopt written procedures that are reasonably designed to verify the accuracy and completeness of the information contained in an applicant's Form U4 (Uniform Application for Securities Industry Registration or Transfer). In addition, the proposed rule change adds Supplementary Material .15 (Temporary Program to Address Underreported Form U4 Information) to FINRA Rule 3110 (Supervision) to establish a temporary program that will issue a refund of Late Disclosure Fees previously levied against members for the late filing of responses to Form U4 Question 14M, subject to specified conditions.

Expanding FINRA Rule 3110 by adding paragraph (e) and incorporating requirements of NASD Rule 3010(e) into that paragraph should make the screening process of persons seeking registration more efficient and allow firms to consider all relevant information regarding an applicant's history before offering employment. This should streamline the process, make hiring new employees more efficient, and improve the quality of member firms' employees.

PIRC supports the adoption of NASD Rule 3010(e) relating to background investigations as FINRA Rule 3110(e). NASD Rule 3010(e) currently provides that "[e]ach member shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications, and experience of any person prior to making such a certification in the

application of such person for registration with this Association,” whereas proposed FINRA Rule 3110(e) provides that “[e]ach member shall ascertain by investigation the good character, business reputation, qualifications and experience of an applicant before the member applies to register that applicant with FINRA and before making a representation to that effect on the application for registration.” FINRA Rule 3110(e) adopts the language of NASD Rule 3010(e), but clarifies and enhances the existing rule. The proposed rule clarifies that firms must review a copy of an applicant’s most recent Form U5 if the applicant previously has been registered with FINRA or another self-regulatory organization. This clarification should ensure that firms know why an applicant was terminated from his or her previous job, which may be pivotal in a firm’s hiring decision for that applicant.

In addition, proposed FINRA Rule 3110(e) includes a requirement that members adopt written procedures that are reasonably designed to verify the accuracy and completeness of the information contained in an applicant’s Form U4. This new provision should help ensure that thorough background checks are completed on all applicants before they become registered in the securities industry. This way, firms can screen out applicants who are subject to a statutory disqualification or present a regulatory risk for the firm and customers. The Central Registration Depository (CRD) will be more effective if there is more available and accurate information for registered representatives. This should, in turn, allow FINRA to provide investors with more accurate information regarding registered representatives via BrokerCheck. Investors can then make more informed choices about the individuals and firms with which they conduct business.

Proposed FINRA Rule 3110(e) would also require that a firm’s written procedures must, at a minimum, provide for a search of reasonably available public records conducted by the member or a third-party service provider to verify the accuracy and completeness of the information contained in an applicant’s Form U4. PIRC supports this requirement because firms should consider all publicly-available information when conducting background checks on applicants. One of the best ways to manage the risk of future misconduct is to hire persons who have a history of no misconduct at all. PIRC also agrees with FINRA that expanding background checks and including other sources of publicly-available information would not be burdensome for members due to the availability of online access to public records databases and the relatively low cost of hiring a third-party service provider to conduct such a search.

Finally, PIRC supports FINRA’s initiative to verify against public records whether material financial information has been timely and accurately reported to the CRD system via the Form U4. The accuracy and completeness of the CRD system is crucial to FINRA’s goal of protecting the investing public. In addition, the inclusion of Supplementary Material .15 to FINRA Rule 3110 establishes a temporary program that will issue a refund to members of Late Disclosure Fees previously assessed for the late filing of responses to Form U4 Question 14M if the following conditions are met: (1) the Form U4 amendment is filed between April 24, 2014 and March 31, 2015; (2) the judgment or lien is under \$5,000 and more than five years old (from the date the judgment or lien is filed with a court as reported on Form U4 Judgment/Lien DRP, Question 4); and (3) the registered person was not employed by, or otherwise associated with, the firm filing the amended Form U4 on the date the judgment or lien was filed with the court. This one-time program may provide members with an incentive to accurately and timely report information relating to unsatisfied judgments or liens that are older and of a less significant

amount so that FINRA can update the CRD after completing this initiative. However, in the future, FINRA should not employ these types of refund programs for late disclosure reporting. If this trend continues, firms will realize that it will not matter if they disclose information late to the CRD because FINRA will refund late fees anyway. FINRA should not provide member firms with negative reinforcement for untimely reporting, especially when related to the CRD system.

The proposed changes to expand background investigations support FINRA's regulatory mission of "protecting the investing public," which relies on providing complete and accurate information regarding employees and firms on the CRD. Therefore, PIRC supports the proposed rule change to FINRA Rule 3110.

Respectfully yours,

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