



## PUBLIC INVESTORS ARBITRATION BAR ASSOCIATION

2415 A Wilcox Drive | Norman, OK 73069  
Toll Free (888) 621-7484 | Fax (405) 360-2063  
www.piaba.org

August 3, 2015

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

Re: SR-FINRA-2015-022  
Proposed Rule Change to Amend FINRA Rule 2210 (Communications with  
the Public) to Require Hyperlink to BrokerCheck on Member Websites

Dear Mr. Fields,

I write on behalf of the Public Investors Arbitration Bar Association (“PIABA”), an international bar association comprised of attorneys who represent investors in securities arbitrations. Since its formation in 1990, PIABA has promoted the interests of the public investor in all securities and commodities arbitration forums, while also advocating for public education regarding investment fraud and industry misconduct. Our members and their clients have a strong interest in rules promulgated by the Financial Industry Regulatory Authority (“FINRA”) to govern the conduct of securities firms and their representatives. In particular, our members and their clients have a strong interest in FINRA rules relating to the information provided to investors.

I write to support FINRA’s current proposal to require firms to include a hyperlink to BrokerCheck on member websites, but to express our concern that this rule provides less protection than prior proposals and that FINRA continues to exclude important information from BrokerCheck.

The current proposal is a compromise by FINRA, intended to address the industry’s concerns about the implementation of FINRA’s prior proposals. Prior proposals contemplated requiring firms to place “deep links” to the firm and the registered persons which would take the retail investor directly to the relevant BrokerCheck report. Prior proposals contemplated including placing hyperlinks on social media pages where the firm or registered person has a presence. With each new proposal, FINRA has required less and less of the industry. With this proposal, FINRA will require that firms place a hyperlink to BrokerCheck on the initial webpage that the member intends to be viewed by retail investors and any other webpage that includes a professional profile of one or more registered persons who conduct business with the retail public. While this proposal will make it more difficult than prior proposals for investors to find BrokerCheck information, it is an improvement over the current situation.

Moreover, given the limited requirement of this new proposal, the industry’s complaints have no merit. The inclusion of a hyperlink to the BrokerCheck webpage on a member firm’s initial webpage and pages that include registered person’s profile information cannot be considered burdensome. Contrary to the concerns raised by the industry, PIABA does not believe inclusion of a hyperlink to the BrokerCheck webpage on other pages where a firm or registered person has an internet presence would be burdensome either. In Regulatory Notice 14-19, FINRA

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excluded electronic mail from the type of communication which would require a BrokerCheck disclosure. Additionally, FINRA reviewed several popular social media sites, including Facebook and LinkedIn, and determined appropriate places for a BrokerCheck disclosure. If it is too difficult for firms to ensure their registered persons are making the appropriate disclosures on these websites, perhaps they should not be using them.

We request FINRA reconsider the extent to which the disclosures will be made, and not unnecessarily limit the disclosure. Firms and registered persons interact with potential customers through a number of different media and investors should be protected regardless of how the firm and registered person reaches them.

With respect to the scope of information provided to the public through BrokerCheck, PIABA remains concerned FINRA has not taken any steps to expand the information and make it more comprehensive. As itself FINRA notes, the information in BrokerCheck is derived from the Central Registration Depository (the "CRD"). However, BrokerCheck does not make most of the information contained within the CRD available to the public. There are significant gaps in the information available to investors in certain states if they request a CRD Snapshot from their state securities regulator compared with what would be available through BrokerCheck.

BrokerCheck continues to exclude critical information relating to reasons for termination and internal investigations. BrokerCheck does not disclose tax liens or bankruptcies if they occurred more than 10 years ago. BrokerCheck does not disclose how many times a registered person has taken an exam, or how many times they have failed it. This information is not uniformly available from state securities regulators due to variations in state public records laws.

Importantly, unlike BrokerCheck where the information is provided instantaneously and for free, CRD Snapshot reports requested from some states cost consumers money; must be requested either by telephone, by email, or through the state securities regulator's website; and may not be delivered for hours or days after the request. FINRA has taken the position publicly that BrokerCheck reduces the search costs for investors associated with acquiring valuable information about firms and registered persons; however, this is only effective if the search done through BrokerCheck eliminates the need for further research. Currently it does not. For an investor to be truly informed, they must still contact their state securities regulator to ensure that BrokerCheck has not left out critical information about the firm or registered person they will often be trusting with their life.

FINRA must harmonize the information available through BrokerCheck with the information available from the state securities regulators, such as Florida or Iowa. FINRA has examined this issue long enough. It is time to act.

PIABA thanks you for the opportunity to comment on this important topic.

Sincerely yours,



Joseph C. Peiffer,  
PIABA President