



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

750 First Street N.E., Suite 1140
Washington, D.C. 20002
202/737-0900
Fax: 202/783-3571
www.nasaa.org

August 3, 2016

Submitted electronically to rule-comments@sec.gov

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

RE: Release No. 34-78198, File Number SR-NYSEMKT-2016-052

Dear Mr. Fields:

On behalf of the North American Securities Administrators Association (“NASAA”),¹ I hereby submit the following comments in response to Release No. 34-78198, File Number SR-NYSEMKT-2016-052 entitled Notice of Filing of Proposed Rule Change Amending Rules 340, 341, and 359 to Extend the Time Within Which a Member or Member Organization or an ATP Holder Must File a Uniform Termination Notice for Securities Industry Registration (“Proposal”).² NASAA appreciates the opportunity to offer its comments on the above-referenced Proposal.

If adopted, the rule change in the Proposal would extend the ultimate filing deadline of the Uniform Termination Notice for Securities Industry Registration (“Form U5”) for NYSE MKT members from 10 days to 30 days. In NASAA’s view, the 10-day filing requirement for the Form U5 should be maintained. Form U5 contains valuable regulatory information, relating to the termination of securities industry professionals, which is used by regulators in making licensing decisions and by securities firms in making hiring decisions. Having access to this information in a timely manner is critical. While the Proposal seeks to harmonize the Form U5 filing deadline with the rules of other exchanges and self-regulatory organizations, it is time to reevaluate the often decades-old termination filing deadlines found in the rules and regulations across the industry. Instead of making all the filing deadlines the same, NASAA proposes that now is the time that serious consideration should be given as to whether the longer filing deadlines are still appropriate.

State regulators look to the information contained in Form U5 filings when making subsequent registration decisions, which often occur within a fairly compressed timeframe.

¹ NASAA is the association of the 67 state, provincial, and territorial securities regulatory agencies of the United States, Canada, and Mexico. NASAA serves as the forum for these regulators to work with each other in an effort to protect investors at the grassroots level and to promote fair and open capital markets.

² 81 Fed. Reg. 44,363 (July 7, 2016).

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Oftentimes, individuals that have been terminated from one securities firm will quickly seek employment and registration with a new firm before a completed Form U5 has been filed. In these circumstances, regulators and the new firm may not have a full picture as to the facts and circumstances that led to the individual's separation from his or her former firm before making registration or employment decisions.³ This issue is further compounded for state regulators due to the automatic nature of registration approval, since in many cases, state securities regulators only have a limited period of time to act on a registration request before it automatically becomes effective.⁴

The Proposal advocates that the new requirement that the Form U5 be filed promptly but not later than 30 days following an individual's termination could result in *more* timely filings. NASAA questions this assumption. While the Proposal requires "prompt" filing, the 30-day timeline effectively extends the current filing deadline by nearly three weeks. The Proposal offers no evidence supporting its position that insertion of a "prompt" filing requirement will actually result in more timely filings. And while anecdotal, it has been the experience of NASAA's members that, under a 30-day framework as currently operational for FINRA registered representatives, Form U5s are filed much closer to the thirtieth day following a termination than the tenth.

While NASAA appreciates the Proposal's attempt at harmonization by conforming NYSE MKT's Form U5 filing deadline rules with the deadlines found in the rules of other exchanges and self-regulatory organizations—and a similar "prompt" filing requirement for a different form found in a NASAA Model Rule⁵—NASAA believes that the shorter, 10-day deadline found in the current NYSE MKT rules should become the uniform Form U5 filing deadline across the industry. This filing provides an opportunity for other exchanges, self-regulatory organizations, and NASAA to reevaluate the filing timelines contained in our respective rules. Many such rules are decades old; implemented prior to the electronic filing efficiencies found in today's securities industry. Given the speed at which information—and money—flows through our economy, regulators making registration determinations and securities firms making hiring decisions should not have to do so without a full picture of the facts and circumstances and should have access to information in the most timely manner possible.

³ For example, on March 23, 2016 an individual was terminated following allegations about improper discretionary trading in client accounts. On April 22, 2016 the former firm filed a Form U5 disclosing the termination and these allegations. One day earlier, this individual, having no new disclosures at the time, was hired by another firm and his registration was approved. While the Form U5 was timely filed under FINRA rules, this individual's new firm and state regulators did not have the benefit of this information when making their hiring and registration decisions.

⁴ See, e.g. Uniform Securities Act of 1956 Sec. 202 (automatic registration if no action within 30 days); Uniform Securities Act of 2002 Sec. 408 (automatic registration after 30 days in case of transferring firms).

⁵ See IARD Implementation Model Rules available at http://www.nasaa.org/wp-content/uploads/2011/07/14-IARD_Implementation_Model_Rules.pdf.

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NASAA appreciates the opportunity to offer its comments on the Proposal, and should you have any questions about these comments, please contact NASAA's General Counsel, A. Valerie Mirko, at [REDACTED] or ([REDACTED]).

Sincerely,



Judith Shaw
NASAA President
Maine Securities Administrator