



National Crime Prevention and Privacy Compact

Compact Council Office
1000 Custer Hollow Road
Clarksburg, WV 26306-0145

September 28, 2021

Mr. Derek W. Linden
Executive Vice President
Financial Industry Regulatory Authority
1735 K Street, NW
Washington, DC 20006

Dear Mr. Linden:

Reference is made to your request for the Financial Industry Regulatory Authority (FINRA), the Authorized Recipient (AR), to outsource noncriminal justice administrative functions to STS SID LLC doing business as Sterling Identity (Sterling Identity), an FBI-approved channeler. It is noted that your authority for access to the FBI criminal history record information (CHRI) is Title 15, United States Code (U.S.C.), section 78q(f)(2), which authorizes every member of a national securities exchange, broker, dealer, registered transfer agent, registered clearing agency, registered securities information processor, national securities exchange, and national securities association to submit fingerprints for each of its partners, directors, officers, and employees to the FBI under authority delegated by the Attorney General of the United States. It is also noted that fingerprint submissions to the FBI pursuant to 15 U.S.C. § 78q(f)(2) must be routed through the Securities and Exchange Commission (SEC), a self-regulatory organization designated by the SEC, or an FBI-approved channeler upon approval from the FBI Compact Officer. Additionally, a self-regulatory organization submitting fingerprints to the FBI must have a fingerprint plan filed with, and declared effective by, the SEC pursuant to Title 17, Code of Federal Regulations (CFR), section 240.17f-2(c). As FINRA is a self-regulatory organization directly submitting fingerprints to the FBI under this authority, a fingerprint plan was filed with the SEC that has been declared effective. However, since FINRA's fingerprint plan will be changing to use an FBI-approved channeler, an updated plan must be filed with, and declared effective by the SEC prior to submission of fingerprints through Sterling Identity.

Access to FBI CHRI is subject to numerous restrictive laws and regulations, as well as the protective controls established by the Criminal Justice Information Services (CJIS) Security Policy. Dissemination of such information to a private entity is prohibited except as specifically authorized by federal law or regulation. Further, the exchange of FBI CHRI is subject to cancellation if such unauthorized dissemination is made.

In accordance with the National Crime Prevention and Privacy Compact (Compact) Council's Final Rule entitled "Outsourcing of Noncriminal Justice Administrative Functions," (Title 28, Code of Federal Regulations [CFR], Part 906), outsourcing of noncriminal justice administrative functions is permitted when approved by the FBI Compact Officer and as specified in the Security and Management Control Outsourcing Standard for Channeling (Outsourcing Standard).

Since the channeling functions to be performed by Sterling Identity pertain only to fingerprint submissions for the aforementioned populations, and the receipt of the corresponding CHRI, the FBI requires FINRA's current fingerprint plan to be updated to specifically indicate use of an FBI-approved channeler for the submission of fingerprints. Along with your channeling request, it is noted that you have updated and submitted a draft fingerprint plan which outlines FINRA's intent to use an FBI-approved channeler to submit the fingerprints to the FBI.

Accordingly, FINRA is conditionally granted permission to use Sterling Identity to perform channeling functions as set forth below. This approval becomes effective once FINRA has filed an updated fingerprint plan, which outlines the use of an FBI-approved channeler, with the SEC and it is deemed effective. Please send me the link to the notice declaring the plan effective for our records. Recognize that this approval is automatically rescinded if FINRA's fingerprint plan is not deemed effective by the SEC, FINRA loses its status as an AR, or Sterling Identity loses its status as an FBI-approved channeler. The dissemination of national fingerprint-based criminal history record check results to FINRA by Sterling Identity are for official use only.

The contract between FINRA and Sterling Identity shall, at a minimum, incorporate by reference the current Outsourcing Standard. In the event of a conflict between the terms of the contract between FINRA and Sterling Identity, amendments to the contract, and the Outsourcing Standard relating to the FBI-provided data, the terms of the Outsourcing Standard shall control. The FINRA is responsible for coordinating with Sterling Identity to ensure the Reason Fingerprinted field on the fingerprint submission must be populated with **15 USC 78q(f)(2) Securities Personnel** and the Originating Agency Case number is listed as **CHDC9109Z**.

When referencing the Outsourcing Standard, FINRA's responsibilities are indicated where the AR is mentioned. The links to the most current versions of the Outsourcing Standard, dated November 5, 2020, and the CJIS Security Policy, dated June 1, 2020, are as follows: <https://www.fbi.gov/file-repository/compact-council-security-and-management-control-outsourcing-standard-for-channelers.pdf/view> and <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>, respectively.

The FINRA is responsible for the actions of Sterling Identity and shall monitor Sterling Identity's compliance to the terms and conditions of the Outsourcing Standard and the CJIS Security Policy. Further, pursuant to section 2.06 of the Outsourcing Standard, FINRA shall ensure Sterling Identity maintains the security and confidentiality of the CHRI. The FBI will perform limited auditing functions on behalf of FINRA. However, per section 2.07 of the Outsourcing Standard, FINRA also has the option to conduct audits of Sterling Identity. In addition, the Outsourcing Standard requires FINRA to appoint an Authorized Recipient Security Officer, which is defined in section 1.03. Please provide me with the contact information of the individual appointed no later than 30-calendar days from the date of this approval.

As the AR, FINRA is also responsible for ensuring compliance with the federal laws and regulations associated with the use and dissemination of CHRI as well as with the Compact Council's rules and procedures. The FINRA is also responsible for ensuring brokers, dealers,

and other entities to whom FINRA submits fingerprints for and disseminates CHRI also comply with these federal laws, regulations, rules, and requirements.

Therefore, FINRA is responsible for ensuring that each applicant is provided certain notices and the results of the fingerprint-based background check are handled in a manner that protects the applicant's privacy. These obligations are pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a and 28 CFR § 50.12, among other authorities. Each applicant must receive a copy of the FBI Privacy Act Statement (dated no later than 2013) when the applicant submits his/her fingerprints and associated personal information to the FBI. The most current FBI Privacy Act Statement is available at <https://www.fbi.gov/services/cjis/compact-council/privacy-act-statement>. If the subject of the record believes that the record contains incomplete or inaccurate information, he/she may request a change or correction by contacting the agency or agencies that submitted the information to the FBI; or he/she may submit a challenge request to the FBI's CJIS Division. Additional information and instructions for submitting a challenge request are available at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>.

Should you have any questions regarding your responsibilities as an AR in relation to the outsourcing of noncriminal justice administrative functions, please do not hesitate to contact Mr. Timothy Neal via e-mail at [REDACTED] or me at [REDACTED], or via e-mail at [REDACTED].

Respectfully,



Chasity S. Anderson
FBI Compact Officer

1 – Mr. Taylor Liggett
General Manager
Sterling Identity
Suite 301
10220 SW Greenburg Road
Portland, OR 97223

2 – Mr. Devin F. Ryan
Assistant Director, Office of Chief Counsel
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549