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October 24, 2014

Via Electronic Mail to rule-comments@sec.gov

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

Re: **FINRA proposal to require verification of the accuracy and completeness of information contained in an applicant's Form U4 no later than 30 calendar days after filing. (File No. SR-FINRA-2014-38)**

Dear Mr. Fields:

The Securities Industry and Financial Markets Association ("SIFMA")[1] appreciates the opportunity to comment on the Financial Industry Regulatory Authority's ("FINRA") proposal to adopt Rule 3110(e) and Supplementary Material 3110.15 as detailed in filing SR-FINRA-2014-038 (the "Proposal").[2]

I. OVERVIEW

A. Proposed Rule 3110(e)

FINRA is proposing to adopt FINRA Rule 3110(e) into the Consolidated Rulebook, which will augment the obligations firms currently have under NASD Rule 3010(e) and Incorporated NYSE Rule 345.11 by adding a requirement to adopt reasonably designed procedures to verify the accuracy and completeness of the information contained in an applicant's Form U4 (Uniform Application for Securities Industry Registration or Transfer) no later than 30 calendar days after the filing of the Form U4.[3] Additionally, proposed

[1] SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association. For more information, please visit www.sifma.org.

[2] Securities Exchange Act Release No. 73238 (Sept. 26, 2014); 79 Fed. Reg. 59884 (Oct. 3, 2014), *Proposed Rule Change to Adopt FINRA Rule 3110(e) (Responsibility of Member to Investigate Applicants for Registration) in the Consolidated FINRA Rulebook* ("Proposing Release"). [*available at*: http://www.finra.org/Industry/Regulation/RuleFilings/2014/P600791] (last visited Oct. 23, 2014).

[3] The proposed rule change would delete NASD Rule 3010(f) because the adoption of FINRA Rule 3010(e) would render it obsolete. Incorporated NYSE Rule 345.11 (Investigation and Records) and Incorporated NYSE Rule Interpretation 345.11/01 (Application – Investigation) and /02 (Application – Records) would also be deleted as the obligations thereunder would be duplicative of certain obligations in proposed FINRA Rule 3110(e).

FINRA Rule 3110(e) states that "[s]uch procedures shall, 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 the applicant's Form U4."[4]

B. Proposed Supplementary Material 3110.15

FINRA is also proposing to add Supplementary Material .15 to FINRA Rule 3110. Supplementary Material .15 is designed to provide a temporary program to issue refunds to members who incur Late Disclosure Fees resulting from the filing of a late Form U4 amendment between April 24, 2014 and March 31, 2015, if that late Form U4 amendment is in response to Question 14M (*Do you have any unsatisfied judgments or liens against you?*) if certain other conditions are met.

II. EXECUTIVE SUMMARY

In this section SIFMA summarizes some of its main comments on the Proposal. As a threshold matter, SIFMA supports integrating the obligations in existing NASD Rule 3010(e) and NYSE Rule 345.11, and existing interpretations thereunder, into the Consolidated Rulebook as FINRA Rule 3110(e). SIFMA, however, is requesting that FINRA provide further clarification on proposed FINRA Rule 3110(e) to require each member to "establish and implement written procedures reasonably designed to verify the accuracy and completeness of the information contained in an applicant's Form U4 no later than 30 calendar days after the form is filed with FINRA"[5] (hereinafter referred to as the "verification requirement"). A detailed discussion of each of the following issues is included in the various sections of this comment letter.

- ***Scope of the Verification Requirement:*** SIFMA is particularly concerned that FINRA has not clearly defined the scope of the proposed rule's broad mandate that firms "*verify* the accuracy and completeness of the information in the applicable Form U4." [e*mphasis added*] As currently proposed, the language appears to require member firms to verify all of the information contained within the Form U4. Unless FINRA's intent is different, such a requirement would, for some responses in the Form U4, necessitate a member firm to review voluminous additional records not typically maintained in a centralized public database. Other responses cannot be verified through public records at all.[6] The burden on firms of such a verification process of the entire Form U4 is insurmountable, and

[4] *See* proposed FINRA Rule 3110(e).

[5] *See* proposed FINRA Rule 3110(e) at paragraph 4.

[6] Such records include, but are not limited to, records to verify other names known by; the employment status for a 10 year period that could include points of unemployment, military service, self-employment, homemaking; whether an individual previously exercised control over a company that was charged with a specified misdemeanor; association with private entities; and whether a bonding company denied a bond.

the costs would not justify such a burden. While FINRA suggests that the verification process could be accomplished by a review of a credit report from a national credit reporting agency and the Criminal History Record Information ("CHRI reports"), which is more consistent with the requirements of NYSE Rule 345.11 and the Form U4, it provides little certainty when the text of the rule is drafted far more broadly.[7] SIFMA strongly urges FINRA to clearly define the scope of the requirement to "verify" and confirm that the requirement does not apply to all of the information contained in the Form U4.

- ***Relationship between Investigation & Verification Requirements:*** Proposed Rule 3110(e) also appears to anticipate a difference in time between the two core requirements of the rule – *i.e.,* the obligation to investigate an applicant coming before the filing of a Form U4 and the verification requirement coming thereafter. The extent to which the review needed to meet the obligation to investigate an applicant prior to filing a Form U4 differs from the obligation to verify the accuracy of the Form U4 needs to be clarified. To the extent there is no material difference, firms should not be required to perform the same review twice, nor should they be penalized for conducting only a single review where the rule suggests two separate processes.

- ***The 30 Day Window – Public Records Search v. Verification of Search Results:*** It is also unclear in the Proposal whether FINRA's intent is to require members to complete the public records search within 30 calendar days, but still permit members to have additional time after that search to review the results, request further records, if necessary, and verify the accuracy of the data initially identified by the search, or if FINRA's intent is to give members only 30 calendar days to complete the entire verification process. SIFMA requests that firms be provided a minimum of 30 calendar days to conduct an initial public records search.

- ***Length of Refund Program:*** SIFMA supports the purpose of the refund program and requests FINRA to adopt a refund program on a more permanent basis or, at a minimum, extend the sunset provision to December 1, 2015. In addition, SIFMA is requesting guidance on the obligation to report certain financial events.

[7] For example, while the Form U4 seeks 10 years of employment history, the verification process under Item 15B on Form U4 only requires that communication with the applicant's previous employers for the last three years and NYSE 345.11 requires a review of the information required under Exchange Act Rule 17a-3(a)(12)(i).

III. GENERAL COMMENTS

A. Proposed FINRA Rule 3110(e)

As proposed, FINRA Rule 3110(e) incorporates NASD Rule 3010(e) materially unchanged, but adds two new provisions, both of which impose significant additional obligations on members. As detailed below, SIFMA recommends that FINRA provide additional clarity regarding the scope of the new obligations. SIFMA believes that the lack of clarity on various aspects of the proposed rule calls into question, among other things, the accuracy of the Proposal's economic impact analysis.

1. Scope of the Verification Requirement

As currently proposed, the verification requirement can be read to require the verification of all of the information on the Form U4, which has the effect of shifting the burden of ensuring that the Form U4 is true and complete from the applicant to the member firm. In proposing the verification requirement, FINRA noted that many firms "already have a review process in place to verify the information contained in the Form U4."[8] FINRA, however, fails to recognize that firms employ risk-based processes, taking *appropriate steps* to verify the information on the Form U4. The records reviewed can, therefore, vary between applicants at a given firm and between firms based on the material aspects of the Form U4 being verified, and can vary as to the point in the registration process that each record is reviewed.[9] SIFMA, moreover, is not aware of any firm that currently conducts a search of all the records that would be needed to compare all of the information provided in response to every question on an applicant's Form U4 and each applicable DRP. Consequently, it is inaccurate to assert that the proposed shift to a sweeping verification process would not be unduly burdensome for firms.

The ambiguity in the proposed rule as to a firm's obligation should not be left to interpretation and we request that FINRA revise the rule text or include Supplementary Material to proposed Rule 3110(e) to specifically identify the information on the Form U4 that firms are expected to verify through a public records search. SIFMA recommends refining the proposed rule to better reflect a member's obligation to take appropriate steps, not every possible step, to verify the material information on the Form U4. Doing so will achieve FINRA's goal to be consistent with the requirements of NYSE Rule 345.11 and the Form U4 and make the proposed rule wholly consistent with FINRA's example of compliance with the proposed rule.

> (1)(a) reviewing a credit report from a major national credit reporting agency that contains *public record* information (such as bankruptcies, judgments and liens), or (b) searching a reputable *national public records database*; and (2) reviewing the fingerprint results obtained as part of the

[8] *See* Proposing Release, *supra* note 2, at 59886.

[9] For example, a firm may review a criminal history by submitting fingerprints for a CHRI report prior to filing a Form U4 while another may utilize a vendor to review a criminal history prior to hiring.

> registration process . . . [or] using the services of a specialized provider . . . to provide the firm with a consolidated report of a *national public records* search, which includes a search of financial and criminal public records.[10] [e*mphasis added*]

2. Scope of the Search Requirement – Definition of Public Records

The potential burden to firms of a comprehensive verification is compounded by ambiguous language regarding the scope of records that may need to be searched. FINRA proposes that the procedures mandated by the verification requirement "at a minimum, provide for a search of reasonably available public records to be conducted by the member, or a third-party service provider, to verify the accuracy and completeness of the information contained in the applicant's Form U4"[11] (hereinafter referred to as the "public records requirement").

The scope and complexity of the public records requirement depends on the definition of "*reasonably available*," "*public records*," and "*national public records database*." The proposed rule text, however, does not provide a definition for any of these key terms. In its 19b-4 filing with the SEC, FINRA defines the term *public records* in a footnote as including:

> [R]ecords [that] include, but are not limited to: general information, such as name and address of individuals; criminal records; bankruptcy records, civil litigations and judgments; liens and business records.[12]

Use of broad terms such as "business records" obscures the scope of the public records requirement. Many "business records" (*e.g.,* certificates of incorporation, LLC formation documents or disciplinary actions of bar associations) are not maintained in a comprehensive national database, making a thorough search for these types of records unduly burdensome.[13] Consequently, third-party service providers that do claim to offer this sort of service actually do not conduct searches of all possible various state business records as part of their typical offering. Indeed, since the Business Information Group ("BIG"), with whom FINRA specifically contracted to provide competitive pricing to members in conducting public records searches, does not offer a search of "business records" to identify public and private entities with which an applicant may be associated, we question whether FINRA intended to

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[10] *See* Proposing Release, *supra* note 2, at 59886.

[11] *See* paragraph 4 of proposed FINRA Rule 3110(e).

[12] *See* Proposing Release, *supra* note 2, at n.12. SIFMA is not only concerned with how broadly this term is defined in the Proposal, but also with FINRA's failure to propose a specific definition within proposed FINRA Rule 3110(e) to allow for formal comment and avoid varied interpretations.

[13] While FINRA noted that the requirement to conduct a public records search would be limited to a national search that would not extend to public records searches in foreign jurisdictions, it left open the question as to whether a national search of public records would require a firm to include searches of state and county-maintained databases.

include such records within the scope of the proposed rule.[14] If such records are within the scope of the proposed rule, both the time necessary to search and verify such data and the additional cost burden on firms has been significantly underestimated. Thus, SIFMA requests that FINRA define the term "public records" so the scope of the requirement is less uncertain.

Furthermore, SIFMA seeks confirmation that, to the extent that the proposed rule requires firms to obtain certain investigative consumer reports, FINRA has concluded that the applicant's consent on a Form U4 is sufficient for firms to comply with applicable laws, rules and regulations, including employment and fair credit reporting laws of each jurisdiction.[15] To the extent that firms do not currently order investigative consumer reports, if the applicant's authorization on the U4 is not sufficient to comply with applicable laws, firms will need to implement additional procedures to ensure that FINRA's mandated public records search is conducted in accordance with federal and state requirements. These additional procedures will add to the cost of compliance, and firms will need substantial time to implement procedures necessary to obtain the required consents in a manner that assures legal compliance.

3. Distinction Between Investigating and Verifying

There also appears to be overlap between the verification requirement and the other existing requirements that FINRA proposes to incorporate into the new rule. NASD Rule 3010(e) will be incorporated into proposed FINRA Rule 3110(e), requiring members to "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" (hereinafter referred to as the "obligation to investigate").

The proposed rule clearly anticipates a difference in time between the two requirements – *i.e.,* the obligation to investigate coming before the filing of a Form U4, the verification requirement coming after. It is not clear, however, whether there is any material distinction between the records FINRA expects firms to search to fulfill each separate requirement. The NASD and NYSE have historically recognized in their regulatory interpretive guidance that there exists a substantial overlap between the obligation to investigate and the verification of the information on the Form U4, with one process effectively satisfying the other.[16] Absent clearer guidance, the proposed verification

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[14] *See, e.g.*, http://www.bigreport.com/SubPage_RelatedBox.aspx?ChannelID=23 (last visited Oct. 22, 2014).

[15] *See* Item 15A of the Form U4, which provides, among other things: "I recognize that I may be the subject of an investigate consumer report and waive any requirement of notification with respect to any investigative consumer report ordered by any jurisdiction, SRO, designated entity, employer or prospective employer. I understand that I have the right to request complete and accurate disclosure by the jurisdiction, SRO, designated entity, employer or prospective employer regarding the nature and scope of the requested investigative consumer report."

[16] *See, e.g.,* Incorporated NYSE Rule Interpretation 345.11/01 (providing that a member satisfies its duty to investigate a person who they contemplate employing *(pre-hire)* by fulfilling the obligation to verify the information in a filed Form U4 *(post-U4)*; Notice to Members 88-67 (providing that the purpose of researching a

requirement as currently drafted only serves to further obscure the distinction between the documentation a firm is reasonably expected to review before a Form U4 is submitted and the documentation a firm is reasonably expected to review thereafter and thus should be eliminated.

4. Application of the 30 Day Window – Public Records Search v. Verification of Search Results

To the extent the final rule retains the verification requirement, it is not clear whether FINRA's intent is to (i) require members to complete the public records search within 30 calendar days, but afford members additional time after the search to review the results, request further records, if necessary, and verify the accuracy of the data initially identified by the search, or (ii) give members only 30 calendar days to complete the entire verification process.[17] SIFMA believes that fair application of the Proposed rule requires that FINRA adopt the first approach. In addition, SIFMA believes that, to the extent a member firm has conducted a meaningful investigation of an employee prior to filing a Form U4, the proposed rule should permit a member firm to use the records previously obtained to verify information on the Form U4, even if the Form U4 is not filed within 30 days of that background investigation.

Even with consistent and diligent effort, it often takes firms more than 30 calendar days to obtain supporting documentation necessary to assess the accuracy of the information in the initial record search. Firms may be reliant on responses from local governments or private businesses to provide information necessary to substantiate a disclosure on a credit report or to clarify details on a criminal disclosure.[18] Given that the Proposed rule affords members 60 days to review a Form U5 filed in CRD, commonsense would suggest that the 30 calendar day requirement was only intended to apply to the requirement to conduct the public records search itself. If the proposed rule is to proceed, SIFMA requests that firms be provided a minimum of 30 calendar days to conduct an initial public records search and then, consistent with the existing standards, firms are afforded the time necessary to complete the

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potential employees background was to both investigate the business repute of an applicant and certify on the Form U4 that the firm has taken appropriate steps to verify the information).

[17] For example, while FINRA noted "the requirement to ***conduct*** a public records search ***must be satisfied no later than 30 calendar days*** after the initial or transfer Form U4 is filed, it also noted that it recognizes that there will on occasion be circumstances beyond a firm's control that prevent ***completion of the verification process within 30 calendar days*** after the Form U4 is filed with FINRA." (e*mphasis added)* Proposing Release, *supra* note 2, at 59886.

[18] In preparing this comment letter, SIFMA learned of many examples of protracted efforts to obtain records to substantiate disclosures. Indeed, occasionally there are circumstances beyond a firm's control that prevent it from completing the verification process. For example, a compromise with creditors is not customarily documented on a credit report nor are liens that have been satisfied for more than 7 years. *See* New York Times editorial "A Flaw-Background-Check System" (Aug. 18, 2013) (discussing deficiencies in the information obtained via F.B.I. criminal background checks) [*available at*: http://www.nytimes.com/2013/08/19/opinion/a-flawed-background-check-system.html?_r=0] (last visited Oct. 23, 2014).

verification process. If FINRA were to limit the time to complete the verification, we would recommend at least an additional 60-90 days after the records search. In addition, SIFMA questions whether a member can use the records obtained in a background check in the verification process or whether FINRA is suggesting that unless the records are obtained within 30 days of the filing of a Form U4, a firm has to undertake the same search at additional expense.

5. "Initial Form U4" and "Transfer Form U4"

In the Proposal, FINRA indicates that the verification requirement "would only apply to an initial or a transfer Form U4 for an applicant for registration, and not to Form U4 amendments."[19]

SIFMA requests confirmation that the intent is to apply the rule to an initial Form U4 filed with FINRA through the Central Registration Depository ("CRD"), and not to an initial application for registration with an exchange or jurisdiction in which the applicant has not previously been registered, an action that is achieved by filing a Form U4 amendment.

In addition, because the term "*transfer Form U4*" is not defined on the Form U4 or in the Proposal, we suggest using the more commonly understood term "*Relicense Form U4.*" SIFMA also requests that FINRA confirm that the proposed rule is not intended to apply to a Form U4 filed by an affiliate of a member or transferred through the mass transfer functionality.

The application of the verification requirement is an important element of the rule's application and in assessing the impact on members. SIFMA believes the text of the proposed rule or, at a minimum, the Supplementary Material, should specifically state that firms are required to "implement written procedures reasonably designed to verify the accuracy and completeness of the information on an applicant's ***initial or relicense*** Form U4 . . ."

B. Proposed Supplementary Material 3110.15

FINRA is also proposing to add Supplementary Material .15 to FINRA Rule 3110 to establish a temporary program to refund members Late Disclosure Fees 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

[19] *See* Proposing Release, *supra* note 2, at 59886.

(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.

SIFMA supports the purpose of the refund program and requests that FINRA consider adopting a refund program on a more permanent basis or, at a minimum, extend the sunset provision to December 1, 2015.

C. Additional Guidance on Disclosing Certain Financial Events

Notwithstanding the temporary relief provided by proposed Supplementary Material .15, SIFMA believes that Late Disclosure Fees can further be reduced with the benefit of additional clarity on the obligation to report certain financial events in response to Form U4 Questions 14K and 14M.

1. Form U4 Question 14K(1) – Compromise with Creditors

SIFMA believes that with this Proposal the time is ripe for FINRA to reexamine its reading of Question14K(1), which asks: "*Within the past 10 years: have you made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy proceeding?*" FINRA Enforcement previously alleged that a registered person is required to report a compromise with a single creditor under Question 14K(1), but a Hearing Panel rejected this assertion and found, in pertinent part:

> Enforcement reads the Form U4 language in question as though it asked about any compromise with a creditor, but, in fact, it asks about "a compromise with creditors." The distinction is important. Historically, a compromise with creditors was a negotiated arrangement between a debtor and some or all of the debtor's creditors as an alternative to bankruptcy—the sort of arrangement that might now be referred to as a "workout."[20] The Panel notes that the Form U4 question regarding a compromise with creditors also asks about voluntary or involuntary bankruptcy, and concludes that the question did not require [the registered individual] to disclose his settlement of an arbitration award with a single creditor. Accordingly, this charge will be dismissed.[21]

FINRA Enforcement subsequently appealed the decision, but chose not to contest or address the Hearing Panel's dismissal of this particular argument.[22] Nonetheless, thereafter FINRA staff issued a FAQ stating that, for purposes of responding to Question 14K(1) on

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[20] *See, e.g.*, *SEC v. United States Realty & Improvement Co.*, 310 U.S. 434, 448 (1940); *A. Harris & Co. v. Lucas*, 48 F. 2d 187 (5th Cir. 1931); *In re Republic Ins. Co.*, 20 F. Cas. 552 (N.D. Ill. 1873); and *Akron Dry Goods Co. v. Comm'r*, 18 T.C. 1143 (1952).

[21] *Dep't of Enforcement v. Cody*, Complaint No. 200500318901, 2009 FINRA Discip. LEXIS 17 (Jan. 29, 2009).

[22] National Adjudicatory Council Decision (May 10, 2010) (appealed on other grounds); Exchange Act Rel. No. 64565 (May 27, 2011) (appealed on other grounds).

Form U4, a "Compromise with Creditors," is "a compromise with **one or more** creditors." [*Emphasis added*.] In issuing the FAQ, FINRA staff specifically noted that it did not agree with the decision and it was the "staff's view that a compromise with a single creditor is sufficient to trigger the reporting requirement."[23] SIFMA believes the appropriate process for advancing an opinion contrary to a Hearing Panel's decision is either the appeal process or the rule making process. The staff's interpretation of Question 14K(1) is not one that is reasonably or fairly implied given that a Hearing Panel interpreted the question to be seeking information on a compromise with multiple creditors and FINRA Enforcement acknowledged that no prior interpretation or decision by FINRA or any other regulator supported the view that a compromise with a single creditor is reportable.[24] Accordingly, if FINRA is to continue to assess Late Disclosure Fees when there is a failure to timely report a compromise with a single creditor, SIFMA requests that FINRA file this interpretation in accordance with the requirements of Rule 19b-4 of the Exchange Act so that it can be properly vetted.

1. Question 14M on Form U4 – Unsatisfied Judgments/Liens

As FINRA is aware, the wording of Question 14M, "*Do you have any unsatisfied judgments or liens against you*," is continually a source of confusion because it implies a response is required only if the applicant currently has an outstanding unsatisfied judgment or lien and, therefore, only an affirmative response triggers a reporting obligation. SIFMA encourages FINRA to consider proposing Supplementary Material to provide added guidance on the reporting obligations under Question 14M, in which it would memorialize and disseminate guidance several members have received informally from FINRA.

SIFMA has drafted model language below for FINRA's consideration.

> **• • • Supplementary Material:**
>
> **16. Disclosure of Unsatisfied Judgments or Liens.** A registered person is obligated to keep their Form U4 current and accurate, which includes updating the Form U4 to reflect any unsatisfied judgments or liens under Question 14M.
>
> - If a registered person satisfies a judgment/lien within 30 calendar days of the date the judgment/lien was filed, the registered person does not have a reporting obligation.
> - If a registered person satisfies a judgment/lien within 30 calendar days of receiving notice of the judgment/lien, but more than 30 calendar days after the date the judgment/lien was filed, the registered person has a reporting obligation and would need to complete a Judgment/Lien Disclosure Reporting

[23] *See* Form U4 and U5 Interpretive Questions at footnote 1. [*available* at: http://www.finra.org/web/groups/industry/@ip/@comp/@regis/documents/appsupportdocs/p119944.pdf] (last visited Oct. 23, 2014).

[24] *See Dep't of Enforcement v. Cody*, Complaint No. 200500318901, 2009 FINRA Discip. LEXIS 17 (Jan. 29, 2009).

> Page even in the absence of an affirmative response to Question 14M. This is true for any judgment/lien that has been satisfied for less than 7 years and was outstanding for more than 30 calendar days during a period of time the registered person was associated with a member.

- Notwithstanding, a registered person will not be required to report a satisfied judgment/ lien not otherwise reported if the following conditions are met:
  1. The judgment/ lien is for an amount less than $5,000;
  2. The judgment/ lien does not reflect an unpaid claim resulting from the resolution of an investment-related consumer-initiated complaint, arbitration or litigation, a settlement or finding with the U.S. Securities and Exchange Commission, the Commodity Futures Trading Commission, a self-regulatory organization, a federal or state regulatory agency or a foreign financial regulatory authority (as those terms are defined on the Form U4); and
  3. The registered person was not employed by, or otherwise associated with, his/her current firm on either the date the judgment or lien was filed with the court or satisfied.

As satisfied liens are deleted from a credit report 7 years after the date paid, SIFMA recommends the reporting obligation likewise end at that point. The third bullet is proposed to strike a balance between FINRA's interpretation that certain satisfied liens should be disclosed and the challenge and cost of compiling information on de minimis liens long since satisfied.[25]

IV. CONCLUSION

SIFMA appreciates the opportunity to comment on the Proposal. SIFMA continues to support FINRA's efforts to establish a Consolidated Rulebook and streamline existing rules.

For the reasons discussed above and in light of the current and comparable obligation under Item 15B on Form U4, SIFMA recommends that the adoption of proposed FINRA Rule 3110(e) exclude the following provision:

> In addition, each member shall establish and implement written procedures reasonably designed to verify the accuracy and completeness of the information contained in an applicant's Form U4 no later than 30

[25] As neither Question 14K, which seeks the disclosure of certain financial events that occurred within the past 10 years and Question 14L, which seeks the disclosure of certain financial events regardless of when the event occurred, seek information on satisfied judgments or liens, we do not believe a compelling interest is served by requiring the disclosure of satisfied judgments or liens. As neither Question 14K, which seeks the disclosure of certain financial events that occurred "within the past 10 years" and Question 14L, which seeks the disclosure of certain financial events regardless of when the event occurred, seek information on satisfied judgments or liens, there is a presupposition that no public interest is served by the disclosure of information on satisfied judgments or liens.

> calendar days after the form is filed with FINRA. Such procedures shall, at a minimum, provide for a search of reasonably available public records to be conducted by the member, or a third-party service provider, to verify the accuracy and completeness of the information contained in the applicant's Form U4.

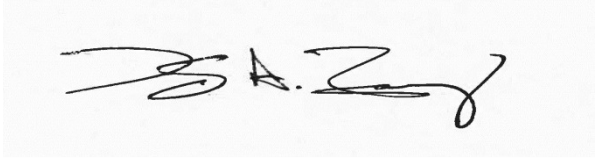
If FINRA proceeds with proposed FINRA Rule 3110(e), SIFMA respectfully requests that it be revised to provide a minimum of 90 days to complete an initial public records search and conduct the necessary analysis, which often requires retrieving additional documentation, to verify the accuracy and completeness of the information filed in Form U4.

While the lack of clarity regarding various conditions of the proposed rule makes it difficult for firms to fully quantify the additional burden it will impose, SIFMA believes, as discussed above, it is reasonable to interpret that, as drafted, the proposed rule is likely to impose a considerable burden on the industry. To that end, should FINRA Rule 3110(e) be adopted as proposed, a December 1, 2014, implementation date would present significant operational and cost challenges for the industry. As discussed above, the proposed rule creates additional obligations, the extent of which have not been clarified. Firms will need time to assess the rule's impact and make necessary changes to existing processes, which, in addition to adopting new policies and procedures, may require performing due diligence on third-party service providers and negotiating a contract for services with respect to public records searches. Accordingly, SIFMA requests an implementation date of December 1, 2015.

SIFMA supports the adoption of the refund program as well as any efforts to make such a program more permanent. In lieu of a more permanent refund program, SIFMA requests that the intended sunset provision be extended until December 1, 2015. SIFMA also encourages FINRA to consider issuing additional guidance relating to the reporting obligation under Question 14M on Form U4.

If you have any questions or require further information, please contact me at (202) 962-7386 (kzambrowicz@sifma.org).

Very truly yours,



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