

Coming Soon: New Background Check Obligations for Securities Broker-Dealers

Earlier in 2014, the SEC incorporated old NASD Rule 3010 (the “Prior Rule”) – related to employee supervision – into The Financial Industry Regulatory Authority rules as FINRA Rule 3110 (the “New Rule”). On Dec. 30, 2014, the SEC approved a proposed rule change pursuant to which FINRA included in the New Rule a new background check obligation for member firms. The added obligation requires member firms to establish and implement written procedures to verify the accuracy and completeness of the information contained in the registered representative’s initial or transfer Form U4 within 30 days after the Form U4 is filed. Those procedures must provide that the member firm, or a third-party service provider on behalf of the member firm, at least conduct a national search of reasonably available public records for the purpose of achieving that verification.

In addition to imposing this requirement, sub-paragraph (e) of the New Rule: (i) clarifies that the initial background investigation (including checking information concerning a proposed registered representative) shall be conducted before the member firm applies to register the proposed representative, (ii) clarifies that the acquiring firm within sixty days of the filing of the Form U4 must review the candidate’s Form U5 (or other termination filings) if the proposed individual has previously been registered, (iii) makes other updating and conforming changes and (iv) adds Supplementary Material .15 to FINRA Rule 3110 establishing a temporary program to refund Late Disclosure Fees (subject to certain conditions). (The sixty-day period to check prior Form U5 filings allows for the right of the candidate’s previous firm to take up to thirty days to make the U5 filing.)

The amendment to the New Rule becomes effective July 1, 2015. FINRA member firms must now begin to amend their written supervisory procedures to specifically address their new background check obligations and begin discussing with vendors how background searches will be effected and documented to be New Rule compliant

See the [SEC’s Order Granting Accelerated Approval](#).

The text of the [Adopted Rule](#), as it will appear in the FINRA Manual, can be found in subpart (e).

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