

# Changes to Form U-4 and U-5 and BrokerCheck

June 25, 2009

Effective May 18, 2009, the Securities and Exchange Commission approved amendments to Forms U-4 and U-5. The new forms are now available on CRD. Firms will be required to file these new forms for any new newly hired or terminated associated persons on or after May 18, 2009.

A brief summary of the significant changes to the forms follows:

- Additions to the disclosure questions at item 14 of Form U-4 and item 7 of Form U-5 and changes to the related forms DRP. Items 14C and 14E of Form U-4 are designed to require additional disclosure of certain statutory disqualifications under the federal securities laws (the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodities Exchange Act, the Municipal Securities Rulemaking Board and any rules promulgated under any of the foregoing). ("Willful Violations").
- Additions to the disclosure questions at item 14-I requiring disclosure of *allegations* of sales practice violations in a consumer initiated arbitration claim or civil litigation, even if the associated person was *not named* in the action. ("Sales Practice Violations"). These questions apply only to Sales Practice Violations filed on or after May 18, 2009.
- Revisions to Form U-5, where applicable, to conform to the U-4 revisions described above.
- Increase in the threshold for reporting settlements of customer complaints, civil litigation or arbitrations from \$10,000 to \$15,000.
- Amendment to FINRA Rule 8312 to conform to the above monetary threshold.
- Clarification of the definition of "Date of Termination" on Form U-5. In addition, firms will now be permitted, under certain circumstances, to amend the "Date of Termination" and "Reason for Termination" sections of Form U-5.

## Implementation of the Changes

- Firms are required to amend Form U-4 to respond to the new disclosure questions the first time they file an amendment to a Form U-4, but no later than November 14, 2009.
- Amendments for Willful Violations: Between May 18, 2009 and November 14, 2009, a firm may file a provisional "no" answer to the applicable disclosure questions provided final disclosure is made prior to November 14, 2009. If no changes are made to a "no" answer, the answer will be considered final on November 14, 2009. In addition, firms are permitted to file a "batch" file of Form U-4 amendments filing "no" answers, in order to avoid having to file separate amendments for each associated person.

- Amendments for Sales Practice Violations: For these types of violations, amendments to Form U-4 must be filed no later than 30 days after receipt by the firm of notification of any such violation.

## Expansion of BrokerCheck

FINRA has also submitted a proposal to the SEC to amend Rule 8312 to make records of final regulatory actions against any associated person permanently available to the public through BrokerCheck, regardless of whether the associated person continues to work in the securities industry. The current rule provides such information only for persons associated with a member firm within the past two years.

For additional information regarding these revisions please consult [FINRA Regulatory Notice 09-23](#) and the related information available through CRD.