



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70227; File No. SR-FINRA-2013-034)

August 19, 2013

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Form U4 Regarding the Reporting of Unsatisfied Judgments and Liens

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 13, 2013, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend the Uniform Application for Securities Industry Registration or Transfer (“Form U4”) with respect to the reporting of unsatisfied judgments and liens.

The proposed rule change does not make any changes to the text of FINRA rules.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

The Form U4 is the Uniform Application for Securities Industry Registration or Transfer. Representatives of broker-dealers, investment advisers, or issuers of securities must use the Form U4 to become registered in the appropriate jurisdictions and with the appropriate self-regulatory organizations ("SROs"). The Form U4 elicits administrative information (e.g., residential history, office of employment, outside business activities) and disclosure information (e.g., criminal charges and convictions, customer complaints, bankruptcies) about a representative. Firms and individuals have a continuing obligation to ensure that a Form U4 is timely updated when an event or proceeding occurs that renders a prior response on the form inaccurate or incomplete.

Section 14 of the Form U4 sets forth a series of questions regarding the existence of disclosure events that must be answered in the affirmative or negative. Additional details must

be provided on the appropriate Disclosure Reporting Page (“DRP”) for any affirmative answer to those questions. One of the disclosure events that must be reported on Form U4 involves unsatisfied judgments and liens. To report that a registered representative has become subject to an unsatisfied judgment or lien, a firm must respond affirmatively to Question 14M on Form U4 and then complete the corresponding Judgment/Lien DRP to provide details about the unsatisfied judgment or lien. An unsatisfied judgment or lien must be reported no later than 30 days after a registered representative learns of the facts or circumstances giving rise to the event (i.e., the filing of the judgment or lien).⁴

In connection with fee changes implemented last year, it came to FINRA’s attention that the Form U4 does not elicit a piece of information regarding an unsatisfied judgment or lien that is essential in enabling the CRD system to identify whether such a matter has been reported late. Specifically, the Judgment/Lien DRP elicits information only about the date a judgment or lien was filed;⁵ it does not elicit information about the date that the registered representative learned of the judgment or lien. In addition, the CRD system is programmed to determine whether a matter has been reported late based on a comparison of the date the judgment or lien was filed and the date it was reported. As result, the CRD system may assess an erroneous late disclosure fee because it is unable to take into account the date the registered representative learned of the

⁴ See FINRA By-Laws, Article V, Section 2(c), which states that every application for registration filed with the Corporation shall be kept current at all times by supplementary amendments via electronic process or such other process as the Corporation may prescribe to the original application. Such amendment to the application shall be filed with the Corporation not later than 30 days after learning of the facts or circumstances giving rise to the amendment.

⁵ See Section 4 of the Form U4 Judgment/Lien DRP.

judgment or lien.⁶ In such circumstances, the late disclosure fee may be unwarranted or the amount of the fee may be incorrect because the CRD system assessed the late disclosure fee based on the date the judgment or lien was filed rather than when the registered representative learned of it.

To help limit the instances of erroneous late disclosure fees being assessed by the CRD system, in August 2012, FINRA implemented new procedures for the reporting of unsatisfied judgments and liens.⁷ The new procedures instruct firms to provide the date the registered representative learned of the judgment or lien, if such date is different from the date the judgment or lien was filed, in a free-text section at the end of the DRP.⁸ If a firm reports a date in this section of the DRP, FINRA staff reviews the date provided to determine whether a late disclosure fee should be assessed and, if so, the amount of the fee.⁹

To provide additional clarity with respect to the reporting of events involving unsatisfied judgments and liens, the proposed rule change would amend Section 4 of the Judgment/Lien DRP to add a question regarding the date that the registered representative learned of the judgment or lien. The current question regarding the date the judgment or lien was filed will

⁶ FINRA will assess a late disclosure fee when a firm fails to report a disclosure event in a timely manner. The amount of the fee is based upon the number of days the disclosure is late. See Section 4(h) of Schedule A to the FINRA By-Laws.

⁷ See Information Notice, August 17, 2012.

⁸ See Section 8 of the Judgment/Lien DRP.

⁹ In conjunction with the implementation of the new procedures for the reporting of judgments and liens, the CRD system was modified to no longer automatically assess a late fee upon the reporting of these matters.

remain in Section 4 of the DRP.¹⁰ By amending the Judgment/Lien DRP in this manner, all member firms will be aware of the need to report both the date the judgment or lien was filed with a court and the date the registered representative learned of the matter. In addition, the proposed rule change would allow FINRA to once again automate the process for the calculation and assessment of the late disclosure fee with respect to the reporting of unsatisfied judgments and liens.¹¹

FINRA has filed the proposed rule change for immediate effectiveness. FINRA will announce the implementation date of the proposed rule change in a Regulatory Notice to be published no later than 90 days following Commission notice of the filing of the proposed rule change for immediate effectiveness. FINRA is proposing that the implementation date of the proposed rule change be the date of the software release to the CRD system in the fourth quarter of 2013.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹² which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes

¹⁰ FINRA, however, is proposing to clarify that this question pertains to the date that the judgment or lien was filed with a court.

¹¹ As noted above, in August 2012, FINRA suspended the automated process for calculating and assessing the late disclosure fee with respect to the reporting of unsatisfied judgments and liens, and instituted a temporary manual process. The proposed change would allow FINRA to reinstitute the automated process.

¹² 15 U.S.C. 78o-3(b)(6).

that, by adding a question to the Judgment/Lien DRP to elicit the date that a registered representative learned of a judgment or lien, the proposed rule change will clarify and facilitate industry reporting requirements and thereby help to ensure that member firms report information about unsatisfied judgments and liens accurately and completely. FINRA also believes that the proposed rule change will limit the instances of the assessment of an erroneous late disclosure fee by allowing FINRA to automate the process by which such a fee is calculated and assessed.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change to the Form U4 Judgment/Lien DRP will clarify and facilitate the accurate and complete reporting of information about unsatisfied judgments and liens by member firms. Furthermore, by specifically eliciting information about the date a registered representative learned of an unsatisfied judgment or lien, the proposed rule change will significantly limit, if not eliminate, the instances in which a member firm is assessed an erroneous late disclosure fee in connection with the reporting of such an event. This, in turn, will reduce the need for firms to contact FINRA for a refund of a late disclosure fee.¹³

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

¹³ Information about the late disclosure fee, including the procedure for requesting a refund, is available on FINRA's website at <http://www.finra.org/industry/compliance/registration/crd/usersupport/p005225>.

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2013-034 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

All submissions should refer to File Number SR-FINRA-2013-034. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-FINRA-2013-034 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2013-20569 Filed 08/22/2013 at 8:45 am; Publication Date: 08/23/2013]

¹⁴ 17 CFR 200.30-3(a)(12).