

Financial Industry Regulatory Authority (FINRA) Proposes Rule Strengthening Background Checks

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Last month, the Financial Industry Regulatory Authority (FINRA) issued a [proposed rule](#) requiring member firms to strengthen their background investigations of applicants seeking registration.

The proposed rule adopts, in large part, an old rule issued by one of FINRA's predecessors—the National Association of Securities Dealers (NASD)—relating to background investigations. FINRA's proposed rule change intends to “streamline” and “clarify” the language used in the NASD rule. The language, as slightly modified, would require firms 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.”

The proposed rule also makes clear that firms must review a copy of the applicant's most recent Form U-5 (including any amendments thereto) within 60 days of the filing date of an application for registration, if the applicant previously had been registered with FINRA or another self-regulatory organization. In reviewing the Form U-5, the firm is to take such action as “deemed appropriate.” And, if the firm cannot undertake such a review, it must demonstrate to FINRA that it has made “reasonable efforts” to do so.

The proposed rule also adds the requirement that firms “establish and implement written procedures reasonably designed to verify accuracy and completeness of the information contained in an applicant's Form U-4 no later than 30 calendar days after the form is filed with FINRA.” Specifically, “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.” It bears mention that, should a member solicit a consumer reporting agency to run a background check, it must remember to comply with the requirements of the Fair Credit Reporting Act (FCRA) and any state and local equivalents.

FINRA has requested comments on the proposed rule. Employers in the securities industry should stay tuned for future developments.

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