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FINRA Seeks to Beef up use of BrokerCheck.

Revives proposal that would require brokerages to link to regulator's database, including disciplinary background info

Finra on Thursday advanced a revised proposal that would require brokerage firms to include a link on their websites and other online communications to BrokerCheck, the database that includes broker disciplinary records.

The Financial Industry Regulatory Authority Inc. would require brokerage firms to display links to BrokerCheck, "on any member firm's website that is available to retail investors" and, in many other cases, when a firm displays a broker's profile or contact information.

The rule proposal, which has moved to a public comment period, came as part of a trio of decisions by Finra's 24-member Board of Governors that could reshape how investor disputes with brokers are settled and publicly reported.

Finra has been looking to pass a rule that would more widely publicize BrokerCheck for more than a year.

At issue is more than an Internet hyperlink. The proposal reignites a contentious debate between brokerage firms and Finra, the regulator whose operations they finance. Many brokers consider BrokerCheck to be a scarlet-letter repository, presenting the public with a distorted picture of their professional lives and cataloguing years of marginal details and meritless grievances by clients.

But some groups have been pushing for more information to be disclosed on BrokerCheck, and say a clear and comprehensive disciplinary history helps consumers make an informed decision when choosing an adviser. Groups such as the Public Investors Arbitration Bar Association, which represent investors in litigation against brokers, say not enough consumers know that BrokerCheck exists.

David Neuman, a lawyer who represents investors at Stoltmann Law Offices, said the revised rule is good news.

"Just putting that info in the customer's hand will certainly be helpful, and maybe they'll think twice if their broker has a number of complaints or other remarks on his record," he said.

In April, facing industry pressure, Finra withdrew a proposal that would have required Finra members to include a link to the individual's BrokerCheck page.

Some securities lawyers said the rule was too vague and costly to implement and monitor, saying that brokers could not, for instance, include a link to BrokerCheck in a Twitter post, given the platform's space limitations.

But the rule announced on Thursday did not mention including a link to an individual's BrokerCheck page, and it excluded "an online interactive electronic forum ... such as a ... Twitter feed."

Bryan M. Ward, a partner at Sutherland Asbill & Brennan, said the rule is likely to increase compliance costs and requests for expungement, a process that erases brokers' disciplinary history from BrokerCheck.

"There's so many different media and so many different ways and it's ever changing, in terms of how brokers are communicating with clients," he said. "Twitter is not anything like what it was five years ago."

BrokerCheck tracks basic information about brokers, as well as records from disciplinary hearings, allegations of misconduct by clients and the result of arbitration or court cases relating to their work. Unless they are expunged, the records include allegations that were settled or dismissed.

Currently, brokers are required to provide to customers annually in writing the BrokerCheck hotline number and Finra website address.

By Trevor Hunnicutt

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