



Notice to Clients: Mandatory Background Checks & FINRA Rule 3110(e)

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Effective July 1, 2015, FINRA Rule 3110(e) will require each member firm to investigate through background checks applicants character and business reputations prior to registration. Firms will soon be required to adopt written procedures that verify the accuracy and completeness of the applicant's U4 by utilizing, at a minimum, a national public records search.

Prior to FINRA Rule 3110(e)'s effective date FINRA member firms were not required to independently verify the contents of an applicant's Form U4 & U5 prior to the firm sponsoring the broker for registration. Now, 3110(e) mandates that firms must investigate and verify Form U4 information via background checks. Before making representations of good character, business reputation, qualifications and experience, firms must adopt written procedures specifying the firm's process for verifying the Form U4 information. This requirement applies regardless of whether the application is for an initial or a transfer Form U4.

Verification specifics may vary from firm to firm but at a minimum firms must conduct a national search of reasonably available public records. Public records include, but are not limited to, general information such as names and addresses of individuals, criminal records, bankruptcy records, civil litigations and judgments, liens, and business records. The search may be conducted in-house or by a third party service in order to verify the accuracy and completeness of the information in the applicant's U4.

Proper ways of satisfying the requirements of Rule 3110(e) include: (1) reviewing a credit report from a major national credit reporting agency by using the applicant's fingerprint results; (2) searching a reputable national public records database such as LexisNexis with the applicant's social security number; or (3) reviewing a consolidated report from a specialized provider such as Business Information Group, Inc., which provides criminal and financial public records.

Firms' written procedures verifying the accuracy of an applicant's Form U4 must be implemented no later than 30 calendar days after an initial or transfer Form U4 is filed. Additionally, the actual verification process must be completed no later than 30 calendar days after filing the Form U4 with FINRA, with the understanding that if any discrepancies arise as a result of the verification process the firm will be required to file an amended Form U4. If an applicant was previously registered, Rule 3110(e) requires the firm to review the applicant's most recent Form U5, including any amendments, within 60 days of the filing date of the applicant's Form U4.

Wexler & Burkhart partner Ian J. Frimet has a substantial amount of experience providing firms with FINRA compliance guidance. If your/ firm has questions about compliance with newly enacted FINRA Rule 3110(e) please do not hesitate to contact Ian at (516) 222-2230 or ifrimet@wbhulaw.com. Brian A. Boxler is a Wexler & Burkhart associate concentrating in the firm's corporate, securities, and complex commercial litigation practice groups. He can be reached at (516) 222-2230 or at bboxler@wbhulaw.com.