

SECURITIES LAW ALERT

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FINRA Submits Rule Change to Accept Certain U4 Filings In Lieu Of Corresponding Rule 4530 Filings

In a filing dated December 27, 2012, FINRA submitted SR-FINRA-2012-057 to the Securities and Exchange Commission seeking to amend FINRA Rule 4530 to: (1) provide an exception from the rule for certain information disclosed on Form U4; (2) enable members to file required documents related to non-FINRA civil and criminal proceedings online through FINRA's Firm Gateway; and (3) provide an exception from the reporting requirements of the rule for findings and actions by FINRA.

The proposed rule change allows firms to "check the box" when making certain disclosures under Form U4 and thereby request that the data reported through CRD be applied to satisfy the firm's Rule 4530 obligation. This functionality is similar to that already in place for certain filings under Form U5. The proposed rule change is a welcome enhancement to the disclosure reporting system that should result in more accurate and timely reporting with lower administrative burdens for firms and their registration and reporting departments.

The "in lieu of" functionality that FINRA proposes to add to CRD will permit firms to affirmatively designate data from certain Form U4 Disclosure Reporting Pages (DRPs) to be applied to satisfy corresponding Rule 4530 filing requirements. For example, under current practice, the settlement of a written customer complaint against a registered representative for more than \$15,000 is reportable both under Question 141(2)(b) of Form U4 and under Rule 4530(a)(1)(G). The two required filings, through different systems (CRD for the U4 filing and Regulatory Filings Application in FINRA's Firm Gateway) requires a duplication of effort to report the same information to the same regulator. Under the proposed Rule 4530 amendments, firms will be able to "check the box" and apply information filed with CRD from criminal, regulatory, civil judicial and customer complaint/arbitration DRPs to satisfy their filing requirement in the Regulatory Filings Application.

In addition to streamlining the disclosure process for information reportable under both Form U4 and under Rule 4530, the proposed rule amendment would allow firms to electronically file through Firm Gateway copies of non-FINRA arbitrations and civil litigations and criminal filings under Rule 4530(f). While firms are still permitted to file such documents by either email or in hard copy, the ability to submit non-FINRA complaints and other required documents through Firm Gateway is another welcome modification that further eases administrative burdens. Because firms will be asked to provide summary information for items submitted under 4530(f) through Firm Gateway, the processing and review time for FINRA staff will also be improved.

Finally, the proposed rule change provides a welcome exception under Rule 4530 for the reporting of disciplinary or other actions by FINRA. The proposed rule change eliminates the redundancy of reporting to FINRA actions by FINRA and is another positive step towards easing the burdens and complexities of required disclosure reporting.

For more information about any of the topics covered in this issue of the Securities Law Alert, please contact:

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