

## BrokerCheck

### SEC Approves Rule Requiring Members' Websites to Include a Readily Apparent Reference and Hyperlink to BrokerCheck

Effective Date: June 6, 2016

#### Executive Summary

The SEC approved amendments to FINRA Rule 2210 (Communications with the Public) to require each of a member firm's websites to include a readily apparent reference and hyperlink to BrokerCheck on (1) the initial Web page that the firm intends to be viewed by retail investors, and (2) any other Web page that includes a professional profile of one or more registered persons who conduct business with retail investors.<sup>1</sup> The rule amendments become effective June 6, 2016.

The rule text is available in Attachment A.

Questions regarding this *Notice* should be directed to:

- ▶ Joseph Savage, Vice President, Regulatory Policy, at (240) 386-4534 or [Joe.Savage@finra.org](mailto:Joe.Savage@finra.org);
- ▶ Richard E. Pullano, Vice President and Chief Counsel, Registration and Disclosure, at (240) 386-4821 or [Richard.Pullano@finra.org](mailto:Richard.Pullano@finra.org) (regarding BrokerCheck); or
- ▶ Jeanette Wingler, Assistant General Counsel, Office of the General Counsel, at (202) 728-8013 or [Jeanette.Wingler@finra.org](mailto:Jeanette.Wingler@finra.org).

#### December 2015

##### Suggested Routing

- ▶ Advertising
- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Registered Representatives
- ▶ Registration
- ▶ Senior Management
- ▶ Systems
- ▶ Technology

##### Key Topics

- ▶ BrokerCheck®
- ▶ Member Firm Websites

##### Referenced Rules & Notices

- ▶ FINRA Rule 2210

## Background and Discussion

### BrokerCheck

BrokerCheck provides the public with information on the professional background, business practices, and conduct of FINRA member firms and their associated persons, as well as on firms and their associated persons registered with national securities exchanges that use the Central Registration Depository (CRD®). These firms, their associated persons and regulators report information to the CRD system, the securities industry online registration and licensing database, via the uniform registration forms. FINRA releases to the public through BrokerCheck information derived from the CRD system to, among other things, help investors make informed choices about the individuals and firms with which they conduct business.

FINRA believes that greater investor awareness of and access to BrokerCheck continues to be important to protect investors. The rule change will help increase investor awareness and make it easier for investors to find BrokerCheck by requiring references and hyperlinks to BrokerCheck on member firms' websites.

### Scope of New Rule

The SEC approved amendments to FINRA Rule 2210 to require a readily apparent reference and hyperlink to BrokerCheck on member firms' websites. Specifically, Rule 2210(d)(8)(A) requires each of a member firm's websites to include a readily apparent reference and hyperlink to BrokerCheck on:

- ▶ the initial Web page that the member firm intends to be viewed by retail investors;<sup>2</sup> and
- ▶ any other Web page that includes a professional profile of one or more registered persons who conduct business with retail investors.

A hyperlink to the BrokerCheck home page satisfies the rule's linking requirements. Alternatively, firms may elect to satisfy the requirements of the rule by using a "deep-link" to the firm or associated person's individual BrokerCheck pages. FINRA notes that it is making [BrokerCheck-related icons and similar resources](#) available to member firms as one option for complying with the proposed rule. Member firms use of any such icons or similar resources would be subject to terms and conditions established by FINRA.<sup>3</sup>

Rule 2210(d)(8)(B) excepts from the rule's requirements:

- ▶ a member firm that does not provide products or services to retail investors; and
- ▶ a directory or list of registered persons limited to names and contact information.

At this time, the rule does not require a member firm to include a readily apparent reference and hyperlink to BrokerCheck from communications appearing on a third-party website. Accordingly, the rule does not require a readily apparent reference and hyperlink to BrokerCheck from communications appearing on a social media site (*e.g.*, Twitter or LinkedIn). Moreover, the rule does not require a readily apparent reference and hyperlink to BrokerCheck on each email or text message sent by a member firm or registered person to a retail investor.

FINRA views websites operated by registered representatives that promote the member's business to be websites of the member firm for purposes of Rule 2210. FINRA, therefore, expects member firms to supervise such websites for compliance with Rule 2210. For example, if a registered representative includes a professional profile on a website that he or she operates and that promotes the member firm's business, FINRA expects that the member firm will monitor any such Web page for compliance with the rule.

#### **Appearance and Location of Readily Apparent Reference and Hyperlink to BrokerCheck**

With respect to what constitutes a readily apparent reference and hyperlink, member firms should adopt the perspective of a reasonable retail investor when making this determination. Some of the factors that firms should consider include: (1) placement (*i.e.*, whether the reference and hyperlink are visible as soon as a person lands on the website or only after significant scrolling; if scrolling is required, whether it is clear that further information is available below the screen that is being viewed; the type of information that is in close proximity to the description and hyperlink; and whether the BrokerCheck reference and hyperlink are set out separately or buried in a long paragraph); (2) font size (*i.e.*, whether the font size of the description and hyperlink are similar to the font size of other information on the page); and (3) font color (*i.e.*, whether the font color of the description and hyperlink contrasts or blends in with the website's background). Although not an exhaustive list, these factors should help member firms and individuals determine whether the reference and hyperlink to BrokerCheck is readily apparent. Furthermore, FINRA generally does not believe that including the required reference and hyperlink to BrokerCheck in a footer would satisfy the "readily apparent" standard.

## Endnotes

1. See Securities Exchange Act Release No. 76105 (October 8, 2015) (Order Approving File No. SR-FINRA-2015-022).
2. Rule 2210(a)(6) defines “retail investor” as any person other than an institutional investor (as defined in Rule 2210(a)(4)), regardless of whether the person has an account with a member firm.
3. See [Complying With the BrokerCheck Link Requirements in Rule 2210](#) for additional information regarding these resources and FINRA’s terms and conditions for use.

## Attachment A

New language is underlined; deletions are in brackets.

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### Text of Changes to FINRA Rule 2210

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#### 2200. COMMUNICATIONS AND DISCLOSURES

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##### 2210. Communications with the Public

(a) through (c) No Change.

##### **(d) Content Standards**

(1) through (7) No Change.

(8) BrokerCheck

(A) Each of a member's websites must include a readily apparent reference and hyperlink to BrokerCheck on:

(i) the initial webpage that the member intends to be viewed by retail investors; and

(ii) any other webpage that includes a professional profile of one or more registered persons who conduct business with retail investors.

(B) The requirements of subparagraph (A) shall not apply to:

(i) a member that does not provide products or services to retail investors; and

(ii) a directory or list of registered persons limited to names and contact information.

**([8]9) Prospectuses Filed with the SEC**

Prospectuses, preliminary prospectuses, fund profiles and similar documents that have been filed with the SEC and free writing prospectuses that are exempt from filing with the SEC are not subject to the standards of this paragraph (d); provided, however, that the standards of this paragraph (d) shall apply to an investment company prospectus published pursuant to Securities Act Rule 482 and a free writing prospectus that is required to be filed with the SEC pursuant to Securities Act Rule 433(d)(1)(ii).

(e) through (g) No Change.

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