

G. Calculate Hearing Session Fees at an Hourly Rate

One commenter suggested changing FINRA's current payment structure for arbitrators "from sessions of 'four hours or less' to an hourly rate."¹²⁹

Specifically, this commenter claimed that, in its experience, "most hearing sessions last significantly less than four hours and the length of each session can vary considerably,"¹³⁰ and that arbitrators are compensated the same amount regardless of whether a hearing session lasts two hours or four hours.¹³¹

In response, FINRA explained that the structure of hearing session payments is not the subject of this rule filing and therefore outside the scope of the proposal.¹³² Therefore, FINRA declined to respond to that comment at this time.¹³³

IV. Discussion and Commission Findings

The Commission has carefully considered the proposal, the comments received, and FINRA's responses to the comments. Based on its review of the record, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.¹³⁴ In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(5) of the Act,¹³⁵ which requires that FINRA's rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using any facility or system which FINRA operates or controls. The Commission also finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,¹³⁶ which requires, among other things, that FINRA's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

As outlined above, the Commission received eight comment letters on the proposed rule change¹³⁷ and FINRA's

¹²⁹ PIRC Letter at 2 (suggesting that "[t]his more equitable compensation structure should help eliminate unnecessary expenses to FINRA—which are passed along to claimants and members").

¹³⁰ *Id.*

¹³¹ *See id.*

¹³² *See* Response Letter at 9.

¹³³ *See id.*

¹³⁴ In approving the proposed rule change, the Commission has also considered the rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

¹³⁵ 15 U.S.C. 78o-3(b)(5).

¹³⁶ 15 U.S.C. 78o-3(b)(6).

¹³⁷ *See supra* note 4.

response to the comments.¹³⁸ While the Commission appreciates the suggestions raised by some commenters, the Commission believes that FINRA responded appropriately to their concerns. Most notably, the Commission agrees with FINRA's observation that "[a] majority of the commenters acknowledge that, as it has been 15 years since the last increase, the proposed increase is long overdue and critical to the forum in recruiting and retaining a roster of high quality arbitrators."¹³⁹

Specifically, the Commission believes that the proposed rule change would further the purposes of the Act as it provides for the equitable allocation of reasonable fees, surcharges and other charges among FINRA members, customers, associated persons, or other non-members using FINRA's arbitration forum.¹⁴⁰ The Commission agrees with the views of certain commenters that FINRA: (1) "investigated several alternative approaches for increasing honoraria and has struck an effective balance" and (2) took "a measured and balanced approach to the economic considerations that are associated with the arbitrator honoraria increases."¹⁴¹ The Commission also notes, as certain commenters did, "FINRA's effort to minimize the exposure of the fee increases to the investing public."¹⁴² The Commission also agrees that FINRA's proposal to allocate the majority of the proposed fee increases among higher claim amounts will help "[minimize] the impact of the increases on smaller claims and keeps the arbitration forum accessible for the small investor."¹⁴³

Moreover, the Commission also believes that the proposed rule change

¹³⁸ *See supra* note 6.

¹³⁹ Response Letter at 2. *See also* Aidikoff Letter at 1 (stating that "there has been no increase in the arbitrator honoraria for fifteen years and in my view increasing these payments will help retain qualified individuals in the pool as well as helping to recruit new arbitrators").

¹⁴⁰ *See* 15 U.S.C. 78o-3(b)(5).

¹⁴¹ Caruso Letter at 1. *See also* Aidikoff Letter at 1 (stating that "increasing these payments will help retain qualified individuals in the pool as well as helping to recruit new arbitrators."); Bakhtiari Letter at 1 (stating that "[t]he honoraria raise is fair and will not materially affect aggrieved public investors that file claims in the Finra forum").

¹⁴² PIRC Letter at 1-2 (noting that the fee allocation "is consistent with FINRA's goal of maintaining a just and equitable forum for parties to settle their disputes"). *See also* NASAA Letter at 1-2 (stating that it "appreciates FINRA's efforts to mitigate the impact to smaller public users").

¹⁴³ Response Letter at 4. *See also id.* (explaining that "to further mitigate the impact of the filing fee increases, most of the increases would be added to the refundable portion of the filing fee" and noting that "the filing fee and hearing session fee increases for customers begin for claim amounts of more than \$500,000").

would further the purposes of the Act as it is reasonably designed to protect investors and the public interest.¹⁴⁴ In addition to the observations above regarding FINRA's efforts to minimize the exposure of its fee increases to investors in order to keep the forum accessible to small investors,¹⁴⁵ the Commission also agrees with FINRA's assessment that the proposal is designed to "retain a roster of high-quality arbitrators and attract qualified individuals who possess the skills necessary to manage arbitration cases and consider thoroughly all arbitration issues presented, which are essential elements for FINRA to meet its regulatory objective of protecting the investing public."¹⁴⁶

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴⁷ that the proposed rule change (SR-FINRA-2014-026), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴⁸

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73238; File No. SR-FINRA-2014-038]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Adopt FINRA Rule 3110(e) (Responsibility of Member To Investigate Applicants for Registration) in the Consolidated FINRA Rulebook

September 26, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "SEA")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 18, 2014, Financial Industry Regulatory Authority, Inc. ("FINRA")

¹⁴⁴ *See* 15 U.S.C. 78o-3(b)(6).

¹⁴⁵ *See supra* notes 142 and 143 and accompanying text.

¹⁴⁶ *See* Notice, 79 FR at 377887. *See also* Response Letter at 2.

¹⁴⁷ 15 U.S.C. 78s(b)(2).

¹⁴⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt NASD Rule 3010(e) (Qualifications Investigated) relating to background investigations as FINRA Rule 3110(e) (Responsibility of Member to Investigate Applicants for Registration) in the consolidated FINRA rulebook. The proposed rule change streamlines and clarifies the rule language and adds a provision to require members to adopt written procedures that are reasonably designed to verify the accuracy and completeness of the information contained in an applicant’s Form U4 (Uniform Application for Securities Industry Registration or Transfer). In addition, the proposed rule change adds Supplementary Material .15 (Temporary Program to Address Underreported Form U4 Information) to FINRA Rule 3110 (Supervision) to establish a temporary program that will issue a refund to members of Late Disclosure Fees assessed for the late filing of responses to Form U4 Question 14M, subject to specified conditions.

The proposed rule change would delete NASD Rule 3010(f) (Applicant’s Responsibility), Incorporated NYSE Rule 345.11 (Investigation and Records) and Incorporated NYSE Rule Interpretation 345.11/01 (Application—Investigation) and /02 (Application—Records).

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of the process of developing a new consolidated rulebook (“Consolidated FINRA Rulebook”),³ FINRA is proposing to adopt NASD Rule 3010(e) relating to background investigations as FINRA Rule 3110(e). The proposed rule change streamlines and clarifies the rule language. In addition, the proposed rule change adds a provision to proposed FINRA Rule 3110(e) to require members to adopt written procedures that are reasonably designed to verify the accuracy and completeness of the information contained in an applicant’s Form U4 as described below. Further, the proposed rule change adds Supplementary Material .15 to FINRA Rule 3110 to establish a temporary program that will issue a refund to members of Late Disclosure Fees assessed for the late filing of responses to Form U4 Question 14M, subject to specified conditions.

The proposed rule change would delete NASD Rule 3010(f) because it has been rendered obsolete. The proposed rule change would also delete Incorporated NYSE Rule 345.11⁴ and NYSE Rule Interpretation 345.11/01 and /02 as they are substantially similar to proposed FINRA Rule 3110(e), addressed by other rules or otherwise rendered obsolete by the proposed approach reflected in FINRA Rule 3110(e).

I. Existing Requirements

A critical part of the registration process in the securities industry is the background investigation of applicants for registration and the timely and accurate reporting of information to the Central Registration Depository (CRD[®]) system via the Form U4. For instance, FINRA reviews the information disclosed on the Form U4 to determine whether an applicant is subject to a

³ The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (“Incorporated NYSE Rules”) (together, the NASD Rules and Incorporated NYSE Rules are referred to as the “Transitional Rulebook”). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (“Dual Members”). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice* March 12, 2008 (Rulebook Consolidation Process).

⁴ For convenience, the proposed rule change refers to Incorporated NYSE Rules as NYSE Rules.

statutory disqualification⁵ or whether the applicant may present a regulatory risk for the firm and customers. Further, firms use the information reported to the CRD system to determine whether an applicant is subject to a statutory disqualification and to conduct background checks on applicants when making registration decisions. In addition, the information that FINRA releases to the public through BrokerCheck, which helps investors make informed choices about the individuals and firms with which they conduct business, is derived from the CRD system.

NASD Rule 3010(e) provides that a firm must ascertain by investigation the good character, business reputation, qualifications and experience of an applicant before the firm applies to register that applicant with FINRA.⁶ NASD Rule 3010(e) does not place any limits on the scope of such a background investigation—a firm must obtain all the necessary information to make an evaluation.⁷ In addition, if the applicant previously has been registered with FINRA, NASD Rule 3010(e) specifically requires that the firm review a copy of the applicant’s most recent Form U5 (Uniform Termination Notice for Securities Industry Registration) within 60 days of the filing date of an application for registration or demonstrate that it has made reasonable efforts to do so.⁸

NYSE Rule 345.11, which is the corresponding NYSE rule, requires firms to investigate thoroughly the previous record of: (1) Persons required to be registered with the NYSE; (2) persons who regularly handle or process securities or monies or maintain the books and records relating to securities

⁵ See Sections 3(a)(39) and 15(b)(4) of the Act.

⁶ Firms must comply with MSRB Rule G-7 (Information Concerning Associated Persons) regarding those applicants engaged solely in municipal securities activities.

⁷ FINRA has stated that firms should consider all available information gathered in the pre-registration process for this purpose, including, but not limited to Forms U4 and U5 responses, authorized searches of the CRD system, fingerprint results obtained under SEA Rule 17f-2 and communications with previous employers, and that firms also may wish to consider private background checks, credit reports and reference letters. See *Regulatory Notice* 07-55 (November 2007). In addition, FINRA has stated that firms must ensure that such background investigations are conducted in accordance with all applicable laws, rules and regulations (including federal and state requirements) and that all necessary approvals, consents and authorizations have been obtained. See *Regulatory Notice* 07-55.

⁸ If the applicant has been recently employed by a Futures Commission Merchant or an Introducing Broker that is notice-registered with the SEC pursuant to Section 15(b)(11) of the Act, the registering firm also is required to review a copy of the individual’s most recent CFTC Form 8-T.

or monies who are not otherwise required to be registered; and (3) persons having direct supervisory responsibility over persons engaged in the above activities who are not otherwise required to be registered.⁹ For persons required to be registered with the NYSE, firms generally fulfill their investigative obligation by verifying the information contained in the Form U4 and by reviewing the applicant's most recent Form U5, if the applicant previously has been registered. For persons subject to NYSE Rule 345.11 who are not required to be registered, firms generally fulfill their investigative obligation by verifying the information contained in the employment questionnaire or application required under SEA Rule 17a-3(a)(12)(i).¹⁰ NYSE Rule 345.11 also requires firms to make further inquiry, where appropriate, in light of the background information developed, the position for which the person is being considered or other circumstances.

The Form U4 requires that the person signing the form on behalf of the firm certify that he or she has taken appropriate steps to verify the accuracy and completeness of the information contained in and with that form.¹¹

II. Proposed FINRA Rule 3110(e)

FINRA is proposing to amend FINRA Rule 3110 by adding a new paragraph (e) and incorporating the requirements

⁹ See also NYSE Rule Interpretation 345.11/01 and /02.

¹⁰ SEA Rule 17a-3(a)(12)(i) requires that a broker-dealer make and keep current a questionnaire or application for employment executed by each associated person, other than persons whose functions are solely clerical or ministerial. The questionnaire or application must be approved in writing by an authorized representative and must, among other information, contain the associated person's employment, disciplinary and criminal history. If an associated person is a registered person of the broker-dealer, then retention of a full, correct and complete copy of the associated person's originally executed Form U4 for registration with FINRA or other regulatory agency is sufficient to satisfy this requirement.

¹¹ The Form U4 also provides that the person signing the form on behalf of the firm certify that the firm has communicated with the applicant's previous employers for the past three years and has documentation on file with the names of the persons contacted and the date of contact. In addition, members have an obligation to comply with SEA Rule 17f-2. Pursuant to SEA Rule 17f-2, specific persons employed in the securities industry are required to be fingerprinted for purposes of a criminal background check. Firms are responsible for obtaining a prospective employee's fingerprints and required identifying information. Firms then submit the prospective employee's fingerprints together with the required identifying information to FINRA. FINRA, in turn, submits these fingerprints to the FBI. FINRA also makes the fingerprint results available to the employing member and regulators, consistent with applicable federal laws and FBI and FINRA requirements. See *Notice to Members* 05-39 (May 2005).

of NASD Rule 3010(e) into that paragraph, subject to the following changes.

FINRA is proposing to streamline and clarify the rule language. For instance, NASD Rule 3010(e) currently provides that "[e]ach member shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications, and experience of any person prior to making such a certification in the application of such person for registration with this Association," whereas proposed FINRA Rule 3110(e) provides that "[e]ach member shall 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." Further, proposed FINRA Rule 3110(e) clarifies that a firm is required to review a copy of an applicant's most recent Form U5 if the applicant previously has been registered with FINRA or another self-regulatory organization. With respect to a firm's obligation to review an applicant's Form U5, the proposed rule continues to provide that if the firm is unable to review the Form U5, it has to demonstrate that it has made reasonable efforts to do so. FINRA expects firms to use this provision in very limited circumstances, such as where the previous firm fails to file a Form U5 or goes out of business before filing a Form U5. FINRA also is proposing to re-label current FINRA Rule 3110(e) (Definitions) as FINRA Rule 3110(f) (Definitions) and update the cross-references in FINRA Rule 3110 to reflect this change.

In addition, FINRA is proposing to include in proposed FINRA Rule 3110(e) a requirement that firms adopt written procedures that are reasonably designed to verify the accuracy and completeness of the information contained in an applicant's Form U4 no later than 30 calendar days after the form is filed with FINRA. FINRA believes that such a requirement is consistent with the requirements of NYSE Rule 345.11 and the Form U4. The proposed requirement would only apply to an initial or a transfer Form U4 for an applicant for registration, and not to Form U4 amendments. FINRA further believes that imposing such a requirement would not be unduly burdensome for firms; FINRA expects that firms already have a review process in place to verify the information contained in the Form U4 for most applicants for registration.

Proposed FINRA Rule 3110(e) would also require that a firm's written procedures must, at a minimum, provide for a search of reasonably available public records¹² conducted by the member or a third-party service provider to verify the accuracy and completeness of the information contained in an applicant's Form U4.¹³ The requirement to conduct a public records search must be satisfied no later than 30 calendar days after the initial or transfer Form U4 is filed with FINRA, with the understanding that if a member becomes aware of any discrepancies as a result of a public records search conducted after the filing of the Form U4, the member would be required to file an amended Form U4 with FINRA. As discussed in more detail below, FINRA does not believe that this requirement would be unduly burdensome for members given the availability of online access to public records databases and the relatively low cost of hiring a third-party service provider to conduct such a search. Therefore, this requirement would provide firms with a relatively low cost method to verify that all disclosure events evidenced in reasonably available public records have been reported on the Form U4. In addition, FINRA is aware that many firms already have a review process in place that entails searching public records, and therefore the proposed requirement will not impose significant burdens on these firms.

A member could comply with the requirement to conduct a public records search in several ways. For example, a member may satisfy the requirement by: (1)(a) reviewing a credit report from a major national credit reporting agency that contains public record information (such as bankruptcies, judgments and liens), or (b) searching a reputable national public records database; and (2) reviewing the fingerprint results obtained as part of the registration process. Alternatively, a member could comply with this requirement by using the services of a specialized provider, such as Business Information Group, Inc. (BIG),¹⁴ to provide the firm with a

¹² Public records include, but are not limited to: general information, such as name and address of individuals; criminal records; bankruptcy records; civil litigations and judgments; liens; and business records.

¹³ The requirement to conduct a public records search would be limited to a national search; it would not extend to public records searches in foreign jurisdictions.

¹⁴ FINRA has contracted with BIG to provide competitive pricing to members that are conducting background investigations of applicants, currently at a cost of \$10 to \$13 per applicant (depending on volume). In general, FINRA does not endorse any

consolidated report of a national public records search, which includes a search of financial and criminal public records. A member may find it necessary to conduct a more in-depth search of an applicant's background depending on the applicant's job function, responsibilities or position at the firm.

FINRA encourages firms to conduct the required public records search prior to filing the initial or transfer Form U4 to avoid the fees associated with filing a Form U4 amendment. In addition, FINRA recognizes that there will on occasion be circumstances beyond a firm's control that prevent completion of the verification process within 30 calendar days after the Form U4 is filed with FINRA. For example, where a firm is relying on fingerprint results for purposes of a criminal public records search, and the FBI determines the fingerprints to be "illegible" and requires resubmission of the fingerprints. In such circumstances, the firm's procedures should provide that the verification should be completed as soon as is practical.

FINRA is proposing to implement proposed FINRA Rule 3110(e) on December 1, 2014, which coincides with the implementation date for the consolidated FINRA supervision rules. FINRA will announce the effective date of proposed FINRA Rule 3110(e) in a *Regulatory Notice* to be published no later than 90 days following Commission approval.

III. Proposed FINRA Rule 3110.15

As announced by FINRA on April 24, 2014, to verify against public records whether material financial information has been timely and accurately reported to the CRD system via the Form U4, FINRA is performing a one-time search of specific financial public records, including bankruptcies, judgments and liens, on all registered persons.¹⁵ In addition, as part of this effort and to verify against public records whether material criminal information has been accurately reported to the CRD system via the Form U4, FINRA is performing an ongoing search of specific criminal public records on a risk-based basis and on any registered person who has not been fingerprinted within the past five years. FINRA is using one or more national information providers in the

particular third-party service and a firm's use of BIG's services, or the services of any other specific provider, would not be deemed to be a safe harbor by FINRA.

¹⁵ See FINRA Board Approves Amendment to Supervision Rule Requiring Firms to Conduct Background Checks on Registration Applicants, FINRA News Release, April 24, 2014, <http://www.finra.org/Newsroom/NewsReleases/2014/P493588>.

conduct of these reviews. The reviews are performed against readily available, online public records.

In the course of these reviews, if FINRA identifies instances where required information has not been reported to the CRD system via the Form U4, FINRA contacts the firm and asks that the information be reported or that the firm provide an explanation as to why the information is not reportable. If the firm reports the information on the Form U4, FINRA reviews the information and assesses a Disclosure Processing Fee.¹⁶ If the information has not been reported in a timely manner, FINRA also assesses a Late Disclosure Fee.¹⁷

However, FINRA is proposing to add Supplementary Material .15 to FINRA Rule 3110 to establish a temporary program that will issue a refund to members of Late Disclosure Fees assessed for the late filing of responses to Form U4 Question 14M (unsatisfied judgments or liens) if the following conditions are met: (1) The Form U4 amendment is filed between April 24, 2014 and March 31, 2015; (2) the judgment or lien is under \$5,000 and more than five years old (from the date the judgment or lien is filed with a court as reported on Form U4 Judgment/Lien DRP, Question 4); and (3) the registered person was not employed by, or otherwise associated with, the firm filing the amended Form U4 on the date the judgment or lien was filed with the court. FINRA believes that such a refund would provide members with an additional incentive to report information relating to unsatisfied judgments or liens that are older and of a less significant amount, and it would save FINRA the time and resources expended in contacting firms and requesting that such information be reported. Firms would still be charged a Disclosure Processing Fee (\$110.00) for filing amended Form U4 disclosure information.

As noted above, proposed FINRA Rule 3110.15 has a retroactive effective date of April 24, 2014, and it will automatically sunset on March 31, 2015. Members will not be able to use the program after March 31, 2015. FINRA believes that it is appropriate for proposed FINRA Rule 3110.15 to have a retroactive effective date of April 24, 2014 because that is the date that FINRA announced its plan to perform a search of specified public records to verify the

accuracy and completeness of specific financial and criminal information reported on the Form U4.

IV. Eliminated Rules

NASD Rule 3010(f) requires an applicant for registration to provide, upon a member's request, a copy of his or her Form U5. There is a corresponding provision in NYSE Rule 345.11. FINRA is proposing to eliminate the requirement because members have electronic access to an applicant's Form U5 through the CRD system.

FINRA also is proposing to delete NYSE Rule 345.11 and NYSE Rule Interpretation 345.11/01 and/02 in their entirety as they are substantially similar to proposed FINRA Rule 3110(e), addressed by other rules¹⁸ or otherwise rendered obsolete by the proposed approach reflected in FINRA Rule 3110(e).

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁹ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will streamline and clarify members' obligations relating to background investigations, which will, in turn, improve members' compliance efforts. Further, the proposed rule change's requirement to adopt written procedures to verify the accuracy and completeness of the information contained in an applicant's Form U4, including the requirement to conduct a public records search, will enhance the accuracy of the information in the CRD system and ultimately in BrokerCheck, which is critical from both a regulatory and an investor protection standpoint. In addition, FINRA believes that the proposed rule change to establish a temporary program under FINRA Rule 3110.15 that will issue a refund to members of Late Disclosure Fees would incentivize members to report information relating to unsatisfied judgments or liens that are older and of a less significant amount and would save FINRA the time and regulatory resources expended in

¹⁸ FINRA is not proposing to incorporate the requirement of NYSE Rule 345.11 to verify the information contained in the employment questionnaire or application of persons who are not required to be registered because this requirement is redundant of SEA Rule 17a-3(a)(12)(i).

¹⁹ 15 U.S.C. 78o-3(b)(6).

¹⁶ The Disclosure Processing Fee is \$110 for filing amended Form U4 disclosure information.

¹⁷ The Late Disclosure Fee is \$100 for the first day a form filing is late and \$25 for each subsequent day, up to a maximum of \$1,575.

contacting firms and requesting that such information be reported.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

FINRA notes that the proposed rule change transfers requirements from NASD Rule 3010(e), NYSE Rule 345.11 and NYSE Rule Interpretation 345.11/01 and/02 unchanged into the Consolidated Rulebook and, as such, those transferred requirements do not impose any new burdens for members that are already subject to the current rules.

The proposed rule change would require members to adopt written procedures that are reasonably designed to verify the accuracy and completeness of the information contained in an applicant's Form U4 no later than 30 calendar days after the form is filed with FINRA, including, at a minimum, procedures to conduct (either directly or through a third-party service provider) a search of reasonably available public records to verify the accuracy and completeness of the information.

FINRA expects that firms already have a review process in place to verify the information contained in the Form U4 for applicants for registration because currently the person signing the form on behalf of the firm must certify that he or she has taken appropriate steps to verify the accuracy and completeness of the information contained in and with that form. Therefore, the requirement to adopt written procedures that are reasonably designed to verify the accuracy and completeness of the information contained in an applicant's Form U4 should not create an unreasonable burden for members.

With respect to the requirement to conduct a public records search, FINRA is aware that many of the large and mid-size firms already have a review process in place that requires a search of public records,²⁰ and as a result the proposed rule change would not impose significant burdens on these firms. Further, FINRA does not believe that this requirement would be unduly burdensome for members given the availability of online access to public records databases and the relatively low cost of hiring a third-party service

provider to conduct such a search. However, some members would likely incur new costs to comply with the proposed requirement.

FINRA is aware that many information providers, including the major national credit reporting agencies, provide such public records search services. For instance, as noted above, FINRA has contracted with BIG to provide competitive pricing to members currently at a cost of \$10 to \$13 per applicant (depending on volume) for a public records search. FINRA is providing two sample cost estimates for large, mid-size and small firms²¹ using the services of providers such as BIG; one based on the annual average number of applicants for registration, and the other based on the annual average number of pre-hire requests.

FINRA estimates that there are approximately 126,800 applicants for registration each year (based upon the average from the last four years). FINRA estimates that 75 percent of these applicants (approximately 95,100) are from 172 large firms and that 10 percent of these applicants (approximately 12,700) are from 205 mid-size firms. FINRA is aware that many of these large and mid-size firms already have a review process in place that requires a public records search, and as a result the proposed rule change would not impose significant burdens on these firms. FINRA estimates that the remaining 15 percent of applicants (approximately 19,000) are from 2,900 small firms. Based on the per firm average of applicants for registration with large, medium and small firms, FINRA estimates that the average cost of complying with the requirement would be in the range of: (1) \$5,529 to \$7,188 per year for large firms; (2) \$620 to \$805 per year for mid-size firms; and (3) \$66 to \$85 per year for small firms.

FINRA estimates that there are approximately 219,000 pre-hire search requests on the CRD system each year (based upon the average from the last four years). FINRA estimates that 85 percent of the pre-hire checks (approximately 186,400) are from 172 large firms and that 7.5 percent of the pre-hire checks (approximately 16,400) are from 205 mid-size firms. The remaining 7.5 percent (approximately 16,400) are from 1,855 small firms. FINRA notes that these pre-hire check estimates are based on the voluntary checks firms conduct on the CRD system, which are free of charge, and are

not the same as the public records search discussed in the proposed rule change. However, to the extent that the number of voluntary pre-hire checks is informative of the anticipated number of public record searches, FINRA estimates that the average annual cost of complying with the requirement would be in the range of: (1) \$10,837 to \$14,088 per firm for large firms; (2) \$800 to \$1,040 per firm for mid-size firms; and (3) \$88 to \$115 per firm for small firms.

FINRA understands that these costs will vary significantly depending on the size of a firm and its registration activity in any given year. In addition, FINRA notes that, in some instances, a public records search may uncover matters that might require further investigation for which the member may incur additional costs.

With respect to the temporary program under proposed FINRA Rule 3110.15, FINRA notes that members currently are required to verify the accuracy and completeness of the information contained in the Form U4 and to amend the form as necessary. The temporary program would encourage members to comply with their existing obligations and allow them to receive a refund of Late Disclosure Fees if the conditions specified in proposed FINRA Rule 3110.15 are satisfied. As such, FINRA does not believe that the temporary program will result in any burden on members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

²⁰ As defined in the FINRA By-Laws, a "large firm" is a member that has 500 or more registered persons and a "mid-size firm" is a member that has at least 151 and no more than 499 registered persons. See FINRA By-Laws, Article I(f) and (cc).

²¹ As defined in the FINRA By-Laws, a "small firm" is a member that has at least 1 and no more than 150 registered persons. See FINRA By-Laws, Article I(ww).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-FINRA-2014-038 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2014-038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2014-038 and should be submitted on or before October 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2014-23567 Filed 10-2-14; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of Nudg Media Inc.; Order of Suspension of Trading

October 1, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nudg Media Inc. ("Nudg") because of questions regarding the accuracy of assertions by Nudg and by others, in press releases to investors concerning, among other things: the company's assets and business plan. Nudg Media Inc. is a Nevada corporation with its principal place of business located in Carson City, Nevada. Its stock is quoted on OTC Link, operated by OTC Markets Group Inc., under the ticker: NDDG.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT, on October 1, 2014 through 11:59 p.m. EDT, on October 14, 2014.

By the Commission.

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2014-23747 Filed 10-1-14; 4:15 pm]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 8896]

Culturally Significant Objects Imported for Exhibition

Determinations: "The Forever Now: Contemporary Painting in an Atemporal World"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "The Forever Now: Contemporary Painting in an Atemporal World," imported from

abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Modern Art, New York, New York, from on or about December 14, 2014, until on or about April 5, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6469). The mailing address is U.S. Department of State, SA-5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: September 23, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014-23628 Filed 10-2-14; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice: 8894]

Culturally Significant Objects Imported for Exhibition Determinations: "V.S. Gaitonde: Painting as Process, Painting as Life" Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "V.S. Gaitonde: Painting as Process, Painting as Life," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Solomon R. Guggenheim Museum, New York, NY, from on or about October 24, 2014, until on or about February 11, 2015, and at possible

²² 17 CFR 200.30-3(a)(12).