

SEC Approves FINRA Rule 2210 Amendment Requiring BrokerCheck Links

The amendments require FINRA members to update their retail websites to include readily apparent references and hyperlinks to BrokerCheck.

On October 8, 2015, the Securities and Exchange Commission (SEC) approved a proposed rule change¹ to amend Financial Industry Regulatory Authority, Inc. (FINRA) Rule 2210 (Rule 2210) to require FINRA members' websites to include a readily apparent reference and hyperlink to BrokerCheck² on: (1) the initial webpage that the member intends retail investors to view; and (2) any other webpage that includes a professional profile of one or more registered persons conducting business with retail investors.³ The requirements do not apply to FINRA members that do not provide products or services to retail investors, or to a directory or list of registered persons limited to names and contact information.⁴

Although seemingly a relatively straightforward rule, FINRA clarified the scope of members' compliance obligations in response to certain comments, including that:

- FINRA generally does not believe that including the reference and hyperlink in a website footer would satisfy the "readily apparent" standard.
- Compliance with Rule 2210 does not require a link to members' or individuals' BrokerCheck reports; it only requires a link to the BrokerCheck homepage.
- FINRA members have flexibility as to the location of the BrokerCheck reference and hyperlink on websites that are optimized for mobile devices, so long as the links are readily apparent.
- FINRA anticipates making BrokerCheck-related icons or similar resources available to members as one option for complying with Rule 2210, but members would be subject to FINRA's terms and conditions for using any such icons or similar resources.
- FINRA expects members to supervise and review websites which a registered representative operates that promote the member's business. For purposes of Rule 2210, FINRA views such websites as the member firm's websites.
- For multi-faceted financial institutions, the requirement applies to the affiliated broker-dealer's main webpage but not to the enterprise-level homepage.
- If a member establishes a separate retail website for a branch office or branch office personnel, then such website should be treated as a separate website and would require a separate hyperlink and reference to BrokerCheck.

- Hyperlinks and references to BrokerCheck would be required for all webpages where a registered person's profile information appears, including webpages on a member's website and webpages on a branch office's website.
- The Rule does not apply to third-party websites that contain the professional profiles of registered representatives who engage in networking or similar relationships with a third party (e.g., professional social networking sites).

FINRA has not yet published the compliance date for the amendments to Rule 2210. However, FINRA has stated that it will consider the need for system and operational changes in establishing the effective date for the amendments to Rule 2210.⁵

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Endnotes

- ¹ See SEC Release No. 34-76105; File No. SR-FINRA-2015-022 (Oct. 8, 2015), available at: <http://www.sec.gov/rules/sro/finra/2015/34-76105.pdf> (the Approval Order).
- ² BrokerCheck provides the public with information on the professional background, business practices, and conduct of FINRA members and their associated persons.
- ³ See FINRA Rule 2210(d)(8)(A).
- ⁴ See FINRA Rule 2210(d)(8)(B).
- ⁵ See Approval Order at p. 8.