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August 3, 2015

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549-1090

Re: File No. SR-FINRA-2015-022

Dear Mr. Fields:

The Investment Company Institute¹ appreciates the opportunity to comment on FINRA's proposed amendment to FINRA Rule 2210 related to BrokerCheck, which FINRA submitted to the Securities and Exchange Commission ("SEC") in June.² BrokerCheck is a tool on FINRA's website that provides the public with information on the professional background, business practices, and conduct of FINRA member firms and their associated persons. BrokerCheck is meant to help investors make informed choices about the individuals with whom and firms with which they may wish to conduct business. ICI supports investors receiving meaningful information regarding their investment professionals, and FINRA's efforts to increase investor awareness of BrokerCheck. We support the Proposal because we believe it would advance FINRA's objective without imposing undue burdens on FINRA members.

I. Background on the Proposal

The Proposal follows from prior FINRA BrokerCheck proposals that were not adopted. In 2013, FINRA proposed to amend Rule 2267 (Investor Education and Protection) to require, among

¹ The Investment Company Institute (ICI) is a leading, global association of regulated funds, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI's U.S. fund members manage total assets of \$18.2 trillion and serve more than 90 million U.S. shareholders.

² *Notice of Filing of a Proposed Rule Change to Amend FINRA Rule 2210 (Communications with the Public)*, SEC Release No. 34-75377 (July 7, 2015) (the "Proposal"), available at www.sec.gov/rules/sro/finra/2015/34-75377.pdf.

other things, that members include a prominent description of and hyperlink to BrokerCheck on their websites, social media pages, and any comparable Internet presence.³ ICI, along with many other commenters, opposed the 2013 proposal.⁴ In April 2013, FINRA withdrew the 2013 proposal⁵ to better understand commenters' concerns regarding challenges of implementation.⁶

In 2014, FINRA sought comment on a revised proposal, which would have required a reference and hyperlink to BrokerCheck in FINRA member firms' online retail communications with the public.⁷ More specifically, the 2014 proposal would have required a firm to include a readily apparent reference and hyperlink to BrokerCheck on each website of the firm that is available to retail investors, and in online retail communications with the public that include a professional profile of, or contact information for, an associated person. Electronic mail, text messages, and certain other communications would have been excepted from these requirements. ICI again commented, but this time in general support of the 2014 proposal, due largely to its more carefully defined and limited scope (particularly with respect to social media and other electronic communications).⁸

II. ICI's Views on the Proposal

The Proposal would require FINRA member firms to include on each of their websites a readily apparent reference and hyperlink to BrokerCheck on: (i) the initial webpage that the member intends retail investors to view; and (ii) any other webpage that includes a professional profile of one or more

³ *Notice of Filing of Proposed Rule Change to Amend FINRA Rule 2267 (Investor Education and Protection)*, SEC Release No. 34-68700 (Jan. 18, 2013) (the "2013 proposal"), available at www.sec.gov/rules/sro/finra/2013/34-68700.pdf.

⁴ ICI opposed the 2013 proposal primarily due to concerns that, as drafted, it was vague and likely would have had an adverse impact on FINRA members' use of social media. *See* Letter from Tamara K. Salmon, Senior Associate Counsel, Investment Company Institute, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission (Feb. 15, 2013), available at www.sec.gov/comments/sr-finra-2013-002/finra2013002-15.pdf.

⁵ *Notice of Withdrawal of Proposed Rule Change to Amend FINRA Rule 2267 (Investor Education and Protection)*, SEC Release No. 34-69440 (Apr. 24, 2013), available at www.sec.gov/rules/sro/finra/2013/34-69440.pdf.

⁶ *See* Proposal at 3.

⁷ FINRA Regulatory Notice 14-19, "BrokerCheck" (April 2014) (the "2014 proposal"), available at www.finra.org/sites/default/files/NoticeDocument/p496867.pdf.

⁸ *See* Letter from Dorothy Donohue, Acting General Counsel, Investment Company Institute, to Marcia E. Asquith, Office of the Corporate Secretary, FINRA (June 16, 2014), available at www.finra.org/sites/default/files/NoticeComment/p532191.pdf. While generally supportive of the 2014 proposal, ICI recommended that FINRA: (i) clarify that a member could include the reference and hyperlink to BrokerCheck on a webpage that the member reasonably determines will draw the attention of retail investors; (ii) expand the exception for email and text messages to include other similar forms of messaging; and (iii) provide members with a reasonable amount of time to implement these new requirements (at least six months from the time of approval).

registered persons who conduct business with retail investors. These requirements would not apply to a member that does not provide products or services to retail investors, or a directory or list of registered persons limited to names and contact information. As with the prior proposals, FINRA’s intent is to increase investors’ awareness and use of BrokerCheck, which it believes will help investors make more informed choices about the individuals with whom and firms with which they conduct business.⁹

We support this Proposal, and we urge the SEC to approve it. It reflects FINRA’s thoughtful consideration of the comments it received on the prior proposals, including ours.¹⁰ The Proposal should advance FINRA’s worthwhile objective of increasing awareness and use of BrokerCheck without imposing undue burdens on FINRA members. FINRA has eliminated certain aspects of the prior proposals that were unworkable, ambiguous, or unduly burdensome, and we would expect members’ implementation of, and ongoing compliance responsibilities under, the Proposal to be relatively straightforward.

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We appreciate the opportunity to provide comments on the Proposal. If you have any questions, please contact me at (202) 218-3563 or Matthew Thornton at (202) 371-5406.

Sincerely,

/s/ Dorothy Donohue
Deputy General Counsel—Securities Regulation

⁹ See Proposal at 6.

¹⁰ See *supra*, note 8 for a summary of ICI’s comments on the 2014 proposal. FINRA has adequately addressed these ICI comments by: (i) identifying, in a practical way, where the references and hyperlinks to BrokerCheck ought to appear on members’ websites; (ii) reducing the Proposal’s scope to members’ websites, thereby obviating the need to expand the exception for email and text messages; and (iii) indicating that members would have at least 6 months to comply with Proposal.