

Securities Training Corporation

Series 26

Crunch Time Facts

The Crunch Time Facts are a collection of statements that we believe are valuable as you engage in the final preparation to sit for your examination. These facts are not designed to raise questions; instead, they are to be part of your final review for use with any notes that you created during your studies.

Chapter 1 – General Supervision

- o Form U4 requires a person's 10-year employment/bankruptcy history and five-year residential history
- o Form U4 requires all felony convictions to be recorded regardless of the time that has elapsed.
- o FINRA's BrokerCheck provides information on a formerly registered person for 10 years.
- o For the FBI to verify whether its database contains a criminal history record of an associated person whose fingerprint card has been deemed ineligible three times, it will conduct a search of its database based on the associated person's name (Name Check), rather than on the fingerprints submitted.
- o Any person who handles customers' cash or securities, or handles books of original entry, must be fingerprinted. However, the fingerprinting requirement excludes persons who handle only non-certificated securities.
- o B/Ds must approve the titles its RRs use on their business cards.
- o A Series 6 RR may not sell Real Estate Investment Trusts (REITs) to customers.
- o A person who has failed a registration examination for the third time must wait six months before retesting; moving to another B/D DOES NOT alter this waiting period.
- o Forms U4 and U5, as well as fingerprint cards, are required to be retained for three years after an RR leaves a firm.
- o A person must requalify as an RR after two years of inactivity.
- o A person's registration may be placed in *Special Inactive Status* while he is serving in the military.
- o A B/D has an ongoing obligation to amend a person's Form U5 (no time limit).
- o Form U6 includes information from proceedings involving the Code of Procedure and/or Code of Arbitration.
- o An RR is able to amend BrokerCheck information through a Broker Comment Request Form.
- o BrokerCheck provides details regarding a person's employment history (including outside business activities), registrations held, and any disciplinary actions.
- o FINRA members must provide customers with an annual disclosure which includes the FINRA BrokerCheck hotline number and FINRA's website address.
- o A person with a Series 26 or 24 principal registration may supervise a Series 6 RR.
- o A Series 26 registered principal can supervise a Series 7 RR, but only under limited circumstances (i.e., the sales of investment company and variable products).
- o A person who supervises a broker-dealer's financial responsibility and record-keeping functions must be registered as either a Series 27 or 28 principal.
- o A Series 27 or 28 principal is not authorized to supervise a B/D's sales activities.
- o A principal who is qualified with a Series 26 registration is not authorized to approve FOCUS reports.
- o A B/D's AML officer is NOT required to be registered.
- o If a managing partner/director of a B/D engages in sales activities, supervision of the partner's/director's activities must be performed by a person who is independent of the producing manager.

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- o A producing branch manager's sales activities must be supervised by a principal who does not report to the producing manager.
- o A current copy of the FINRA Manual must be made available to customers upon request; availability of an electronic version is allowed.
- o AML procedures were initially created under the Bank Secrecy Act (BSA).
- o AML written procedures are NOT required to be filed with a regulator.
- o AML reports are filed with the Department of the Treasury.
- o A single-location firm's Business Continuity Plan (BCP) should include clearing firm contact information.
- o In a firm's BCP, one of the two contact persons must be a registered principal (there is no requirement for both to be principals).
- o Branch offices must be physically inspected by a principal from the home office every three years.
- o One person MAY oversee multiple OSJs; however, this must be documented in the firm's WSP, the branches must be close to one another, and the principal must be able to commit the required time.
- o The factors used to determine whether a firm needs additional OSJs include an increase in staffing levels or the number of supervised locations, geographic distance between branch offices, or the office's activities involve regular public contact.
- o An amended Form BR must be filed within 30 days of moving a branch location.
- o If a bank official invites an RR to meet with banking clients at a meeting being held on bank's premises, the location is considered to be an office of convenience. If any of the clients decide to open a brokerage account with the RR, they must sign an acknowledgement that investment products are not bank obligations.
- o For an RR of a B/D to execute brokerage transactions on the premises of a bank, a written agreement must exist between the bank and the B/D. Clients must receive both oral and written disclosure that the products being offered are not bank products, they are not FDIC insured, and the client has the possibility of losing money.
- o If a B/D opens an office on the premises of a bank to service its clients, proper signage must be displayed in the office (SIPC and not FIDC).
- o A location of convenience is considered any location where clients are met on a prearranged basis.
- o An office of convenience may not have brokerage firm signage displayed and the location cannot be held out as an office (i.e., no signage, balloons, or pens on the table).
- o Firms must provide a link to FINRA and the SIPC on their web sites.

Chapter 2 – Business Conduct Rules

- o If an RR executes private securities transactions and receives compensation, the RR must provide disclosure to her firm, the firm's written approval must be obtained, and the firm must supervise the transactions as if they were its own.
- o For an RR to engage in outside business activities that are not securities related, firm approval is NOT required. However, the RR must provide prior written notice to the firm and the activities must be disclosed on Form U4.

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- o For borrowing and/or lending to occur between an RR and a client, the RR and the client must be (personally) related or the client must be in the business of loaning money.
- o If an RR intends to share in a client's profits and losses, the sharing must be proportionate to each person's contribution. An exception to the proportionate sharing is if the client is a family member.
- o The statute of limitations for arbitration is six years from the event that created the dispute.

Chapter 3 – Statutory Disqualification

- o If an associated person of a B/D is statutorily disqualified (SD), the firm must update his Form U4 within 10 days unless the SD is to be contested.
- o If a member firm is seeking relief from a statutory disqualification, the process for determining eligibility includes a review by the Statutory Disqualification Committee. The committee's decision is sent to the National Adjudicatory Council (NAC) for review on behalf of FINRA. The ultimate decision is not final until it has been approved by the SEC.
- o If the NAC determines that an associated person's statutory disqualification should be upheld, the NAC's decision is able to be appealed to the SEC.

Chapter 4 – Communications with the Public

- o Correspondence is defined as material which is distributed or made available to *25 or fewer* retail investors and it is subject to review and supervision only.
- o Retail communication is defined as material which is distributed or made available to *more than 25* retail investors and it may be subject to specific approval and filing requirements.
- o Institutional communication is defined as material which is distributed or made available only to institutional investors and it is subject to review and supervision only.
- o An RR is prohibited from including chat-room comments to her firm's preapproved web page.
- o Investment company retail communication that uses self-created rankings must be filed with FINRA 10 business days prior to use.
- o Investment company retail communication that does not include self-created rankings must be approved by a principal and then filed with FINRA within 10 business days of first use.

Chapter 5 – Investment Company/Variable Products

- o A fixed annuity bonus rate is a teaser rate; it is not permanent.
- o The maximum growth rate that is permitted in a variable product illustration is 12%.
- o To approve the opening of an account for a customer who intends to purchase a variable annuity, a person must be qualified with a Series 24, 26, or Series 9/10 principal registration.
- o A supervising principal has seven business days to approve a variable contract application.
- o If an RR switches a client from one annuity contract to another under the 1035 Exchange provision, the potential concern is churning.
- o If an investor sells his closed-end fund shares, he does so at the current bid price (not the NAV) since these products are traded on an exchange.

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- o If a mutual fund wholesaler hosts a luncheon at a B/D's office, any person may be served (regardless of whether they are registered).
- o An RR is prohibited from recommending a large dollar purchase of Class B shares since he is likely preventing the client from obtaining a breakpoint.
- o Breakpoints can be obtained even if the customer buys shares through different broker-dealers.
- o Breakpoints are created by the fund distributor, not the broker-dealer.
- o RRs may purchase mutual fund shares at or near the NAV.
- o When advertising mutual fund performance, the SEC-mandated periods are one, five, and 10 years.
- o If a mutual fund has a track record of less than one year, its performance cannot be advertised.
- o After retirement, RRs may continue to collect commissions on existing mutual fund assets an agreement has been signed with their B/D; however, they cannot be paid on any new sales.
- o After joining a new firm, an RR is permitted to facilitate a bulk transfer of variable annuity or mutual fund accounts if she has obtained the prior written consent from each customer.

Chapter 6 – Customer Accounts

- o Under Regulation SP, a privacy notice must be provided at the time of account opening and annually thereafter.
- o In an UTMA/UGMA account, the assets are the property of the minor (child).
- o In an UTMA/UGMA account, asset distribution at the time of the minor's untimely death is determined by state law.
- o If an RR suspects that an elderly client is suffering from dementia, a note should be made in the account and compliance should be notified in order to determine the next steps.
- o If a customer has made both deductible and non-deductible IRA contributions and now intends to take a distribution after the age of 59 ½, the distribution will be taken on a pro-rata basis.
- o If a person is under the age of 59 ½, the lifetime allowance for distributions being taken for a first-time homebuyer without penalty is \$10,000.
- o If a person is living solely off of his portfolio income, he is not permitted to contribute to an IRA since the contribution must be based on earned income. (Alimony is considered a form of earned income.)
- o For a person who is age 50 or older, the maximum IRA contribution is \$6,500 (\$5,500 plus a \$1,000 catch-up contribution).
- o All appreciation (trading profits, dividends, and interest) that is generated in traditional IRAs is taxed as ordinary income at the time of withdrawal.
- o A required minimum distribution (RMD) may be met through an in-kind distribution (removal of securities).
- o A Currency Transaction Report (CTR) (FinCEN 104) is filed with the Department of the Treasury for currency deposits that exceed \$10,000; the filing must be made within 15 days of the transaction.
- o A B/D is NOT absolved from its suitability duties if it determines that an institutional client is unable to make its own suitability decisions, despite the client's insistence that it can.
- o An ACATS account transfer is initiated by the receiving (new) broker, not the carrying (current) broker.
- o Customer account statements contain information about both the clearing firm and the introducing firm.

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- o If a firm has received no complaints, a complaint report (summary) is not required to be sent to FINRA on a quarterly basis.
- o Certain accounts (e.g., UTMA, UGMA, IRA, and retirement plan accounts) may not use margin.
- o If a client has three accounts with a B/D and wants each to be transferred to a different B/D, each account must have a separate Transfer Initiation Form (TIF) processed.
- o To prevent the delivering firm from making an asset transfer, the firm must receive a court order or specific instructions from the customer to rescind the transfer.
- o A justifiable reason for a receiving firm to not accept an asset being transferred is that the client's account contains products for which the receiving firm does not have a selling agreement with the sponsor. However, an account transfer MAY NOT be held up due to an employment dispute with an RR.

Chapter 7 – Financial Responsibility

- o The net capital requirement for an introducing broker is \$5,000 (if it sells securities by subscription only) or \$50,000 (if it receives securities and transmits them).
- o The minimum net capital requirement for a carrying B/D is \$250,000.
- o Trial balances that are used to calculate a carrying firm's net capital are created monthly.
- o If a firm makes changes its WSP, the old WSP must be retained for three years.
- o Customer complaints must be retained at an OSJ for four years.