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## MARKETS

# Wall Street's Watchdog Doesn't Disclose All Regulatory Red Flags

Finra Doesn't Make Public All Its Information About Brokers



The offices of the Financial Industry Regulatory Authority in Manhattan. *CONNIE CHEW/THE WALL STREET JOURNAL*

By **JEAN EAGLESHAM** and **ROB BARRY**

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Wall Street's own national watchdog doesn't make public all the regulatory red flags it has about brokers, prompting calls from state regulators for more expansive disclosure.

Investors checking disciplinary records from the Financial Industry Regulatory Authority, or Finra, can see that in Bennett Broad's 35-year career as a stockbroker, he has faced 25 customer complaints involving alleged trading abuses, and that 15 ended in

payouts to clients.

What they won't see is that a former employer, UBS AG, launched an internal investigation into Mr. Broad's business practices back in 2003 and then, according to state regulators, "permitted" him "to resign." At least eight of his 25 complaints involved conduct after that investigation.

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industry-funded overseer of brokers, encourages investors to check its BrokerCheck Web page to look for regulatory red flags about individual brokers, including complaints, regulatory actions, terminations for cause and personal bankruptcies. Mr. Broad's BrokerCheck reveals neither the UBS investigation nor his resignation—even though they show up on his state regulatory record.

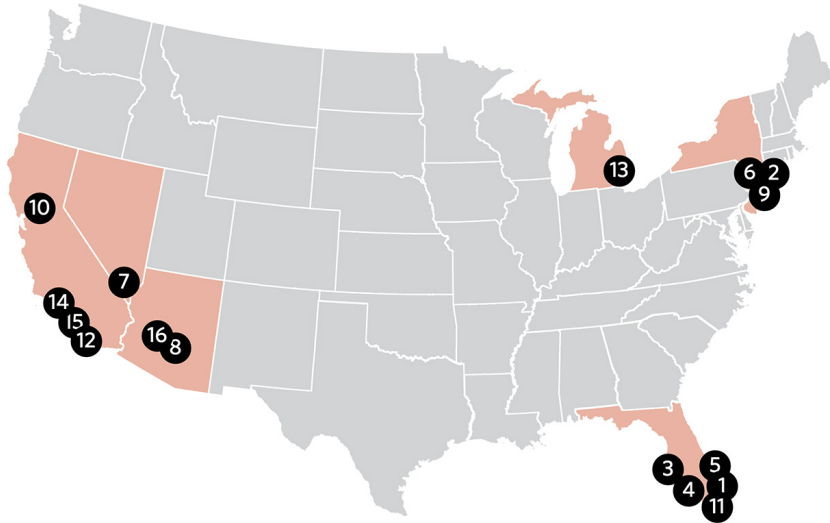
A Wall Street Journal examination of federal and state regulatory data revealed that a wealth of information about brokers is reported to the national regulator but not made public by it. The Journal found at least 38,400 brokers have regulatory or financial red flags that appear only on state records, which in most states aren't available without contacting state regulators. Of those, at least 19,000 had completely clean BrokerCheck records.

Although brokers who face internal reviews by their employers are statistically more likely to have other problems, BrokerCheck doesn't disclose such reviews. The Journal identified 4,346 brokers with one or more internal review reported on their state records, but not on BrokerCheck. These brokers were more than 11 times as likely as the average broker, the Journal's analysis shows, to have three or more red flags on BrokerCheck—the industry standard for "troubled" brokers.

Mr. Broad, 59 years old, said he knows nothing about the UBS internal probe and declined further comment. In the responses he made to BrokerCheck about complaints, he either denied allegations or didn't comment on them. A spokesman for UBS said the firm had reported its investigation of Mr. Broad as required by Finra. A spokesman for his current firm, Oppenheimer & Co., declined to comment.

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## Where Troubled Stockbrokers Are



Finra said it is reviewing—partly in response to the Journal’s reporting—its rules about what it discloses when brokers lose their jobs for alleged investment-related misconduct. It said it aims to ensure that whenever a firm discovers regulatory misconduct by a departing broker, that fact will show up on BrokerCheck.

The change is designed make it more difficult for

stockbrokers to avoid termination black marks on their records by leaving a firm while an internal review is under way but not completed, officials said.

Finra said it is undertaking a review of its database and contacting some brokers to find out why they haven’t reported some information. The review, which Finra said is 40% complete, has prompted some 1,000 brokers to report red flags that weren’t previously shown on BrokerCheck. A Journal investigation earlier this year found more than 1,600 brokers had failed to disclose criminal histories and personal bankruptcies.

Finra declined to give the Journal access to bulk data about all stockbrokers, which would reveal the frequency of various problems. The Journal analyzed records from 26 state regulators, covering about 118,500 brokers with red flags. There are 640,000 registered stockbrokers nationwide.

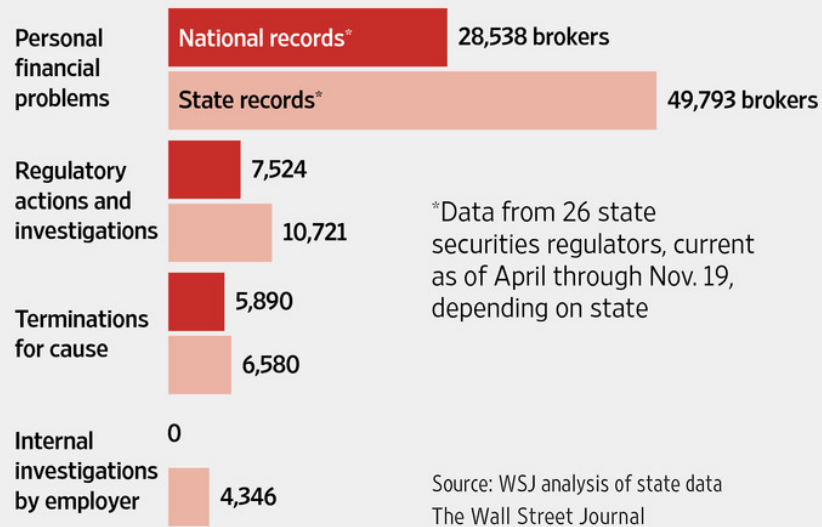
The red flags not visible to investors who only consult BrokerCheck include investment or fraud-related investigations by former employers, some regulatory probes and civil charges, certain employment terminations, personal bankruptcies filed more than 10 years ago and judgments and liens that have been satisfied.

The Journal’s analysis found brokers with these red flags tended to have worse than average disciplinary records. They were six times as likely as the average broker to have three or more red flags on BrokerCheck and three times as likely to report customer complaints.

Alleged misconduct that triggered internal reviews by employers included signing a

## Regulatory Red Flags

Records held by state regulators reveal more information about stockbrokers than those released by the national regulator.



customer's name on an authorization to pay funds, trading securities without the customer's consent and using a payment from a customer for personal expenses. Some of the reviews led to the broker being fired or resigning, state records show, while others resulted in no action.

A 2010 investigation by Merrill Lynch into whether stockbroker David Fagenson was trading excessively in certain client accounts, for

example, resulted in one client getting commission charges adjusted and assets shifted to a fee-based account, according to his state record.

Mr. Fagenson, 55, has 12 red flags on his BrokerCheck, including one complaint relating to conduct at his current employer, UBS, that settled for \$20,000 last year. But the Merrill Lynch investigation wasn't part of that record.

A UBS spokesman declined to comment on behalf of Mr. Fagenson and the firm. A spokesman for Bank of America Corp., which owns Merrill Lynch, declined to comment.

Internal reviews by employers "don't just happen," said Philip Aidikoff, a Beverly Hills, Calif., lawyer who represents investors in disputes with brokers. "Something has to trigger" them. Even reviews that don't result in an action, he said, should be included on BrokerCheck. "Investors should know everything there is to know about someone they entrust the care of their money to," he said.

A Finra spokeswoman said that while internal reviews aren't shown on BrokerCheck, the underlying events may show up as a report of a termination, regulatory action, complaint or other red flag.

Many such red flags don't show up on BrokerCheck right away.

An internal review of stockbroker Craig Langweiler by his employer, American

Portfolios Financial Services, Inc. of New York, concluded in September 2007 that he had borrowed money from a client without obtaining his then-employer's approval, as the rules required.

It took another 11 months before Finra fined Mr. Langweiler \$5,000 and suspended him for 10 days for the same alleged conduct. Mr. Langweiler, 59, who settled the Finra action without admitting the findings, said he had borrowed from a close friend for a short time and "nothing bad happened."

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*'A lot of that stuff shouldn't even be there.'*

—Stockbroker Craig Langweiler on the 29 red flags on his BrokerCheck web page.

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Asked about the 29 red flags on his BrokerCheck—including three customer complaints and 13 judgments or liens reported after his internal review—he said a "lot of that stuff shouldn't even be there." A spokesman for American Portfolios said the firm promptly notified Finra after concluding the probe and cooperated fully with the regulator's investigation.

Internal reviews aren't the only investigations that may not show up on BrokerCheck. The Journal identified 3,197 brokers with investment-related court cases or regulatory investigations or actions that appear only on their state records. The analysis also identified 690 brokers with job terminations shown on state records only.

A Finra spokeswoman said BrokerCheck doesn't include completed investigations or regulatory actions or court cases that don't result in findings against the broker. It shows only terminations that "implicate investor-protection issues." Thus, according to Finra, the actions involving the 3,197 brokers noted above resulted in no charges or fault to the broker.

State securities regulators said Finra should expand BrokerCheck to match their reports. The North American Securities Administrators Association said red flags shown only in state records, such as bankruptcies filed more than 10 years ago, are critical to investors.

The Journal's analysis identified at least 21,255 brokers with old bankruptcies, satisfied judgments or liens or other personal financial issues that don't show up on

BrokerCheck.

These brokers were more than twice as likely as the average broker to report one or more customer complaints or regulatory actions on BrokerCheck, the Journal analysis found.

A Finra spokeswoman said its approach is consistent with the Fair Credit Reporting Act, which excludes bankruptcies filed more than 10 years ago.

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