



Company Disclosure Questions

The purpose of this document is to provide guidance in reviewing the Company questions.

The information contained herein is not legal advice and should not be construed as such but, instead, is provided for informational purposes only. Please consult independent counsel for any legal questions related to this document.

In connection with the implementation of the revised individual disclosure questions, new glossary terms have been added, and some existing terms have been amended. The [Appendix](#) provides detail on the amendments and revisions. Companies should determine whether any of these changes affect their answers to the disclosure questions.

Those terms that have been amended or added are in red text throughout this document, are noted in the Appendix and may affect existing answers.

Court is a newly defined term that has replaced the list of courts found currently in the questions. This has not substantively changed the questions where the term court appears.

While the term financial services is used in the revised individual questions (and there is a new definition), the term financial services or financial services related remains in and is still applicable to the company questions.

Criminal Disclosure Questions

(A) Has the entity or a control affiliate ever:

- (1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military **court** to any felony?
- (2) been charged with any felony?

(B)

- (1) In the past 10 years has the entity or a control affiliate been convicted or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military **court** to committing or conspiring to commit a misdemeanor involving: (i) financial services or a financial services-related business, (ii) fraud, (iii) false statements or omissions, (iv) theft or wrongful taking of property, (v) bribery, (vi) perjury, (vii) forgery, (viii) counterfeiting, or (ix) extortion?
- (2) Are there pending charges against the entity or a control affiliate for a misdemeanor specified in (B)(1)?



Regulatory Action Disclosure

- (C) In the past 10 years, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:
- (1) **found** the entity or a control affiliate to have made a false statement or omission or been dishonest, unfair or unethical?
 - (2) **found** the entity or a control affiliate to have been involved in a violation of a financial services-related regulations(s) or statute(s)?
 - (3) **found** the entity or a control affiliate to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted?
 - (4) entered an **order** against the entity or a control affiliate in connection with a financial services-related activity?
 - (5) denied, suspended, or revoked the entity's or a control affiliate's registration or license or otherwise, by order, prevented it from associating with a financial services-related business or restricted its activities?
- (D) Has the entity's or a control affiliate's authorization to act as an attorney, accountant, or State or federal contractor ever been revoked or suspended?
- (E) Is there a pending regulatory action proceeding against the entity or a control affiliate for any alleged violation described in (C) through (D)?

Civil Judicial Disclosure

- (F) Has any domestic or foreign **court**:
- (1) in the past ten years enjoined the entity or a control affiliate in connection with any financial services-related activity?
 - (2) in the past ten years found the entity or a control affiliate was involved in a violation of any financial services-related statute(s) or regulation(s)?
 - (3) in the past ten years dismissed, pursuant to a settlement agreement, a financial services-related civil action brought against the entity or control affiliate by a State or foreign financial regulatory authority?
- (G) Is there a pending financial services-related civil action in which the entity or a control affiliate is named for any alleged violation described in (F)?



Financial Disclosure

(H) In the past ten years has the entity or a control affiliate been the subject of a bankruptcy petition?

(I) Has a bonding company ever denied, paid out on, or revoked a bond for the entity?

(J) Does the entity have any **unsatisfied** judgments or **liens** against it?



Appendix Glossary Terms

Note: An asterisk next to a term denotes the definition of the term has been amended as opposed to a new term that is defined. A redlined version showing what has been amended follows the definitions.

Court

The term court includes, but is not limited, to a domestic, foreign, military, or tribal court.

Found*

A determination that led to the issuance of one or more of the following:

- adverse final actions
- consent decrees/orders, including those in which the respondent has neither admitted nor denied the findings
- agreements or settlements that are a matter of public record, including agreements or settlements in which the respondent has neither admitted nor denied the findings.

Does not include the issuance or imposition of:

- agreements or settlements that are not a matter of public record
- late fees
- deficiency letters
- examination reports
- memoranda of understanding
- letters of caution
- admonishments, or
- similar informal resolutions of matters.

“Settlement” often falls under the “included” category like consent decrees and final actions. However, in jurisdictions that use “settlement” to be synonymous with “agreement” such settlements would fall under the “not included” batch with other agreements, unless the agreement was a matter of public record.

Lien

The term lien includes, but is not limited to judgment liens, tax liens, child support liens, IRS liens, liens related to a collection account and mechanics/materialmen’s liens. The term does not include a mortgage lien.



Unsatisfied

Any item that is not paid in full, including but not limited to, any items for which payments are being made, pursuant to a payment plan or otherwise.

Revised Definitions Redlined

FOUND –

~~Includes:~~

A determination that led to the issuance of one or more of the following:

- adverse final actions
- consent decrees/orders, **including those** in which the respondent has neither admitted nor denied the findings
- **agreements or settlements that are a matter of public record, including agreements or settlements in which the respondent has neither admitted nor denied the findings.**

Does not include **the issuance or imposition of:**

- **agreements or settlements that are not a matter of public record**
- late fees
- deficiency letters
- examination reports
- memoranda of understanding
- letters of caution
- admonishments, or
- similar informal resolutions of matters.

“Settlement” often falls under the “included” category like consent decrees and final actions. However, in jurisdictions that use “settlement” to be synonymous with “agreement” such settlements would fall under the “not included” batch with other agreements, **unless the agreement was a matter of public record. ~~One possibility that may be relevant in determining where a “settlement” fits in your jurisdiction is to the determination of whether it is a public record or not. In this analysis, if it is a public record then it should be included and if it is not a public record, it should not be included.~~**

ORDER – A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation and temporary or permanent orders to cease and desist. ~~This~~ An order includes orders agreed to by the parties, including consent orders and stipulated orders. An order does not include ~~special stipulations, undertakings or~~ agreements that relate relating to payments, limitations on activity, or other restrictions unless ~~they such~~ agreements are included in ~~an order a~~ a written directive that otherwise qualifies as an order.



~~Orders include temporary and permanent cease and desist orders.~~ Orders that must be disclosed are limited in Disclosure Question (C)(4) to orders directed to applicant or control affiliate. See definitions of control affiliate to understand the extent of required disclosures in this regard