

Required fields are shown with yellow backgrounds and asterisks.

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| Page 1 of * <input type="text" value="34"/> | SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4 | File No.* SR - <input type="text" value="2015"/> - * <input type="text" value="054"/> Amendment No. (req. for Amendments *) <input type="text" value="2"/> |
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Filing by Financial Industry Regulatory Authority
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

| | | | | | |
|------------------------------------|---|-------------------------------------|--|--|--|
| Initial * <input type="checkbox"/> | Amendment * <input checked="" type="checkbox"/> | Withdrawal <input type="checkbox"/> | Section 19(b)(2) * <input checked="" type="checkbox"/> | Section 19(b)(3)(A) * <input type="checkbox"/> | Section 19(b)(3)(B) * <input type="checkbox"/> |
| Pilot <input type="checkbox"/> | Extension of Time Period for Commission Action * <input type="checkbox"/> | Date Expires * <input type="text"/> | Rule | | |
| | | | <input type="checkbox"/> 19b-4(f)(1) | <input type="checkbox"/> 19b-4(f)(4) | |
| | | | <input type="checkbox"/> 19b-4(f)(2) | <input type="checkbox"/> 19b-4(f)(5) | |
| | | | <input type="checkbox"/> 19b-4(f)(3) | <input type="checkbox"/> 19b-4(f)(6) | |

| | |
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| Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 | Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 |
| Section 806(e)(1) * <input type="checkbox"/> | Section 806(e)(2) * <input type="checkbox"/> |
| | Section 3C(b)(2) * <input type="checkbox"/> |

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| Exhibit 2 Sent As Paper Document <input type="checkbox"/> | Exhibit 3 Sent As Paper Document <input type="checkbox"/> |
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Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Last Name *

Title *

E-mail *

Telephone * Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date Vice President and Associate General Counsel

By

(Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

On December 4, 2015, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (the “Commission” or “SEC”) proposed rule change SR-FINRA-2015-054, pursuant to which FINRA proposed to adopt a rule set that would apply exclusively to firms that meet the definition of “capital acquisition broker” (“CAB”) and that elect to be governed under this rule set (collectively, the “CAB Rules”).

The Commission published the proposed rule change for public comment in the Federal Register on December 23, 2015.¹ The Commission received 17 comments in response to the proposed rule change.² On March 23, 2016, the Commission published in the Federal Register an order to solicit comments on the proposed rule change and to institute proceedings pursuant to Section 19(b)(2)(B) of the Securities Exchange Act of 1934 (“SEA”)³ to determine whether to approve or disapprove the proposed rule change.⁴

¹ Securities Exchange Act Release No. 76675 (December 17, 2015), 80 FR 79969 (December 23, 2015) (Notice of Filing File No. SR-FINRA-2015-054).

² Letters from Roger W. Mehle, Chairman and CEO, Archates Capital Advisors LLC, dated December 29, 2015; Daniel H. Kolber, President/CEO, Intellivest Securities, Inc., dated December 30, 2016; Arne Rovell, Coronado Investments, LLC, dated January 6, 2016; Donna DiMaria, Chairman of the Board of Directors, and Lisa Roth, Board of Directors, Third Party Marketers Association, dated January 12, 2016; Frank P. L. Minard, Managing Partner, XT Capital Partners, LLC, dated January 12, 2016; Timothy Cahill, President, Compass Securities Corporation, dated January 13, 2016; Mark Fairbanks, President, Foreside Distributors, dated January 13, 2016; Dan Glusker, Perkins Fund Marketing, LLC, dated January 13, 2016; Steven Jafarzadeh, CAIA, Managing Director, CCO Partner, Stonehaven, dated January 13, 2016; Richard A. Murphy, Manager, North Bridge Capital LLC, dated January 13, 2016; Ron Oldenkamp, President, Genesis Marketing Group, dated January 13, 2016; Michael S. Quinn, Member and CCO, Q Advisors LLC, dated January 13, 2016; Lisa Roth, President, Monahan & Roth, LLC, dated January 13, 2016; Howard Spindel, Senior Managing Director, and Cassondra E. Joseph, Managing Director, Integrated Management Solutions USA LLC, dated January 13, 2016; Sajan K. Thomas, President, and Stephen J. Myott, Chief Compliance Officer, Thomas Capital Group, Inc., dated January 13, 2016; Judith M. Shaw, President, North American Securities Administrators Association, Inc., dated January 15, 2016; and Peter W. LaVigne, Esq., Chair, Securities Regulation Committee, Business Law Section, New York State Bar Association, dated January 22, 2016.

³ 15 U.S.C. 78s(b)(2)(B).

⁴ Securities Exchange Act Release No. 77391 (March 17, 2016), 81 FR 15588 (March 23, 2016) (Order Instituting Proceedings on File No. SR-FINRA-2015-054).

The Commission received one comment in response to the Order Instituting Proceedings.⁵

In response to comments on the Notice of Filing, on March 29, 2016, FINRA filed Partial Amendment No. 1, which amended proposed CAB Rule 016(c)(2) to clarify that the definition of “capital acquisition broker” does not include any broker or dealer that effects securities transactions that would require the broker or dealer to report the transaction under the FINRA Rules 6300 Series, 6400 Series, 6500 Series, 6600 Series, 6600 Series, 6700 Series, 7300 Series or 7400 Series. The Commission published Partial Amendment No. 1 for comment in the Federal Register on April 15, 2016.⁶ The Commission received one comment in response to the Partial Amendment No. 1.⁷

In response to comments on the Notice of Filing, the Order Instituting Proceedings, and Partial Amendment No. 1, FINRA is filing this Partial Amendment No. 2 to amend proposed CAB Rule 016(c)(1)(F) regarding a CAB’s authority to engage in qualifying, identifying, soliciting, or acting as a placement agent or finder in connection with unregistered securities transactions. As revised by Partial Amendment No. 2, a CAB would be permitted to engage in:

qualifying, identifying, soliciting, or acting as a placement agent or finder (i) on behalf of an issuer in connection with a sale of newly-issued, unregistered securities to institutional investors or (ii) on behalf of an issuer or a control person in connection with a change of control of a privately-held company. For purposes of this subparagraph a “control person” is a person who has the power to direct the management or policies of a company through ownership of securities, by contract, or otherwise. Control will be presumed to exist if, before the transaction, the person has the right to vote or the power to sell or direct the sale of 25% or more of a class of voting securities or in the case of a partnership or limited liability company has the right to receive upon dissolution or has contributed 25% or more of the capital. For purposes of this subparagraph a “privately-held company” is a company that does not have any class of securities registered, or required to be registered, with the Securities and Exchange Commission under Section 12 of the Exchange Act or with respect to which the company files, or is required to file, periodic information, documents, or reports under Section 15(d) of the Exchange Act.

⁵ Letter from Howard Spindel, Senior Managing Director, and Cassondra E. Joseph, Managing Director, Integrated Solutions, dated April 8, 2016.

⁶ Securities Exchange Act Release No. 77581 (April 11, 2016), 81 FR 22333 (April 15, 2016) (Notice of Filing of Partial Amendment No. 1 to File No. SR-FINRA-2015-054).

⁷ Letter from Anonymous dated May 3, 2016.

The purpose of this proposed rule change is to provide a rule set for member firms that advise companies on mergers and acquisitions, advise issuers on raising debt and equity capital in private placements with institutional investors, or provide advisory services on a consulting basis to companies that need assistance analyzing their strategic and financial alternatives. Consistent with this purpose, this amendment would narrow the range of activities that a CAB would be permitted to engage in with regard to securities transactions involving institutional investors. Previously proposed CAB Rule 016(c)(1)(F) would have permitted a CAB to engage in qualifying, identifying, soliciting, or acting as a placement agent or finder with respect to institutional investors in connection with purchases or sales of unregistered securities. This authority would have been limited by proposed CAB Rule 016(c)(2), which would have prohibited CABs from effecting securities transactions that would require the broker or dealer to report the transaction under the FINRA trade reporting rules.⁸

As amended, a CAB would be permitted to engage in qualifying, identifying, soliciting, or acting as a placement agent or finder (i) on behalf of an issuer in connection with a sale of newly-issued, unregistered securities to institutional investors or (ii) on behalf of an issuer or a control person in connection with a change of control of a privately-held company. “Control” and “privately-held company” would have the same meanings as those terms had in the SEC staff’s 2014 M&A Brokers no-action letter.⁹

Accordingly, under revised proposed CAB Rule 016(c)(1)(F), a CAB would be permitted to qualify, identify, solicit or act as a placement or agent only in two circumstances. First, a CAB could perform these functions on behalf of an issuer in connection with an initial offering of unregistered securities to institutional investors (as such term is defined in proposed CAB Rule 016(i)). Second, a CAB could perform these functions on behalf of an issuer or control person in connection with an initial or secondary securities transaction related to a change of control of a privately-held company. Except as described in proposed CAB Rules 016(c)(1)(F)(ii) and 016(c)(1)(G),¹⁰ a CAB would not otherwise be permitted to engage in qualifying,

⁸ FINRA Rules 6300 Series, 6400 Series, 6500 Series, 6600 Series, 6700 Series, 7300 Series and 7400 Series.

⁹ See M&A Brokers, 2014 SEC No-Act LEXIS 92 (January 31, 2014).

¹⁰ Proposed CAB Rule 016(c)(1)(G) would allow a CAB to effect securities transactions solely in connection with the transfer of ownership and control of a privately-held company through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the company, to a buyer that will actively operate the company or the business conducted with the assets of the company, in accordance with the terms and conditions of an SEC rule, release, interpretation or no-action letter that permits a person to engage in such activities without having to register as a broker or dealer pursuant to Section 15(b) of the SEA.

identifying, soliciting, or acting as a placement agent or finder in connection with secondary securities transactions.

With this Partial Amendment No. 2, FINRA is including (1) Exhibit 4 (see below), which reflects changes to the text of the proposed rule change pursuant to this Partial Amendment No. 2, marked to show additions to the text as proposed in the original filing as amended by Partial Amendment No. 1; and (2) Exhibit 5 (see below), which reflects the changes to the current rule text that are proposed in the proposed rule change, as amended by this Partial Amendment No. 2.

EXHIBIT 4

Exhibit 4 shows the changes proposed in this Partial Amendment No. 2, with the proposed changes in the original filing and Partial Amendment No. 1 shown as if adopted. Proposed new language in this Partial Amendment No. 2 is underlined; proposed deletions in this Partial Amendment No. 2 are in brackets.

* * * * *

Capital Acquisition Broker Rules

* * * * *

016. Definitions

When used in the Capital Acquisition Broker Rules, unless the context otherwise requires:

(a) through (b) No Change.

(c) “Capital Acquisition Broker”

(1) A “capital acquisition broker” is any broker that solely engages in any one or more of the following activities:

(A) through (E) No Change.

(F) qualifying, identifying, soliciting, or acting as a placement agent or finder [with respect to institutional investors in connection with purchases or sales of unregistered securities] (i) on behalf of an issuer in connection with a sale of newly-issued, unregistered securities to institutional investors or (ii) on behalf of an issuer or a control person in connection with a change of control of a privately-held company. For purposes of this subparagraph, a “control person” is a person who has the power to direct the management or policies of a company through

ownership of securities, by contract, or otherwise. Control will be presumed to exist if, before the transaction, the person has the right to vote or the power to sell or direct the sale of 25% or more of a class of voting securities or in the case of a partnership or limited liability company has the right to receive upon dissolution or has contributed 25% or more of the capital. For purposes of this subparagraph, a “privately-held company” is a company that does not have any class of securities registered, or required to be registered, with the Securities and Exchange Commission under Section 12 of the Exchange Act or with respect to which the company files, or is required to file, periodic information, documents, or reports under Section 15(d) of the Exchange Act; and

(G) No Change.

(2) No Change

(d) through (l) No Change.

* * * * *

EXHIBIT 5

Exhibit 5 shows the text of the proposed rule change, as amended by this Partial Amendment No. 2. Proposed new language is underlined.

* * * * *

Capital Acquisition Broker Rules

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010. GENERAL STANDARDS

014. Application of the By-Laws and the Capital Acquisition Broker Rules

All persons that have been approved for membership in FINRA as a capital acquisition broker and persons associated with capital acquisition brokers shall be subject

to the FINRA By-Laws (including the schedules thereto), unless the context requires otherwise, and the Capital Acquisition Broker Rules. Persons associated with a capital acquisition broker shall have the same duties and obligations as a capital acquisition broker under the Capital Acquisition Broker Rules.

The terms used in the Capital Acquisition Broker Rules, if defined in the FINRA By-Laws, shall have the meaning as defined in the FINRA By-Laws, unless a term is defined differently in a Capital Acquisition Broker Rule, or unless the context of the term within a Capital Acquisition Broker Rule requires a different meaning.

015. Application of Rules to Municipal Securities

FINRA Rule 0150 shall apply to the Capital Acquisition Broker Rules.

016. Definitions

When used in the Capital Acquisition Broker Rules, unless the context otherwise requires:

(a) “Associated person of a capital acquisition broker” or “person associated with a capital acquisition broker”

The term “associated person of a capital acquisition broker” or “person associated with a capital acquisition broker” means: (1) a natural person who is registered or has applied for registration under the FINRA rules; (2) a sole proprietor, partner, officer, director or branch manager of a capital acquisition broker, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a capital acquisition broker, whether or not any such person is registered or exempt from registration with FINRA under the FINRA By-Laws or the FINRA rules;

and (3) for purposes of FINRA Rule 8210, any other person listed in Schedule A of Form BD of a capital acquisition broker.

(b) “By-Laws”

The term “By-Laws” means the By-Laws of the Corporation or the FINRA By-Laws.

(c) “Capital Acquisition Broker”

(1) A “capital acquisition broker” is any broker that solely engages in any one or more of the following activities:

(A) advising an issuer, including a private fund, concerning its securities offerings or other capital raising activities;

(B) advising a company regarding its purchase or sale of a business or assets or regarding its corporate restructuring, including a going-private transaction, divestiture or merger;

(C) advising a company regarding its selection of an investment banker;

(D) assisting in the preparation of offering materials on behalf of an issuer;

(E) providing fairness opinions, valuation services, expert testimony, litigation support, and negotiation and structuring services;

(F) qualifying, identifying, soliciting, or acting as a placement agent or finder (i) on behalf of an issuer in connection with a sale of newly-issued, unregistered securities to institutional investors or (ii) on behalf of an issuer or a control person in connection with a change of

control of a privately-held company. For purposes of this subparagraph, a “control person” is a person who has the power to direct the management or policies of a company through ownership of securities, by contract, or otherwise. Control will be presumed to exist if, before the transaction, the person has the right to vote or the power to sell or direct the sale of 25% or more of a class of voting securities or in the case of a partnership or limited liability company has the right to receive upon dissolution or has contributed 25% or more of the capital. For purposes of this subparagraph, a “privately-held company” is a company that does not have any class of securities registered, or required to be registered, with the Securities and Exchange Commission under Section 12 of the Exchange Act or with respect to which the company files, or is required to file, periodic information, documents, or reports under Section 15(d) of the Exchange Act; and

(G) effecting securities transactions solely in connection with the transfer of ownership and control of a privately-held company through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the company, to a buyer that will actively operate the company or the business conducted with the assets of the company, in accordance with the terms and conditions of an SEC rule, release, interpretation or “no-action” letter that permits a person to engage in such activities without having to register as a broker or dealer pursuant to Section 15(b) of the Exchange Act.

(2) “Capital acquisition broker” does not include any broker or dealer that carries or acts as an introducing broker with respect to customer accounts, holds or handles customers’ funds or securities, accepts orders from customers to purchase or sell securities either as principal or as agent for the customer (except as permitted by paragraphs (c)(1)(F) and (G)), has investment discretion on behalf of any customer, engages in proprietary trading of securities or market-making activities, participates in or maintains an online platform in connection with offerings of unregistered securities pursuant to Regulation Crowdfunding or Regulation A under the Securities Act of 1933, or effects securities transactions that would require the broker or dealer to report the transaction under FINRA Rules 6300 Series, 6400 Series, 6500 Series, 6600 Series, 6700 Series, 7300 Series or 7400 Series.

(d) “Capital Acquisition Broker Rules”

The term “Capital Acquisition Broker Rules” means Capital Acquisition Broker Rules 010 through 1000.

(e) “Commission”

The term “Commission” means the Securities and Exchange Commission.

(f) “Customer”

The term “customer” shall not include a broker or dealer.

(g) “Exchange Act” or “SEA”

The term “Exchange Act” or “SEA” means the Securities Exchange Act of 1934, as amended.

(h) “FINRA”

The term “FINRA” means, collectively, FINRA, Inc., FINRA Regulation, Inc. and FINRA Dispute Resolution, Inc.

(i) “Institutional Investor”

The term “institutional investor” means any:

(1) bank, savings and loan association, insurance company or registered investment company;

(2) governmental entity or subdivision thereof;

(3) employee benefit plan, or multiple employee benefit plans offered to employees of the same employer, that meet the requirements of Section 403(b) or Section 457 of the Internal Revenue Code and in the aggregate have at least 100 participants, but does not include any participant of such plans;

(4) qualified plan, as defined in Section 3(a)(12)(C) of the Exchange Act, or multiple qualified plans offered to employees of the same employer, that in the aggregate have at least 100 participants, but does not include any participant of such plans;

(5) other person (whether a natural person, corporation, partnership, trust, family office or otherwise) with total assets of at least \$50 million;

(6) person meeting the definition of “qualified purchaser” as that term is defined in Section 2(a)(51) of the Investment Company Act of 1940; and

(7) any person acting solely on behalf of any such institutional investor.

(j) “Member”

The term “Member” means any individual, partnership, corporation or other legal entity admitted to membership in FINRA under the provisions of Articles III and IV of the FINRA By-Laws.

(k) “Person”

The term “person” includes any natural person, partnership, corporation, association, or other legal entity.

(l) “Securities Act”

The term “Securities Act” means the Securities Act of 1933, as amended.

100. MEMBER APPLICATION AND ASSOCIATED PERSON REGISTRATION

101. Electronic Filing Requirements for Uniform Forms

All capital acquisition brokers and persons applying for membership in FINRA as a capital acquisition broker are subject to FINRA Rule 1010.

102. Filing of Misleading Information as to Membership or Registration

All capital acquisition brokers are subject to FINRA Rule 1122.

111. Membership Proceedings

(a) Definitions

All capital acquisition brokers and applicants for membership in FINRA as a capital acquisition broker are subject to NASD Rule 1011.

(b) Safe Harbor for Business Expansions

All capital acquisition brokers are subject to NASD IM-1011-1.

(c) General Provisions

All capital acquisition brokers and applicants for membership in FINRA as a capital acquisition broker are subject to NASD Rule 1012.

112. New Member Application and Interview

(a) All capital acquisition brokers and applicants for membership in FINRA as a capital acquisition broker are subject to NASD Rule 1013.

(b) An applicant for membership that seeks to qualify as a capital acquisition broker must state in its application that it intends to operate solely as a capital acquisition broker.

113. Department Decision

(a) All capital acquisition brokers and applicants for membership in FINRA as a capital acquisition broker are subject to NASD Rule 1014.

(b) In reviewing an application for membership as a capital acquisition broker, the Department shall consider, in addition to the standards for admission set forth in NASD Rule 1014, whether the applicant's proposed activities are consistent with the limitations imposed on capital acquisition brokers under Capital Acquisition Broker Rule 016(c).

114. Review by National Adjudicatory Council

All capital acquisition brokers and applicants for membership in FINRA as a capital acquisition broker are subject to NASD Rule 1015.

115. Discretionary Review by FINRA Board

All capital acquisition brokers and applicants for membership in FINRA as a capital acquisition broker are subject to NASD Rule 1016.

116. Application for Approval of Change in Ownership, Control, or Business Operations

(a) All capital acquisition brokers and applicants for membership in FINRA as a capital acquisition broker are subject to NASD Rule 1017.

(b) An existing FINRA member that seeks to change its status to a capital acquisition broker and is already approved to engage in the activities of a capital acquisition broker, but which does not intend to change its existing ownership, control or business operations, must file a request to amend its membership agreement or obtain a membership agreement to provide that: (1) the member's activities will be limited to those permitted for capital acquisition brokers under Capital Acquisition Broker Rule 016(c); and (2) the member agrees to comply with the Capital Acquisition Broker Rules.

(c) Subject to paragraph (d) of this Rule, a capital acquisition broker that seeks to terminate its status as such and continue as a FINRA member must file an application for approval of a material change in business operations pursuant to NASD Rule 1017, and must amend its membership agreement to provide that the member agrees to comply with all FINRA Rules.

(d) If during the first year following an existing FINRA member's amendment to its membership agreement pursuant to paragraph (b) of this Rule, a capital acquisition broker seeks to terminate its status as such and continue as a FINRA member, the capital acquisition broker may notify FINRA of this change without having to file an application for approval of a material change in business operations pursuant to NASD Rule 1017. The capital acquisition broker must file a request to amend its membership agreement to provide that the member agrees to comply with all FINRA Rules, and execute an amended membership agreement that imposes the same limitations on the member's

activities that existed prior to the member's change of status to a capital acquisition broker.

118. Application to Commission for Review

All capital acquisition brokers and applicants for membership in FINRA as a capital acquisition broker are subject to NASD Rule 1019.

119. Foreign Members and Associates

(a) Foreign Members

All capital acquisition brokers are subject to NASD Rule 1090.

(b) Foreign Associates

All capital acquisition brokers are subject to NASD Rule 1100.

121. Registration Requirements

(a) Status of Persons Serving in the Armed Forces of the United States

All capital acquisition brokers are subject to NASD IM-1000-2.

(b) Failure to Register Personnel

All capital acquisition broker-dealers are subject to NASD IM-1000-3.

(c) Registration Requirements – Principals

All capital acquisition brokers are subject to NASD Rule 1021.

(d) Registration Requirements – Representatives

All capital acquisition brokers are subject to NASD Rule 1031.

122. Qualification Examinations

(a) Qualification Examinations and Waiver of Requirements

All capital acquisition brokers are subject to NASD Rule 1070.

(b) Confidentiality of Examinations

All capital acquisition brokers are subject to NASD Rule 1080.

123. Categories of Registration

(a) Categories of Principal Registration

All capital acquisition brokers are subject to NASD Rule 1022.

(b) Categories of Representative Registration

All capital acquisition brokers are subject to NASD Rule 1032.

(c) Operations Professional

All capital acquisition brokers are subject to paragraph (b)(6) of FINRA Rule

1230.

124. Persons Exempt from Registration

All capital acquisition brokers are subject to NASD Rule 1060.

125. Continuing Education Requirements

All capital acquisition brokers are subject to FINRA Rule 1250.

200. DUTIES AND CONFLICTS

201. Standards of Commercial Honor and Principles of Trade

All capital acquisition brokers are subject to FINRA Rule 2010.

202. Use of Manipulative, Deceptive or Other Fraudulent Devices

All capital acquisition brokers are subject to FINRA Rule 2020.

204. Payments to Unregistered Persons

All capital acquisition brokers are subject to FINRA Rule 2040.

207. Transactions Involving FINRA Employees

All capital acquisition brokers are subject to FINRA Rule 2070.

208. Expungement of Customer Dispute Information from the Central Registration Depository (CRD) System

All capital acquisition brokers are subject to FINRA Rules 2080 and 2081.

209. Know Your Customer

Every capital acquisition broker shall use reasonable diligence to know (and retain) the essential facts concerning every customer and concerning the authority of each person acting on behalf of such customer. For purposes of this Rule, facts “essential” to “knowing the customer” are those required to (a) effectively service the customer, (b) understand the authority of each person acting on behalf of the customer, and (c) comply with applicable laws, regulations and rules.

211. Suitability

(a) A capital acquisition broker or an associated person of a capital acquisition broker must have a reasonable basis to believe that a recommended transaction or investment strategy (as defined in FINRA Rule 2111) involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the broker or associated person to ascertain the customer’s investment profile. A customer’s investment profile includes, but is not limited to, the customer’s age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the capital acquisition broker or associated person of a capital acquisition broker in connection with a recommendation. The capital acquisition broker or associated person may not disclaim any responsibilities under this Rule.

(b) The capital acquisition broker or associated person fulfills the customer-specific suitability obligation for an institutional investor, if (1) the broker or associated person has a reasonable basis to believe that the institutional investor is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities and (2) the institutional investor affirmatively indicates that it is exercising independent judgment in evaluating the broker's or associated person's recommendations. Where an institutional investor has delegated decision-making authority to an agent, such as an investment adviser or a bank trust department, these factors will be applied to the agent.

••• Supplementary Material: -----

.01 Reasonable Basis Suitability Obligation. Rule 211 requires a capital acquisition broker to have a reasonable basis to believe, based on reasonable diligence, that the recommendation is suitable for at least *some* investors. In general, what constitutes reasonable diligence will vary depending on, among other things, the complexity of and risks associated with the security or investment strategy and the capital acquisition broker's or associated person's familiarity with the security or investment strategy. A capital acquisition broker's or associated person's reasonable diligence must provide the capital acquisition broker or associated person with an understanding of the potential risks and rewards associated with the recommended security or strategy. The lack of such an understanding when recommending a security or strategy violates the suitability rule.

.02 Institutional Investor Exemption. Rule 211(b) provides an exemption to customer-specific suitability regarding institutional investors if the conditions delineated in that

paragraph are satisfied. With respect to having to indicate affirmatively that it is exercising independent judgment in evaluating the capital acquisition broker's or associated person's recommendations, an institutional investor may indicate that it is exercising independent judgment on a transaction-by-transaction basis, on an asset-class-by-asset-class basis, or in terms of all of its potential transactions.

221. Communications with the Public

(a) No communication with the public by a capital acquisition broker may:

(1) include any false, exaggerated, unwarranted, promissory or misleading statement or claim;

(2) omit any material fact or qualification if the omission, in light of the context of the material presented, would cause the communication to be misleading;

(3) state or imply that FINRA, or any other corporate name or facility owned by FINRA, or any other regulatory organization endorses, indemnifies, or guarantees the capital acquisition broker-dealer's business practices; or

(4) imply that past performance will recur or make any exaggerated or unwarranted claim, opinion or forecast.

(b) All communications by a capital acquisition broker must be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service.

226. Arbitration Requirements

(a) Arbitration Disclosure to Associated Persons Signing or Acknowledging

Form U4

All capital acquisition brokers are subject to FINRA Rule 2263.

(b) Requirements When Using Predispute Arbitration Agreements for Customer

Accounts

All capital acquisition brokers are subject to FINRA Rule 2268.

240. Engaging in Impermissible Activities

Upon a finding that a capital acquisition broker or associated person of a capital acquisition broker has engaged in activities that require the firm to register as a broker or dealer under the Exchange Act, and that are inconsistent with the limitations imposed on capital acquisition brokers under Capital Acquisition Broker Rule 016(c), FINRA may examine for and enforce all FINRA rules against such a broker or associated person, including any rule that applies to a FINRA member broker-dealer that is not a capital acquisition broker or to an associated person who is not a person associated with a capital acquisition broker.

300. SUPERVISION AND RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS

311. Capital Acquisition Broker Compliance and Supervision

(a) All capital acquisition brokers are subject to paragraphs (a)(1) through (a)(6), (b)(1), (b)(4), (b)(5), (b)(7), (e) and (f) of FINRA Rule 3110, and Supplementary Materials .01 through .03, .06 through .09, and .11 following FINRA Rule 3110.

(b) A capital acquisition broker must permit the examination and inspection of its premises, systems, platforms, and records by representatives of FINRA and the

Commission, and must cooperate with the examination, inspection, or investigation of any persons directly or indirectly using its platform.

313. Designation of Chief Compliance Officer

Each capital acquisition broker must designate and specifically identify to FINRA on Schedule A of Form BD one or more principals to serve as a chief compliance officer.

322. Influencing or Rewarding Employees of Others

All capital acquisition brokers are subject to FINRA Rule 3220.

324. Borrowing From or Lending to Customers

All capital acquisition brokers are subject to FINRA Rule 3240.

327. Outside Business Activities of Registered Persons

All capital acquisition brokers are subject to FINRA Rule 3270.

328. Private Securities Transactions of an Associated Person

No person associated with a capital acquisition broker shall participate in any manner in a private securities transaction as defined in FINRA Rule 3280(e).

331. Anti-Money Laundering Compliance Program

Each capital acquisition broker shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor its compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each capital acquisition broker's anti-money laundering program must be approved, in writing, by a member of senior management. The anti-money laundering programs required by this Rule must, at a minimum,

(a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for independent testing for compliance, no less frequently than every two years, to be conducted by capital acquisition broker personnel or by a qualified outside party;

(d) Designate and identify to FINRA (by name, title, mailing address, e-mail address, telephone number, and facsimile number) an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program (such individual or individuals must be an associated person of the capital acquisition broker) and provide prompt notification to FINRA regarding any change in such designation(s); and

(e) Provide ongoing training for appropriate personnel.

••• Supplementary Material: -----

.01 Independent Testing Requirements

(a) All capital acquisition brokers should undertake more frequent testing than required if circumstances warrant.

(b) Independent testing, pursuant to Rule 331(c), must be conducted by a designated person with a working knowledge of applicable requirements under the Bank Secrecy Act and its implementing regulations.

(c) Independent testing may not be conducted by:

(1) a person who performs the functions being tested,

(2) the designated anti-money laundering compliance person, or

(3) a person who reports to a person described in either subparagraphs (1)

or (2) above.

.02 Review of Anti-Money Laundering Compliance Person Information

Each capital acquisition broker must identify, review, and, if necessary, update the information regarding its anti-money laundering compliance person designated pursuant to Rule 331(d) in the manner prescribed by FINRA Rule 4517.

400. FINANCIAL AND OPERATIONAL RULES

411. Capital Compliance

(a) (1) Unless otherwise permitted by FINRA, a capital acquisition broker must suspend all business operations during any period in which it is not in compliance with applicable net capital requirements set forth in SEA Rule 15c3-1.

(2) FINRA may issue a notice pursuant to FINRA Rule 9557 directing a capital acquisition broker that is not in compliance with applicable net capital requirements set forth in SEA Rule 15c3-1 to suspend all or a portion of its business.

(b) No equity capital of a capital acquisition broker may be withdrawn for a period of one year from the date such equity capital is contributed, unless otherwise permitted by FINRA in writing. This paragraph does not preclude a capital acquisition broker from withdrawing profits earned.

(c) Subordinated Loans, Notes Collateralized by Securities and Capital

Borrowings

(1) All subordinated loans or notes collateralized by securities must meet such standards as FINRA may require to ensure the continued financial stability and operational capability of the capital acquisition broker, in addition to those specified in Appendix D of SEA Rule 15c3-1.

(2) Unless otherwise permitted by FINRA, each capital acquisition broker that is a partnership and whose general partner enters into any secured or unsecured borrowing, the proceeds of which will be contributed to the capital of the broker, must submit to FINRA such information as needed by FINRA to determine whether such proceeds qualify as capital acceptable for inclusion in the computation of the net capital of the broker.

414. Audit

All capital acquisition brokers are subject to FINRA Rule 4140.

415. Guarantees by, or Flow Through Benefits for, Members

All capital acquisition brokers are subject to FINRA Rule 4150.

416. Verification of Assets

All capital acquisition brokers are subject to FINRA Rule 4160.

451. Books and Records

(a) General Requirements

All capital acquisition brokers are subject to FINRA Rule 4511.

(b) Customer Information

Each capital acquisition broker must maintain each customer's name and residence, whether the customer is of legal age (if applicable), and the names of any persons authorized to transact business on behalf of the customer.

(c) Records of Written Customer Complaints

All capital acquisition brokers are subject to FINRA Rule 4513.

452. Assignment of Responsibility for General Ledger Accounts and Supplemental FOCUS Information

(a) Assignment of Responsibility for General Ledger Accounts

Each capital acquisition broker must designate an associated person who is responsible for each general ledger bookkeeping account and account of like function used by the broker and such associated person must control and oversee entries into each such account and must determine that the account is current and accurate as necessary to comply with all applicable FINRA rules and federal securities laws governing books and records and financial responsibility requirements. A supervisor must, as frequently as is necessary considering the function of the account but, in any event, at least monthly, review each account to determine that it is current and accurate and that any items that become aged or uncertain as to resolution are promptly identified and appropriate action is taken.

(b) Supplemental FOCUS Information

All capital acquisition brokers are subject to FINRA Rule 4524.

453. Reporting Requirements

All capital acquisition brokers are subject to FINRA Rule 4530.

454. Member Filing and Contact Information Requirements

All capital acquisition brokers are subject to FINRA Rule 4517.

457. Custodian of Books and Records

All capital acquisition brokers are subject to FINRA Rule 4570.

500. SECURITIES OFFERINGS

512. Private Placements of Securities Issued by Members

All capital acquisition brokers are subject to FINRA Rule 5122.

515. Fairness Opinions

All capital acquisition brokers are subject to FINRA Rule 5150.

800. Investigations and Sanctions

Except for FINRA Rules 8110, 8211, and 8213, all capital acquisition broker members shall be subject to the FINRA Rule 8000 Series, unless the context requires otherwise, provided, however, that:

(a) the term “associated person” as used in the FINRA Rule 8000 Series shall mean “associated person of a capital acquisition broker” or “person associated with a capital acquisition broker” as defined pursuant to Capital Acquisition Broker Rule 016(a); and

(b) the terms “rules” and “FINRA rules” as used in the FINRA Rule 8000 Series shall include the Capital Acquisition Broker Rules.

900. Code of Procedure

Except for the FINRA Rule 9700 Series, all capital acquisition broker members shall be subject to the FINRA Rule 9000 Series, unless the context requires otherwise, provided, however, that:

(a) the term “associated person” as used in the FINRA Rule 9000 Series shall mean “associated person of a capital acquisition broker” or “person associated with a capital acquisition broker” as defined pursuant to Capital Acquisition Broker Rule 016(a);

(b) the terms “rules” and “FINRA rules” as used in the FINRA Rule 9000 Series shall include the Capital Acquisition Broker Rules;

(c) any capital acquisition broker (and its associated persons) may be subject to a fine under FINRA Rule 9216(b) with respect to any rule or By-Laws listed in this Rule.

- Article IV of the FINRA By-Laws -- Failure to timely submit amendments to Form BD.
- Article V of the FINRA By-Laws -- Failure to timely submit amendments to Form U4.
- Article V of the FINRA By-Laws -- Failure to timely submit amendments to Form U5.
- Capital Acquisition Broker Rule 125 – Failure to comply with the continuing education requirements.
- Capital Acquisition Broker Rule 221 – Communications with the public.
- Capital Acquisition Broker Rule 311 – Failure to maintain adequate written supervisory procedures where the underlying conduct is subject to Capital Acquisition Broker Rule 900(c).
- Capital Acquisition Broker Rule 451 – Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all

applicable laws, rules, regulations and statements of policy promulgated thereunder, and with FINRA rules.

- Capital Acquisition Broker Rule 452 – Failure to comply with the requirements for general ledger accounts.
- Capital Acquisition Broker Rule 453 – Failure to timely file reports.
- Capital Acquisition Broker Rule 454 – Failure to report, review and update executive representative designation and contact information.
- Capital Acquisition Broker Rule 512 – Failure to timely file private placement documents.
- SEA Rules 17a-3(a) and 17a-4 – Record retention rule violations.
- SEA Rule 17a-5 – Failure to timely file FOCUS reports and annual audit reports.
- SEA Rule 17a-10 – Failure to timely file Schedule I.

(d) for purposes of FINRA Rule 9551(a), FINRA staff may issue a written notice requiring a capital acquisition broker to file communications with the FINRA Advertising Regulation Department at least ten days prior to use if FINRA staff determines that the member has departed from the standards of Capital Acquisition Broker Rule 221; and

(e) for purposes of FINRA Rule 9551(d), the pre-use filing requirement referenced in a notice issued and served under FINRA Rule 9551 shall become effective 21 days after service of the notice, unless stayed by a request for a hearing pursuant to FINRA Rule 9559.

1000. Arbitration and Mediation

All capital acquisition broker members shall be subject to the FINRA Rule 12000

Series, FINRA Rule 13000 Series and FINRA Rule 14000 Series, unless the context requires otherwise, provided, however, that:

(a) the term “associated person” as used in the FINRA Rule 12000 Series, FINRA Rule 13000 Series and FINRA Rule 14000 Series shall mean “associated person of a capital acquisition broker” or “person associated with a capital acquisition broker” as defined pursuant to Capital Acquisition Broker Rule 016(a);

(b) the terms “rules” and “FINRA rules” as used in the FINRA Rule 12000 Series, FINRA Rule 13000 Series and FINRA Rule 14000 Series shall include the Capital Acquisition Broker Rules; and

(c) the term “customer” as used in FINRA Rule 12000 Series, FINRA Rule 13000 Series and FINRA Rule 14000 Series shall include customers of capital acquisition brokers.

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