

Regulatory Notice 21-09

New and Amended Rule Text

New language is underlined; deletions are in brackets.

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FINRA Rules

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1000. MEMBER APPLICATION AND ASSOCIATED PERSON

REGISTRATION

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1011. Definitions

Unless otherwise provided, terms used in the Rule 1000 Series shall have the meaning as defined in Rule 0160.

(a) through (g) No Change.

(h) "final criminal matter"

The term "final criminal matter" means a criminal matter that resulted in a conviction of, or plea of guilty or nolo contendere ("no contest") by, a person that is disclosed, or is or was required to be disclosed, on the applicable Uniform Registration Forms.

(h) through (n) renumbered as (i) through (o).

(p) "specified risk event"

The term "specified risk event" means any one of the following events that are disclosed, or are or were required to be disclosed, on an applicable Uniform Registration Form:

(1) a final investment-related, consumer-initiated customer arbitration award or civil judgment against the person for a dollar amount at or above \$15,000 in which the person was a named party;

(2) a final investment-related, consumer-initiated customer arbitration settlement or civil litigation settlement for a dollar amount at or above \$15,000 in which the person was a named party;

(3) a final investment-related civil action where: (A) the total monetary sanctions (including civil and administrative penalties or fines, disgorgement, monetary penalties other than fines, or restitution) were ordered for a dollar amount at or above \$15,000; or (B) the sanction against the person was a bar, expulsion, revocation, or suspension; and

(4) a final regulatory action where (A) the total monetary sanctions (including civil and administrative penalties or fines, disgorgement, monetary penalties other than fines, or restitution) were ordered for a dollar amount at or above \$15,000; or (B) the sanction against the person was a bar (permanently or temporarily), expulsion, rescission, revocation, or suspension from associating with a member.

([o]g) "Subcommittee"

The term "Subcommittee" means a subcommittee of the National Adjudicatory Council that is constituted pursuant to Rule 1015 to conduct a review of a Department decision issued under the Rule 1000 Series.

(r) "Uniform Registration Forms"

The term "Uniform Registration Forms" means the Uniform Application for Broker-Dealer Registration (Form BD), the Uniform Application for Securities Industry Registration or Transfer (Form U4), the Uniform Termination Notice for Securities Industry Registration (Form U5) and the Uniform Disciplinary Action Reporting Form (Form U6), as such may be amended or any successor(s) thereto.

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IM-1011-3. Business Expansions and Persons with Specified Risk Events

The safe harbor for business expansions in IM-1011-1 is not available to any member that is seeking to add a natural person who has, in the prior five years, one or more final criminal matters or two or more specified risk events and seeks to become an owner, control person, principal, or registered person of the member; in such circumstances, if the member is not otherwise required to file a Form CMA in accordance with Rule 1017, the member must comply with the requirements of Rule 1017(a)(7).

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1017. Application for Approval of Change in Ownership, Control, or Business Operations

(a) Events Requiring Application

A member shall file an application for approval of any of the following changes to its ownership, control, or business operations:

(1) through (4) No Change.

(5) a material change in business operations as defined in Rule

1011([1]m); [or]

(6)(A) notwithstanding subparagraph (3) of Rule 1017(a), any direct or indirect acquisition or transfer of a member's assets or any asset, business or line of operation where the transferring member or an Associated Person of the transferring member has a Covered Pending Arbitration Claim (as defined in Rule 1011(c)(2)), unpaid arbitration award or unpaid settlement related to an arbitration, and the member is not otherwise required to file a Form CMA in accordance with Rule 1017, unless the member has first submitted a written request to the Department, in a manner prescribed by FINRA, seeking a materiality consultation for the contemplated acquisition or transfer. The written request must address the issues that are central to the materiality consultation. As part of the materiality consultation, the Department shall consider the written request and other information or documents provided by the member to determine in the public interest and the protection of investors that either (i) the member is not required to file a Form CMA in accordance with Rule 1017 and may effect the contemplated acquisition or transfer; or (ii) the member is required to file a Form CMA in accordance with Rule 1017 and the member may not effect the contemplated acquisition or transfer unless the Department approves the Form CMA; or

(B) notwithstanding IM-1011-1, any addition of one or more Associated Persons involved in sales as described in IM-1011-2, and one or more of those Associated Persons has a Covered Pending Arbitration Claim (as defined in Rule 1011(c)(1)), an unpaid arbitration award or unpaid settlement related to an arbitration, and the member is not

otherwise required to file a Form CMA in accordance with Rule 1017, unless the member has first submitted a written request to the Department, in a manner prescribed by FINRA, seeking a materiality consultation for the contemplated business expansion. The written request must address the issues that are central to the materiality consultation. As part of the materiality consultation, the Department shall consider the written request and other information or documents provided by the member to determine in the public interest and the protection of investors that either (i) the member is not required to file a Form CMA in accordance with Rule 1017 and may effect the contemplated business expansion; or (ii) the member is required to file a Form CMA in accordance with Rule 1017 and the member may not effect the contemplated business expansion unless the Department approves the Form CMA. The safe harbor for business expansions under IM-1011-1 shall not be available to the member when a materiality consultation is required under this paragraph (a)(6)(B)[.]; or (7) notwithstanding subparagraphs (3), (4), (5) and (6) of Rule 1017(a) and IM-1011-1, whenever a natural person seeking to become an owner, control person, principal or registered person of a member has, in the prior five years, one or more final criminal matters or two or more specified risk events, and the member is not otherwise required to file a Form CMA in accordance with Rule 1017, unless the member has submitted a written request to the Department, in a manner prescribed by FINRA, seeking a materiality consultation for the contemplated activity; provided, however, this subparagraph (7) shall not apply

when the member is required to file an application or written request for relief pursuant to Rule 9522 for approval of the same contemplated association. The written request must address the issues that are central to the materiality consultation. As part of the materiality consultation, the Department shall consider the written request and other information or documents provided by the member to determine in the public interest and the protection of investors that either (A) the member is not required to file a Form CMA in accordance with Rule 1017 and may effect the contemplated activity; or (B) the member is required to file a Form CMA in accordance with Rule 1017 and the member may not effect the contemplated activity unless the Department approves the Form CMA. The safe harbor for business expansions under IM-1011-1 shall not be available to the member when a materiality consultation is required under this paragraph (a)(7). For purposes of this paragraph (a)(7), the term "owner" has the same meaning as "direct owner" and "indirect owner" on Form BD Schedules A and B, as amended from time to time, and the term "control person" means a person who would have "control" as defined on Form BD, as amended from time to time.

(b) through (m) No Change.

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8300. SANCTIONS

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8312. FINRA BrokerCheck Disclosure

(a) No Change.

(b)

(1) No Change.

(2) The following information shall be released pursuant to this paragraph

(b):

(A) through (E) No Change.

(F) [in response to telephonic inquiries via the BrokerCheck toll-free telephone listing,] information as to whether a particular member is subject to the provisions of Rule 3170 ("Taping Rule");

(G) through (H) No Change.

(c) through (f) No Change.

••• **Supplementary Material:** -----

.01 through .03 No Change.

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9000. CODE OF PROCEDURE

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9200. DISCIPLINARY PROCEEDINGS

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9235. Hearing Officer Authority

(a) Hearing Officer Authority

The Hearing Officer shall be selected by the Chief Hearing Officer and shall have authority to do all things necessary and appropriate to discharge his or her duties. In addition to the powers exercised by all members of the Hearing Panel or, if applicable,

the Extended Hearing Panel, the powers of the Hearing Officer include, but are not limited to:

(1) through (5) No Change.

(6) creating and maintaining the official record of the disciplinary proceeding; [and]

(7) drafting a decision that represents the views of the majority of the Hearing Panel or, if applicable, the Extended Hearing Panel[.]; and

(8) ruling on a motion pursuant to Rule 9285 for conditions or restrictions.

(b) No Change.

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9285. Interim Orders and Mandatory Heightened Supervision While on Appeal or on Discretionary Review

(a) Conditions and Restrictions

(1) Motion for Conditions or Restrictions

Unless otherwise ordered by a Hearing Officer, within 10 days after service of a notice of appeal from, or the notice of a call for review of, a decision issued pursuant to Rule 9268 or Rule 9269 in which the Hearing Panel or, if applicable, the Extended Hearing Panel or the Hearing Officer finds that a Respondent violated a statute or rule provision, the Department of Enforcement may file a motion for the imposition of conditions or restrictions on the activities of a Respondent that are reasonably necessary for the purpose of preventing customer harm. Notwithstanding the appeal or call for review, the Hearing

Officer that participated in the underlying disciplinary proceeding shall have jurisdiction to rule upon a motion for the imposition of conditions or restrictions.

(2) Requirements for the Motion

A motion for the imposition of conditions or restrictions shall be filed with FINRA's Office of Hearing Officers and shall be served simultaneously on FINRA's Office of General Counsel and all other parties to the disciplinary proceeding. The motion shall specify the conditions or restrictions that are sought to be imposed and explain why the conditions or restrictions are reasonably necessary for the purpose of preventing customer harm.

(3) Opposition to the Motion

Any Respondent may file an opposition or other response to a motion for the imposition of conditions or restrictions within 10 days after service of the motion, unless otherwise ordered by the Hearing Officer. The opposition or other response shall explain why no conditions or restrictions should be imposed or specify alternate conditions or restrictions that are sought to be imposed and explain why the conditions or restrictions are reasonably necessary for the purpose of preventing customer harm.

(4) Reply

The Department of Enforcement shall have no right to reply to the opposition or other response of a Respondent unless the Hearing Officer permits a reply to be filed. Unless otherwise ordered by the Hearing Officer, the Department of Enforcement's reply submission shall be filed within three days after the Hearing Officer serves the order granting the motion to file a reply or a

Respondent serves the opposition or other response to which the Hearing Officer previously ordered that a reply could be filed.

(5) Disposition of Motions for Conditions or Restrictions.

A motion for conditions or restrictions shall be decided by the Hearing Officer that participated in the underlying disciplinary proceeding. Unless ordered otherwise by the Hearing Officer, the motion for conditions or restrictions shall be decided based on the moving and opposition papers and without oral argument. The Hearing Officer shall have the authority to impose any conditions or restrictions that the Hearing Officer considers reasonably necessary for the purpose of preventing customer harm. The Hearing Officer shall issue a written order ruling upon a motion for conditions or restrictions in an expeditious manner and no later than 20 days after any opposition or other response filed pursuant to paragraph (a)(3) or any reply filed that the Hearing Officer permits pursuant to paragraph (a)(4) of this Rule, and serve the order on all parties. The Office of Hearing Officers shall provide a copy of the order to each FINRA member with which the Respondent is associated.

(b) Expedited Review of Order Imposing Conditions or Restrictions

(1) Availability

A Respondent subject to a Hearing Officer's order imposing conditions or restrictions may file, within 10 days after service of the order imposing conditions or restrictions, a motion with the Review Subcommittee to modify or remove any or all of the conditions or restrictions.

(2) Requirements for the Motion

The Respondent has the burden to show that the conditions or restrictions imposed are not reasonably necessary for the purpose of preventing customer harm. The Respondent's motion to modify or remove conditions or restrictions shall be filed with FINRA's Office of General Counsel and shall be served simultaneously on the Office of Hearing Officers and all other parties to the disciplinary proceeding.

(3) Opposition to the Motion

Unless otherwise ordered by the Review Subcommittee, the Department of Enforcement shall have five days from service of Respondent's motion to file an opposition or other response to the motion.

(4) No Reply

The Respondent may not file a reply to the opposition.

(5) Disposition of Motion

Unless ordered otherwise by the Review Subcommittee, the motion to modify or remove conditions or restrictions shall be decided based on the moving and opposition papers and without oral argument. The Review Subcommittee shall issue a written order ruling upon a motion to modify or remove conditions or restrictions in an expeditious manner and no later than 30 days after any opposition filed pursuant to paragraph (b)(3) of this Rule, and serve the order on all parties. The Review Subcommittee may approve, modify or remove any and all of the conditions or restrictions. The Office of General Counsel shall provide a copy of the order to each FINRA member with which the Respondent is associated.

(6) Effectiveness

The filing with the Review Subcommittee of a motion to modify or remove conditions or restrictions shall stay the effectiveness of the conditions or restrictions ordered by a Hearing Officer until the Review Subcommittee rules on the motion.

(c) General

Except as otherwise provided in this Rule, all motions, oppositions, responses and replies pursuant to this Rule shall comply with Rule 9146.

(d) Duration of Conditions or Restrictions

Conditions or restrictions imposed by a Hearing Officer that are not subject to any stay, or imposed by the Review Subcommittee, shall remain effective until FINRA's final decision in the underlying disciplinary proceeding takes effect.

(e) Mandatory Heightened Supervision

(1) Requirement

When a Hearing Panel, Extended Hearing Panel or Hearing Officer issues a decision pursuant to Rule 9268 or Rule 9269, in which the adjudicator finds that a Respondent violated a statute or rule provision, any member firm with which the Respondent is associated must adopt a written plan of heightened supervision of the Respondent if any party appeals the decision to the National Adjudicatory Council, or if the decision is called for review pursuant to Rule 9312. The member must file the written plan of heightened supervision with FINRA's Office of General Counsel and shall serve a copy on the Department of Enforcement and the Respondent, within 10 days of any party filing an appeal or the case being

called for review. If the Respondent becomes associated with another member during the appeal of the decision of the Hearing Panel, Extended Hearing Panel or Hearing Officer, or review by the National Adjudicatory Council, that member, within 10 days of the Respondent becoming associated with the member, shall file a plan of heightened supervision with FINRA's Office of General Counsel and shall serve a copy on the Department of Enforcement and the Respondent. Any member that has adopted a written plan of heightened supervision for a Respondent pursuant to this paragraph (e) shall file and serve an amended written plan of heightened supervision that takes into account any conditions or restrictions imposed pursuant to Rule 9285, within 10 days of conditions or restrictions becoming effective.

(2) Provisions

The plan of heightened supervision, and any amended plan, shall comply with Rule 3110, and shall be reasonably designed and tailored to include specific supervisory policies and procedures that address the violations found by the Hearing Panel, Extended Hearing Panel or Hearing Officer and shall be reasonably designed to prevent or detect a reoccurrence of those violations. The plan of heightened supervision, and any amended plan, shall, at a minimum, include the designation of an appropriately registered principal who is responsible for carrying out the plan of heightened supervision, and take into account any conditions and restrictions imposed by the Hearing Officer or Review Subcommittee pursuant to paragraph (a) or (b) of this Rule.

(3) Signature of Principal

The plan of heightened supervision, and any amended plan, shall be signed by the designated principal, and shall include an acknowledgement that the principal is responsible for implementing and maintaining the plan of heightened supervision.

(4) Duration

The plan of heightened supervision, and any amended plan, shall remain in place until FINRA's final decision takes effect.

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**9300. REVIEW OF DISCIPLINARY PROCEEDING BY NATIONAL
ADJUDICATORY COUNCIL AND FINRA BOARD; APPLICATION FOR SEC
REVIEW**

9310. Appeal to or Review by National Adjudicatory Council

9311. Appeal by Any Party; Cross-Appeal

(a) No Change.

(b) Effect

An appeal to the National Adjudicatory Council from a decision issued pursuant to Rule 9268 or Rule 9269 shall operate as a stay of that decision until the National Adjudicatory Council issues a decision pursuant to Rule 9349 or, in cases called for discretionary review by the FINRA Board, until a decision is issued pursuant to Rule 9351. Any such appeal, however, will not stay a decision, or that part of a decision, that imposes a permanent cease and desist order. Notwithstanding the stay of sanctions under this Rule, the Hearing Officer may impose such conditions and restrictions on the activities of a Respondent as the Hearing Officer considers reasonably necessary for the

purpose of preventing customer harm in accordance with Rule 9285(a), and the Review Subcommittee shall consider any motion filed pursuant to Rule 9285(b) to modify or remove any or all of the conditions or restrictions.

(c) through (f) No Change.

(g) FINRA Notification to Member

When an appeal is filed from a decision finding that a Respondent violated a statute or rule provision, the Office of Hearing Officers shall promptly notify each FINRA member with which the Respondent is associated that an appeal has been filed.

9312. Review Proceeding Initiated By Adjudicatory Council

(a) No Change.

(b) Effect

Institution of review by a member of the National Adjudicatory Council on his or her own motion, a member of the Review Subcommittee on his or her own motion, or the General Counsel, on his or her own motion, shall operate as a stay of a final decision issued pursuant to Rule 9268 or Rule 9269 as to all Parties subject to the notice of review, until the National Adjudicatory Council issues a decision pursuant to Rule 9349, or, in cases called for discretionary review by the FINRA Board, until a decision is issued pursuant to Rule 9351. Institution of any such review, however, will not stay a decision, or that part of a decision, that imposes a permanent cease and desist order.

Notwithstanding the stay of sanctions under this Rule, the Hearing Officer may impose such conditions and restrictions on the activities of a Respondent as the Hearing Officer considers reasonably necessary for the purpose of preventing customer harm in accordance with Rule 9285(a), and the Review Subcommittee shall consider any motion

filed pursuant to Rule 9285(b) to modify or remove any or all of the conditions or restrictions.

(c) Requirements

(1) through (2) No Change.

(3) When a decision finding that a Respondent violated a statute or rule provision is called for review, the Office of General Counsel shall promptly notify each FINRA member with which the Respondent is associated of the call for review.

(d) No Change.

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9320. Transmission of Record; Extensions of Time, Postponements, Adjournments

9321. Transmission of Record

Within 21 days after the filing of a notice of appeal pursuant to Rule 9311 or a notice of call for review pursuant to Rule 9312, or at such later time as the National Adjudicatory Council may designate, the Office of Hearing Officers shall assemble and prepare an index to the record, transmit the record and the index to the National Adjudicatory Council, and serve copies of the index upon all Parties. Within seven days after a Hearing Officer issues an order imposing conditions or restrictions pursuant to Rule 9285, or at such later time as the National Adjudicatory Council may designate, the Office of Hearing Officers shall assemble and prepare an amended index and a supplemental record, transmit the amended index and supplemental record to the National Adjudicatory Council, and serve copies of the amended index upon all Parties. The Hearing Officer who participated in the disciplinary proceeding, or the Chief

Hearing Officer, shall certify that the record or supplemental record transmitted to the National Adjudicatory Council is complete.

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9500. OTHER PROCEEDINGS

9520. Eligibility Proceedings

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9522. Initiation of Eligibility Proceeding; Member Regulation Consideration; and Requirements for an Interim Plan of Heightened Supervision

(a) through (e) No Change.

(f) Submission of an Interim Plan of Heightened Supervision

An application filed pursuant to paragraph (a)(3) or (b)(1)(B) of this Rule that seeks the continued association of a disqualified person must include:

(1) An interim plan of heightened supervision. The application shall identify an appropriately registered principal responsible for carrying out the interim plan of heightened supervision, who has signed the plan and acknowledged his or her responsibility for implementing and maintaining such plan. The interim plan of heightened supervision shall be in effect throughout the entirety of the application review process which shall be considered concluded only upon the final resolution of the eligibility proceeding. The interim plan of heightened supervision shall comply with the provisions of Rule 3110, and be reasonably designed and tailored to include specific supervisory policies and procedures that address any regulatory concerns related to the nature of the disqualification, the nature of the sponsoring member's business, and the

disqualified person's current and proposed activities during the review process;
and

(2) A written representation from the sponsoring member that the disqualified person is currently subject to an interim plan of heightened supervision as set forth in paragraph (f)(1) of this Rule.

(g) Determination that an Application is Substantially Incomplete

If the Department of Member Regulation determines that an application filed pursuant to paragraph (a)(3) or (b)(1)(B) of this Rule that seeks the continued association of a disqualified person is substantially incomplete, it may reject the application and deem it not to have been filed. In such case, the Department of Member Regulation shall provide the sponsoring member notice of the delinquency and its reasons for so doing. The sponsoring member shall have 10 business days after service of the notice of delinquency to remedy the application, or such other time period prescribed by the Department of Member Regulation. An application will be deemed to be substantially incomplete if:

(1) It does not include the representation required by paragraph (f)(2) of this Rule; or

(2) The Department of Member Regulation determines that it does not include a reasonably designed interim plan of heightened supervision that complies with the standards of paragraph (f)(1) of this Rule.

(h) Consequences for Failure to Timely Remedy an Application that is Substantially Incomplete

If an applicant fails to remedy an application that is substantially incomplete, the Department of Member Regulation shall serve a written notice on the sponsoring member

of its determination to reject the application and its reasons for so doing. FINRA shall refund the application fee, less \$1,000, which shall be retained by FINRA as a processing fee. Upon such rejection, the sponsoring member must promptly terminate association with the disqualified person.

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9556. Failure to Comply with Temporary and Permanent Cease and Desist Orders, or Orders that Impose Conditions or Restrictions

(a) Notice of Suspension, Cancellation or Bar

(1) If a member, person associated with a member or person subject to FINRA's jurisdiction fails to comply with a temporary or permanent cease and desist order issued under the Rule 9200, 9300 or 9800 Series, FINRA staff, after receiving written authorization from FINRA's Chief Executive Officer or such other senior officer as the Chief Executive Officer may designate, may issue a notice to such member or person stating that the failure to comply with the temporary or permanent cease and desist order within seven days of service of the notice will result in a suspension or cancellation of membership or a suspension or bar from associating with any member.

(2) If a respondent fails to comply with conditions or restrictions imposed pursuant to Rule 9285 by a Hearing Officer or the Review Subcommittee, FINRA staff may issue a notice to a respondent stating that the failure to comply with the conditions or restrictions within seven days of service of the notice will result in a suspension or cancellation of membership or a suspension or bar from associating with any member.

(b) No Change.

(c) Contents of Notice

(1) [The]A notice issued pursuant to paragraph (a)(1) of this Rule shall explicitly identify the provision of the permanent or temporary cease and desist order that is alleged to have been violated and shall contain a statement of facts specifying the alleged violation. The notice shall state when the FINRA action will take effect and explain what the respondent must do to avoid such action. The notice shall state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 9559. The notice also shall inform the respondent of the applicable deadline for filing a request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the FINRA action. In addition, the notice shall explain that, pursuant to Rules 8310(a) and 9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions or limitations imposed by the notice, and may impose any other fitting sanction.

(2) A notice issued pursuant to paragraph (a)(2) of this Rule shall explicitly identify conditions or restrictions that are alleged to have been violated and shall contain a statement of facts specifying the alleged violation. The notice shall state when the FINRA action will take effect and explain what the respondent must do to avoid such action. The notice shall state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 9559. The notice also shall inform the respondent of the applicable deadline for filing a request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the

FINRA action. In addition, the notice shall explain that, pursuant to Rules 8310(a) and 9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions imposed by the notice, and may impose any other fitting sanction.

(d) through (h) No Change.

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Capital Acquisition Broker Rules

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100. MEMBER APPLICATION AND ASSOCIATED PERSON REGISTRATION

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111. Membership Proceedings

(a) No Change.

(b) Safe Harbor for Business Expansions

All capital acquisition brokers are subject to FINRA IM-1011-1, [and] IM-1011-2 and IM-1011-3.

(c) No Change.

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Funding Portal Rules

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900. Code of Procedure

(a) No Change.

(b) Eligibility Proceedings

(1) through (2) No Change.

(3) Initiation of Eligibility Proceeding; Department of Member

Regulation Consideration

(A) Initiation by FINRA

(i) No Change.

(ii) Notice Regarding a Funding Portal Member

A notice issued to a disqualified funding portal member shall state that the disqualified funding portal member may apply for relief by filing an Application or, in the case of a matter set forth in Funding Portal Rule 900(b)(9[8])(A) a written request for relief, within 10 business days after service of the notice. If the funding portal member fails to file the Application or, where appropriate, the written request for relief, within the 10-day period, the membership of the funding portal member shall be canceled, unless the Department of Member Regulation grants an extension for good cause shown.

(iii) Notice Regarding an Associated Person

A notice issued regarding a disqualified person to a funding portal member or applicant for funding portal membership under Funding Portal Rule 110(a) shall state that such funding portal member or applicant for funding portal membership may file an Application on behalf of itself and such person or, in the case of a matter set forth in Funding Portal Rule 900(b)(9[8])(A) a written request for relief, within 10 business days after service of the

notice. If the funding portal member fails to file the Application or, where appropriate, the written request for relief, within the 10-day period, the funding portal member may not associate or continue to associate with the disqualified person, unless the Department of Member Regulation grants an extension for good cause shown.

(iv) No Change.

(4) Obligation of Funding Portal Member to Initiate Eligibility

Proceeding

(A) A funding portal member shall file an Application or, in the case of a matter set forth in Funding Portal Rule 900(b)(9[8])(A) a written request for relief, with RAD, if the funding portal member determines prior to receiving a notice under paragraph (b)(3)(A) of this Rule that:

(i) through (iii) No Change.

(5) Withdrawal of Application or Written Request for Relief

A funding portal member may withdraw its Application or, as set forth in Funding Portal Rule 900(b)(9[8])(A) its written request for relief, at any time prior to an appeal by filing a written notice with the Department of Member Regulation and RAD pursuant to FINRA Rules 9135, 9136, and 9137, as adopted pursuant to Funding Portal Rule 900(a). A funding portal member may withdraw its Application after the start of an appeal but prior to the issuance of a decision by the National Adjudicatory Council by filing a written notice with the Department of Member Regulation and the Office of General Counsel pursuant to

FINRA Rules 9135, 9136, and 9137, as adopted pursuant to Funding Portal Rule 900(a).

(6) through (7) No Change.

(8) Interim Plan of Heightened Supervision

(A) Submission of an Interim Plan of Heightened Supervision

An application filed pursuant to Funding Portal Rule 900(b)(3)(A)(iii) or Funding Portal Rule 900(b)(4)(A)(ii) that seeks the continued association of a disqualified person must include:

(i) An interim plan of heightened supervision. The application shall identify a person with authority to carry out the interim plan of heightened supervision, who has signed the plan and acknowledged his or her responsibility for implementing and maintaining such plan. The interim plan of heightened supervision shall be in effect throughout the entirety of the application review process which shall be considered concluded only upon the final resolution of the eligibility proceeding. The interim plan of heightened supervision shall comply with the provisions of Funding Portal Rule 300, and be reasonably designed and tailored to include specific supervisory policies and procedures that address any regulatory concerns related to the nature of the disqualification, the nature of the sponsoring funding portal member's business, and the disqualified person's current and proposed activities during the review process; and

(ii) A written representation from the sponsoring funding portal member that the disqualified person is currently subject to an interim plan of heightened supervision as set forth in paragraph (b)(8)(A)(i) of this Rule.

(B) Determination that an Application is Substantially

Incomplete

If the Department of Member Regulation determines that an application filed pursuant to Funding Portal Rule 900(b)(3)(A)(iii) or Funding Portal Rule 900(b)(4)(A)(ii) that seeks the continued association of a disqualified person is substantially incomplete, it may reject the application and deem it not to have been filed. In such case, the Department of Member Regulation shall provide the sponsoring funding portal member notice of the delinquency and its reasons for so doing. The sponsoring funding portal member shall have 10 business days after service of the notice of delinquency to remedy the application, or such other time period prescribed by the Department of Member Regulation. An application will be deemed to be substantially incomplete if:

(i) It does not include the representation required by paragraph (b)(8)(A)(ii) of this Rule; or

(ii) The Department of Member Regulation determines that it does not include a reasonably designed interim plan of heightened supervision that complies with the standards of paragraph (b)(8)(A)(i) of this Rule.

(C) Consequences for Failure to Timely Remedy an Application that is Substantially Incomplete

If an applicant fails to remedy an application that is substantially incomplete, the Department of Member Regulation shall serve a written notice on the sponsoring funding portal member of its determination to reject the application and its reasons for so doing. FINRA shall refund the application fee, less \$1,000, which shall be retained by FINRA as a processing fee. Upon such rejection, the sponsoring funding portal member must promptly terminate association with the disqualified person.

[(8)](9) Matters That May Be Approved After the Filing of an Application or Written Request for Relief

(A) No Change.

(B) The Department of Member Regulation, as it deems consistent with the public interest and the protection of investors, may approve, upon the filing of an Application by a disqualified funding portal member or a sponsoring funding portal member and written consent to a heightened supervisory plan, all Applications seeking relief from disqualifications arising under Section 3(a)(39) of the Exchange Act.

(i) No Change.

(ii) If the heightened supervisory plan is rejected, the disqualified funding portal member, sponsoring funding portal member, or disqualified person shall be bound by the waivers made under paragraph (b)(9[8])(B)(i) of this Rule for conduct by

persons or bodies occurring during the period beginning on the date the heightened supervisory plan was submitted and ending upon the rejection of the heightened supervisory plan and shall have the right to appeal such decision pursuant to Funding Portal Rule 900(b)(12[1]).

[(9)](10) Department of Member Regulation Consideration of Applications for New Funding Portal Members

In all instances where FINRA receives a Form MC-400 or Form MC-400A under this Rule, and such Application is submitted on behalf of an applicant for membership as a funding portal member under Funding Portal Rule 110(a), the Department of Member Regulation shall defer a decision on such Form MC-400 or Form MC-400A until such time as FINRA has issued a determination on the application submitted pursuant to Funding Portal Rule 110(a).

[(10)](11) Rights of Disqualified Funding Portal Member, Sponsoring Funding Portal Member, Disqualified Person, and Department of Member Regulation

(A) In the event the Department of Member Regulation does not approve a written request for relief from the eligibility requirements pursuant to Funding Portal Rule 900(b)(9[8])(A), the disqualified funding portal member or sponsoring funding portal member may file an Application under Funding Portal Rule 900(b)(9[8])(B). The Department of Member Regulation may require a disqualified funding portal member

or sponsoring funding portal member to file an Application with RAD, notwithstanding the provisions of Funding Portal Rule 900(b)(9[8])(A).

(B) In the event the Department of Member Regulation does not approve an Application pursuant to Funding Portal Rule 900(b)(9[8])(B), the Department of Member Regulation shall inform the disqualified funding portal member or sponsoring funding portal member of its decision in writing. The decision shall explain in detail the reason for denial. The disqualified funding portal member or sponsoring funding portal member shall have the right to appeal such decision pursuant to Funding Portal Rule 900(b)(12[1]). If not timely appealed pursuant to Funding Portal Rule 900(b)(12[1]), the decision issued by the Department of Member Regulation shall constitute final action of FINRA and shall become effective immediately.

[(11)](12) Appeal of Department of Member Regulation's Decision to Deny an Application or a Written Request for Relief

(A) through (C) No Change.

(D) Notice of Hearing and Rights of Parties at Hearing

If a hearing is requested, the hearing shall be held no later than 90 days after the filing of a notice of appeal unless the subcommittee determines that there is good cause shown for extending the time period. The appellant and the Department of Member Regulation shall be notified via mail, email, facsimile, or overnight courier of the location, time, and date of the hearing not less than 14 business days before the hearing,

unless the parties agree to shorten the time period or where good cause has been shown for an expedited proceeding under paragraph (b)(12[1])(F) of this Rule. The appellant and the Department of Member Regulation shall be entitled to be heard in person at a hearing, to be represented by an attorney, and to submit any relevant evidence.

(E) through (M) No Change.

[(12)](13) Discretionary Review by the FINRA Board

(A) Call for Review by the FINRA Board

A Governor may call a proposed National Adjudicatory Council decision regarding an eligibility proceeding for review by the FINRA Board if the call for review is made within the period prescribed in paragraph (b)(13[2])(B) of this Rule.

(B) No Change.

(C) Review at Next Meeting

If a Governor calls an eligibility proceeding for review within the period prescribed in paragraph (b)(13[2])(B) of this Rule, the FINRA Board shall review the eligibility proceeding not later than the next meeting of the FINRA Board. The FINRA Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.

(D) through (E) No Change.

[(13)](14) Application to SEC for Review

The right to have any action taken pursuant to this Rule Series reviewed by the SEC is governed by Section 19 of the Exchange Act. The filing of an

application for review shall not stay the effectiveness of final action by FINRA,
unless the SEC otherwise orders.

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