

**ATTACHMENT A**

New language is underlined; deletions are in brackets.

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**3000. SUPERVISION AND RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS**

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**3200. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS**

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**3240. Prohibition on Borrowing From or Lending to Customers**

**(a) General Prohibition; Permissible Borrowing or Lending Arrangements;**

**Conditions**

No person associated with a member in any registered capacity may borrow money from or lend money to any customer of such person, or initiate a broker-customer relationship with a person with whom the registered person has an existing borrowing or lending arrangement, unless:

(1) the member has written procedures allowing the borrowing [and]or lending of money between such registered persons and customers of the member;

(2) the borrowing or lending arrangement meets one of the following conditions:

(A) the customer is a member of such person's immediate family;

(B) the customer (i) is a financial institution regularly engaged in the business of providing credit, financing, or loans, or other entity or

person that regularly arranges or extends credit in the ordinary course of business and (ii) is acting in the course of such business;

(C) the customer and the registered person are both registered persons of the same member;

(D) the borrowing or lending arrangement is based on a bona fide, close personal relationship between the registered person and[with] the customer[, such that the loan would not have been solicited, offered, or given had the customer and the registered person not] maintained [a relationship] outside of, and formed prior to, the broker-customer relationship; or

(E) the borrowing or lending arrangement is based on a bona fide business relationship outside of the broker-customer relationship; and

(3) the requirements of paragraph (b) of this Rule are satisfied.

**(b) Notification and Approval**

(1) With respect to borrowing or lending arrangements described in paragraphs (a)(2)(C), (D), or (E) of this Rule:

(A) The registered person shall, prior to entering into such arrangements, notify the member in writing and obtain the member's approval in writing of [the]such [borrowing or lending] arrangements [described in paragraphs (a)(2)(C), (D), and (E) above prior to entering into such arrangements and the member shall pre-approve in writing such arrangements]. The registered person shall also, prior to the modification of such arrangements, notify the member in writing and obtain the

member's [shall pre-]approv[e]al in writing of any modifications to such arrangements, including any extension of the duration of such arrangements.

(B) The registered person shall, prior to the initiation of a broker-customer relationship at the member with a person with whom the registered person has an existing borrowing or lending arrangement, notify the member in writing of such existing arrangements and obtain the member's approval in writing of the broker-customer relationship.

(2) With respect to the borrowing or lending arrangements described in paragraph (a)(2)(A) of this Rule[above], a member's written procedures may indicate that registered persons are not required to notify the member or receive member approval either prior to or subsequent to entering into such borrowing or lending arrangements or initiating a broker-customer relationship.

(3) With respect to the borrowing or lending arrangements described in paragraph (a)(2)(B) of this Rule[above], a member's written procedures may indicate that registered persons are not required to notify the member or receive member approval either prior to or subsequent to entering into such borrowing or lending arrangements or initiating a broker-customer relationship, provided that[,]  
the loan has been made on commercial terms that the customer generally makes available to members of the general public similarly situated as to need, purpose and creditworthiness. For purposes of this [sub]paragraph (b)(3), the member may rely on the registered person's representation that the terms of the loan meet the above-described standards.

**(c) Definition of Immediate Family**

The term “immediate family” means parents, grandparents, mother-in-law or father-in-law, [husband or wife]spouse or domestic partner, brother or sister, brother-in-law or sister-in-law, son-in-law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person who resides in the same household as the registered person and[whom] the registered person financially supports, directly or indirectly, to a material extent. The term includes step and adoptive relationships.

**••• Supplementary Material: -----**

**.01 Record Retention.** For purposes of paragraph (b)[(1)] of this Rule, members shall preserve the written notice and [pre-]approval for at least three years after the date that the borrowing or lending arrangement has terminated or for at least three years after the registered person’s association with the member has terminated.

**.02 Customer.** For purposes of this Rule, a “customer” would include any customer that has, or in the previous six months had, a securities account assigned to the registered person at any member.

**.03 Owner-Financing Arrangements.** For purposes of this Rule, borrowing or lending arrangements include owner-financing arrangements.

**.04 Close Personal Relationships; Business Relationships.** Factors that are relevant to whether a borrowing or lending arrangement is based on a close personal relationship or a business relationship, within the meaning of paragraphs (a)(2)(D) and (E) of this Rule, include, but are not limited to, when the relationship began, its duration and nature, and any facts suggesting that the relationship is not bona fide or was formed with the purpose of circumventing the purpose of Rule 3240. Examples of close personal relationships

include, but are not limited to, a childhood or long-term friend or a godparent. An example of a business relationship includes, but is not limited to, a loan from a registered person to a small outside business that the registered person co-owned for years for the sole purpose of providing the business with additional operating capital.

**.05 Arrangements with Persons Related to Either the Registered Person or the**

**Customer.** A registered person instructing or asking a customer to enter into a borrowing or lending arrangement with a person related to the registered person (e.g., the registered person's immediate family member or outside business) or to have a person related to the customer (e.g., the customer's immediate family member or business) enter into a borrowing or lending arrangement with the registered person would present similar conflict of interest concerns as borrowing or lending arrangements between the registered person and the customer and would not be consistent with this Rule unless the conditions set forth in paragraphs (a)(1), (2), and (3) of this Rule are satisfied.

**.06 Obligations of Member Receiving Notice.** Upon receipt of written notice under Rule 3240, a member shall perform a reasonable assessment of the risks created by the borrowing or lending arrangement with a customer, modification to the borrowing or lending arrangement with a customer, or existing borrowing or lending arrangement with a person who seeks to be a customer of the registered person. The member shall also make a reasonable determination of whether to approve the borrowing or lending arrangement, modification to the borrowing or lending arrangement, or, where there is an existing borrowing or lending arrangement with a person who seeks to be a customer of the registered person, the broker-customer relationship.

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