

New Rule Text

New language is underlined.

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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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3241. Registered Person Being Named a Customer's Beneficiary or Holding a Position of Trust for a Customer

(a) Obligations of the Registered Person

(1) A registered person shall decline being named a beneficiary of a customer's estate or receiving a bequest from a customer's estate upon learning of such status unless one of the following conditions is satisfied:

(A) The customer is a member of the registered person's immediate family; or

(B) Upon learning of such status, the registered person provides written notice describing the proposed status to the member with which the registered person is associated, in such form as specified by the member, and receives written approval from that member of such status prior to being named a beneficiary of a customer's estate or receiving a bequest from a customer's estate. If the member disapproves the status or places conditions or limitations on it, the registered person shall not assume such status or shall comply with such conditions or limitations.

(2) A registered person shall decline being named as an executor or trustee or holding a power of attorney or similar position for or on behalf of a customer upon learning of such status unless one of the following conditions is satisfied:

(A) The customer is a member of the registered person's immediate family; or

(B) Upon learning of such status, the registered person provides written notice describing the position and the person's proposed role to the member with which the registered person is associated, in such form as specified by the member, and receives written approval from that member of such status prior to acting in such capacity or receiving any fees, assets or other benefit in relation to acting in such capacity; and

(i) The registered person does not derive financial gain from acting in such capacity other than from fees or other charges that are reasonable and customary for acting in such capacity; and

(ii) If the member disapproves the position or places conditions or limitations on it, the registered person shall not act in such capacity or shall comply with such conditions or limitations.

(b) Obligations of a Member Receiving Notice

(1) Upon receipt of a written notice as described in Rule 3241(a), a member shall:

(A) Perform a reasonable assessment of the risks created by the registered person's assuming such status or acting in such capacity, including,

but not limited to, an evaluation of whether it will interfere with or otherwise compromise the registered person's responsibilities to the customer; and

(B) Make a reasonable determination of whether to approve the registered person's assuming such status or acting in such capacity, to approve it subject to specific conditions or limitations, or to disapprove it.

(2) Upon completion of the member's assessment, a member shall advise the registered person in writing whether the member:

(A) Approves the person's assuming such status or acting in such capacity and imposes any conditions or limitations on the person's holding the position; or

(B) Disapproves the person's assuming such status or acting in such capacity.

(3) If the member imposes conditions or limitations on its approval of the person's assuming such status or acting in such capacity, the member shall reasonably supervise the registered person's compliance with such conditions or limitations.

(4) A member shall establish and maintain written procedures to comply with the requirements of paragraph (b) of this Rule.

(c) Definition of Immediate Family

The term "immediate family" means parents, grandparents, mother-in-law or father-in-law, 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 the

registered person financially supports, directly or indirectly, to a material extent. The term includes step and adoptive relationships.

••• Supplementary Material: -----

.01 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.

.02 Estate. For purposes of this Rule, a customer’s estate would include any cash and securities, real estate, insurance, trusts, annuities, business interests and other assets that the customer owns or has an interest in at the time of death.

.03 Record Retention. For purposes of paragraph (b) of this Rule, members shall preserve the written notice and approval for at least three years after the date that the beneficiary status or position of trust has terminated or the bequest received or for at least three years, whichever is earlier, after the registered person’s association with the member has terminated.

.04 Position Prior to Association With Member. If a registered person was named as a beneficiary or to a position of trust prior to the registered person's association with the member, the registered person, within 30 calendar days of becoming so associated, shall provide notice to and receive approval from the member consistent with this Rule to maintain the beneficiary status or position of trust.

.05 Pre-Existing Positions. With respect to agreements to assume such status or act in such capacity that were entered into prior to the existence of a broker-customer relationship, such as where the customer was not a customer of the registered person at the time at which the registered person was named beneficiary or to a position of trust, these agreements raise

similar conflict of interest concerns as agreements to assume such status or act in such capacity entered into subsequent to the existence of a broker-customer relationship.

Therefore, the registered person must act consistent with paragraph (a) of this Rule for any existing beneficiary status or position of trust prior to the initiation of the broker-customer relationship. Moreover, upon receipt of notice of such a position, the member should evaluate the beneficiary status or position of trust consistent with paragraph (b) of this Rule.

.06 Naming Other Persons. A registered person instructing or asking a customer to name another person to be a beneficiary of the customer's estate or to receive a bequest from the customer's estate would present similar conflict of interest concerns as the registered person being so named. Accordingly, a registered person instructing or asking a customer to name another person, such as the registered person's spouse or child, to be a beneficiary of the customer's estate or to receive a bequest from the customer's estate would not be consistent with paragraph (a)(1) of the Rule.

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