

Attachment C

Examples of Maximum Restricted Deposit Requirements

Firm A

Firm Description: Firm A is a mid-sized member firm with an independent contractor model. It engages primarily in retail-focused business. A large percentage of the member's revenues is derived from self-offerings and private placements. A small percentage of its customers are foreign.

Financial Information: Firm A earned \$25 million in gross revenues, including \$10 million in commissions, over the last 12 months; has a \$100,000 net capital requirement; and has maintained \$550,000 in excess net capital (average over 12 months). Over the past five years, Firm A paid an average of 2% of total revenue in arbitration and customer settlements and litigations. The member has no unpaid arbitrations or settlements.

Aggravating Circumstances: Firm A meets the Preliminary Identification Metrics Thresholds for the Registered Person Adjudicated Events Metric and the Registered Person Termination and Internal Review Events Metric, and 25% of its registered representatives have adjudicated event disclosures. Over the last four years, Firm A has doubled in size by hiring registered representatives and principals who have disciplinary histories or previously worked at heavily disciplined firms. Its primary products are of higher risk, and its recent examinations have shown ongoing supervisory deficiencies.

Mitigating Factors: None.

Maximum Restricted Deposit Requirement: In light of the above facts and circumstances, the Department would set Firm A's maximum Restricted Deposit Requirement between \$500,000 and \$1,250,000. Considering the member firm's recent rapid growth through the hiring of persons with disciplinary histories, its primary focus on selling high-risk products, and its ongoing supervisory deficiencies as identified in recent examinations, Firm A's maximum Restricted Deposit Requirement would be set in the high end of the range (\$750,000 - \$1,250,000).

Firm B

Firm Description: Firm B is a large member firm, with more than 500 registered representatives and more than 10 branch offices. It operates as an independent contractor model, with a decentralized management structure. Its predominant business lines are retail sales of OTC equities, underwriting, proprietary trading, and market making. A large percentage of its accounts are retail, and many accounts are owned by seniors.

Financial Information: Firm B earned \$125 million in gross revenues, including \$40 million in commissions, over the last 12 months; its minimum net capital requirement is \$100,000; it has maintained excess net capital of \$2 million (average over 12 months). Over the past five years, Firm B has paid an average of 2% of total revenue in arbitration and customer settlements and litigations. The member has no unpaid arbitrations or settlements.

Aggravating Circumstances: Firm B meets the Preliminary Identification Metrics Thresholds for the Registered Person Adjudicated Event Metric and the Expelled Firm Association Metric. More than 5% of its public-facing registered representatives have adjudicated disclosure events; more than 25% of its registered representatives are from disciplined member firms; and 10 of its registered representatives have a history of significant misconduct. It hires representatives and principals from disciplined member firms. Firm B has high turnover at the control function level. FINRA's last several cycle examinations have identified supervisory weaknesses, including inconsistencies in how branch offices are overseen and in oversight of registered representatives' outside business activities.

Mitigating Factors: Firm B has recently appointed a new chief executive officer, and it has a substantial errors and omissions policy.

Maximum Restricted Deposit Requirement: In light of the above facts and circumstances, the Department would set Firm B's maximum Restricted Deposit Requirement between \$1,725,000 - \$5,750,000. Considering the aggravating and mitigating factors, Firm B's maximum Restricted Deposit Requirement would be set above the midpoint of the range (>\$3,737,500), but not at the high end of the range.

Firm C

Firm Description: Firm C is a small member firm. It introduces accounts on a fully-disclosed basis. Its business lines are sales of equities (including low-priced securities), options, and advisory services. Its accounts are retail accounts. Firm C's owner is the chief executive officer, chief financial officer, and chief compliance officer.

Financial Information: Firm C earned \$175,000 in gross revenues (including \$130,000 in commissions) over the past 12 months; its minimum net capital requirement is \$5,000; it has maintained excess net capital of \$9,000 (average over 12 months). It has no unpaid customer arbitration awards or settlements.

Aggravating Factors: Firm C meets the Preliminary Identification Metrics Thresholds for the Registered Person Adjudicated Event Metric and the Expelled Firm Association Metric. Firm C's owner has 25 disclosure events, including several formal actions, regulatory actions, and suspensions. All of the member's registered representatives have adjudicated events. Firm C sells penny stocks.

Mitigating Factors: Firm C earns a low amount of revenue. It has not been required to pay any arbitration and customer settlements over the last five years. The firm's most recent FINRA cycle examination resulted in no findings.

Maximum Restricted Deposit Requirement: In light of the above facts and circumstances, the Department would set Firm C's maximum Restricted Deposit Requirement between \$0 - \$17,000. Considering the aggravating and mitigating factors, Firm C's maximum Restricted Deposit Requirement would be set within the lower end of the range (<\$6,000).