

Attachment A

Attachment A shows the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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FINRA RULES

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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 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 lending arrangement is based on a 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 lending arrangement is based on a 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) [T]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, notify the member in writing of such existing arrangements with persons who seek to be a customer of the registered person, 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 and lending arrangements include owner-financing arrangements that do not involve borrowing or lending of money.

.04 Close Personal Relationships and 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 a bona fide “close personal relationship” or “business relationship” or was formed with the purpose of circumventing the purpose of Rule 3240. Examples of relationships that are “close personal relationships” include, but are not limited to, a childhood or long-term friend, a godparent, and other similarly close personal relationships.

.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.

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