

**Attachment A**

New language is underlined; deletions are in brackets.

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**FINRA Rules**

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**2300. SPECIAL PRODUCTS**

**2310. Direct Participation Programs**

(a) through (b) No Change.

**(c) Non-Cash Compensation**

(1) No Change.

**(2) Restriction on Non-Cash Compensation**

In connection with the sale and distribution of direct participation program or REIT securities, no member or person associated with a member shall directly or indirectly accept or make payments or offers of payments of any non-cash compensation, except as provided below. Non-cash compensation arrangements must be consistent with the applicable requirements of SEA Rule 151-1 (“Regulation Best Interest”) and are limited to the following:

(A) Gifts that do not exceed an annual amount per person fixed periodically by the Board of Governors<sup>1</sup> and are not conditioned on achievement of a sales target.

(B) through (E) No Change.

(d) No Change.

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<sup>1</sup> The current annual amount fixed by the Board of Governors is \$300[100].

**2320. Variable Contracts of an Insurance Company**

(a) through (f) No Change.

**(g) Member Compensation**

In connection with the sale and distribution of variable contracts:

(1) through (3) No Change.

(4) No member or person associated with a member shall directly or indirectly accept or make payments or offers of payments of any non-cash compensation, except as provided below. Notwithstanding the provisions of paragraph (g)(1), the following non-cash compensation arrangements are permitted provided that they are consistent with the applicable requirements of SEA Rule 151-1 (“Regulation Best Interest”):

(A) Gifts that do not exceed an annual amount per person fixed periodically by FINRA<sup>1</sup> and are not preconditioned on achievement of a sales target.

(B) through (E) No Change.

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**2341. Investment Company Securities**

(a) through (k) No Change.

**(l) Member Compensation**

In connection with the sale and distribution of investment company securities:

(1) through (4) No Change.

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<sup>1</sup> The current annual amount fixed by the Board of Governors is \$300[100].

(5) No member or person associated with a member shall directly or indirectly accept or make payments or offers of payments of any non-cash compensation, except as provided below. Notwithstanding the provisions of paragraph (l)(1), the following non-cash compensation arrangements are permitted provided that they are consistent with the applicable requirements of SEA Rule 151-1 (“Regulation Best Interest”):

(A) Gifts that do not exceed an annual amount per person fixed periodically by FINRA<sup>1</sup> and are not preconditioned on achievement of a sales target.

(B) through (E) No Change.

(m) through (n) No Change.

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### **3200. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS**

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#### **3220. Influencing or Rewarding Employees of Others**

(a) No member or person associated with a member shall, directly or indirectly, give or permit to be given anything of value, including gratuities, in excess of [one hundred dollars] \$300 per individual per year to any person, principal, proprietor, employee, agent or representative of another person where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity. A gift of any kind is considered a gratuity.

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<sup>1</sup> The current annual amount fixed by the Board of Governors is \$300[100].

(b) This Rule shall not apply to contracts of employment with or [to] compensation for services rendered by persons enumerated in paragraph (a) of this Rule provided that there is in existence, prior to the time of employment or before the services are rendered, a written agreement between the member and the person who is to be employed to perform such services. Such agreement shall include the nature of the proposed employment, the amount of the proposed compensation, and the written consent of such person's employer or principal.

(c) Subject to Supplementary Materials .04 through .07, a[A] separate record of all payments or gratuities in any amount known to the member, the employment agreement referred to in paragraph (b) of this Rule and any employment compensation paid as a result thereof shall be retained by the member for the period specified by SEA Rule 17a-4.

(d) Pursuant to the Rule 9600 Series, FINRA staff, for good cause shown after taking into consideration all relevant factors, may conditionally or unconditionally grant an exemption from any provision of this Rule to the extent that such exemption is consistent with the purpose of the Rule, the protection of investors, and the public interest.

**••• Supplementary Material: -----**

**.01 Gifts Incidental to Business Entertainment.** A gift given during the course of a business entertainment event is subject to this Rule unless it is consistent with the requirements of Supplementary Material .04 or .06 of this Rule.

**.02 Valuation of Gifts.** Gifts must be valued at cost, exclusive of tax and delivery charges, except when valuing tickets for sporting or other events, for which a member

must use the higher of cost or face value. If gifts are given to multiple recipients, members must record the names of each recipient and calculate and record the value of the gift on a pro rata per recipient basis, for purposes of ensuring compliance with the \$300 limit in paragraph (a) of this Rule.

**.03 Aggregation of Gifts.** Members must aggregate all gifts given by the member and each associated person of the member to a particular recipient over the course of the year for purposes of ensuring compliance with the \$300 limit in paragraph (a) of this Rule. In addition, each member must state in its procedures whether it is aggregating all gifts given by the member and its associated persons on a calendar year, fiscal year, or on a rolling basis beginning with the first gift to any particular recipient. The aggregation requirements of this Supplementary Material do not apply to gifts that are consistent with the requirements of Supplementary Material .04 or .06 of this Rule.

**.04 Personal Gifts.** Gifts that are given for infrequent life events (e.g., a wedding gift or a congratulatory gift for the birth of a child) are not subject to the restrictions in paragraph (a) of this Rule or the recordkeeping requirements in paragraph (c) of this Rule, provided the gifts are customary and reasonable, personal in nature and not in relation to the business of the employer of the recipient. In determining whether a gift is “personal in nature and not in relation to the business of the employer of the recipient,” members should consider a number of factors, including the nature of any pre-existing personal or family relationship between the person giving the gift and the recipient and whether the associated person paid for the gift. When the member bears the cost of the gift, either directly or by reimbursing an associated person, FINRA presumes that such

gift is not personal in nature and instead is in relation to the business of the employer of the recipient.

**.05 Bereavement Gifts.** Bereavement gifts that are customary and reasonable are not considered to be in relation to the business of the employer of the recipient and, therefore, are not subject to the restrictions in paragraph (a) of this Rule or the recordkeeping requirements in paragraph (c) of this Rule.

**.06 De Minimis Gifts and Promotional or Commemorative Items**

(a) Gifts of a *de minimis* value (e.g., pens, notepads, or modest desk ornaments) or promotional items of nominal value that display the member's logo (e.g., umbrellas, tote bags, or shirts) are not subject to the restrictions in paragraph (a) of this Rule or the recordkeeping requirements in paragraph (c) of this Rule, provided that the value of the gift or promotional item is substantially below the \$300 limit.

(b) Customary and reasonable solely decorative items commemorating a business transaction are not subject to the restrictions in paragraph (a) of this Rule or the recordkeeping requirements in paragraph (c) of this Rule.

**.07 Donations Due to Federally Declared Major Disasters.** Donations by a member or an associated person to any person, principal, proprietor, employee, agent or representative of another person to provide assistance to the individual for losses sustained in a natural event that the President has declared to be a major disaster, such as a wildfire, hurricane, tornado, earthquake, or flood, are not considered "in relation to the business of the employer of the recipient" for purposes of Rule 3220(a). Such donations are not subject to the restrictions in paragraph (a) of this Rule or the recordkeeping requirements in paragraph (c) of this Rule.

**.08 Supervision and Recordkeeping.** Rule 3110 requires a member to have a supervisory system reasonably designed to achieve compliance with Rule 3220. To meet these standards, members are required to have systems and procedures reasonably designed to ensure that payments and gratuities in relation to the business of the employer of the recipient given by the member and its associated persons to employees of another person are: (a) reported to the member; (b) reviewed for compliance with this Rule; and (c) maintained in the member's records. Such procedures must be reasonably designed to ensure that an associated person who is giving a payment or gratuity is not responsible for determining whether such payment or gratuity is in relation to the business of the recipient's employer. Members are not required to maintain records of gifts that are consistent with the requirements of Supplementary Material .04 through .07 of this Rule.

**.09 Gifts to a Member's Associated Persons or Individual Retail Customers.** This Rule does not apply to gifts from a member to its own associated persons, or to gifts from a member or an associated person to individual retail customers.

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## **5100. SECURITIES OFFERINGS, UNDERWRITING AND COMPENSATION**

### **5110. Corporate Financing Rule — Underwriting Terms and Arrangements**

(a) through (e) No Change.

#### **(f) Non-Cash Compensation**

(1) No Change.

#### **(2) Restrictions on Non-Cash Compensation**

In connection with the sale and distribution of a public offering of securities, no member or person associated with a member shall directly or

indirectly accept or make payments or offers of payments of any non-cash compensation, except as provided below. Non-cash compensation arrangements must be consistent with the applicable requirements of SEA Rule 151-1 ("Regulation Best Interest") and are limited to the following:

(A) Gifts that do not exceed an annual amount per person fixed periodically by the Board of Governors<sup>1</sup> and are not preconditioned on achievement of a sales target.

(B) through (E) No Change.

(g) through (j) No Change.

••• **Supplementary Material:** -----

.01 through .07 No Change.

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**9600. PROCEDURES FOR EXEMPTIONS**

**9610. Application**

**(a) Where to File**

A member seeking exemptive relief as permitted under Rules 0180, 1210, 1220, 2030, 2114, 2210, 2231, 2241, 2242, 2310, 2359, 2360, 3170, 3220, 4210, 4311, 4320, 4360, 4540, 5110, 5121, 5122, 5123, 5130, 5131, 6183, 6625, 6731, 6732, 8211, 8213, 11870, or 11900, or Municipal Securities Rulemaking Board Rule G-37 shall file a written application with the appropriate department or staff of FINRA.

(b) through (c) No Change.

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<sup>1</sup> The current annual amount fixed by the Board of Governors is \$300[100].