

Harris Williams & Co.
middle market*



April 28, 2014

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Subject: Limited Corporate Financing Brokers Proposed Rule Set

Dear Ms. Asquith:

This letter is in response to FINRA's solicitation of public comments on its proposed rule set (the "Proposal") for Limited Corporate Financing Brokers ("LCFB").

Harris Williams LLC d/b/a Harris Williams & Co. ("HW&Co." or the "Firm") is a FINRA-registered broker-dealer that provides mergers and acquisitions advisory and related services ("M&A Services") to companies and their owners. HW&Co. does not extend credit, hold customer accounts or engage in banking or investing transactions on its own or its customers' behalf. The Firm's revenue is comprised entirely of fees derived from M&A Services.

The Firm believes that HW&Co. meets the definition of LCFB under proposed Rule 016(h)(i) because HW&Co.'s M&A Services are encompassed by the activities set forth in 016(h)(1)(A)-(F). Moreover, HW&Co. does not engage in any of the activities set forth in 016(h)(i). FINRA has particularly requested comments concerning the issues set forth below. HW&Co.'s comments are set forth in immediate response thereto.

- Does the proposed rule set provide sufficient protections to customers of an LCFB? If not, what additional protections are warranted and why?

Yes. One of the benefits of the Proposal is it distinguishes among types of customers and business models and the protections that customers require and the concomitant burdens for the providers of services thereto. For example, HW&Co.'s customers are sophisticated corporate and institutional clients seeking advice on mergers and acquisitions (as opposed to assistance in buying and selling securities as investments, for example). Therefore, protections such as those provided by the best execution and suitability rules or current minimum capital requirements should not be applicable to the Firm as they are to securities brokerage activities. The limited scope of LCFB activities and clients means that rules designed to protect retail customers, account beneficiaries and securities investors are not necessary for an LCFB.

- Does the proposed rule set appropriately accommodate the scope of LCFB business models? If not, what other accommodations are necessary and how would customers be protected?

For closer alignment between the proposed LCFB rule set and the nature of LCFB activities and customers, certain of the rules that remain applicable to LCFBs could be modified or removed.

For example, the annual gift limit of \$100 may provide meaningful anti-conflicts protection in a retail securities brokerage context. But for an LCFB, such rules result in administrative burdens but do not provide meaningful protection in light of the nature of an LCFB advisory business model and corporate/institutional clients.

- Is the definition of “limited corporate financing broker” appropriate? Are there any activities in which broker-dealers with limited corporate financing functions typically engage that are not included in the definition? Are there activities that should be added to the list of activities in which an LCFB may not engage?

For the avoidance of doubt, it may be helpful to insert language (in **bold**) such as: “advising a company regarding its purchase or sale of **controlling or minority ownership interests** in a business...” It may also increase clarity to enumerate activities such as “advising with respect to strategic alternatives” and “providing valuations”. Such services may be provided on a stand-alone basis as well as in the context of an acquisition or divestiture.

- Are there firms that would qualify for the proposed rule set but that would choose not to be treated as an LCFB? If so, what are the reasons for this choice?

HW&Co. has no comment.

- What is the likely economic impact to an LCFB, other broker-dealers and their competitors of adoption of the LCFB rules?

Given the nature of LCFB activities and client base, it is doubtful that LCFB customers would switch firms because of a potential perception of reduced protections. HW&Co. believes that its essential compliance infrastructure will not substantially change upon implementation of the Proposal. However, implementation of the Proposal will meaningfully reduce unnecessary administrative burdens and costs for the Firm.

- FINRA welcomes estimates of the number of firms that would be eligible for the proposed rule set.

HW&Co. has no comment.

- Proposed LCFB Rule 123 would limit the principal and representative registration categories that would be available for persons associated with an LCFB. Are there any registration categories that should be added to the rule? Are there any registration categories that are currently included in the proposed rule but that are unnecessary for persons associated with an LCFB?

HW&Co. believes that the current registration categories are sufficient.

- Should principals and representatives that hold registration categories not included within LCFB Rule 123 be permitted to retain these registrations?

Probably not; HW&Co. believes that principals and representatives should be permitted to hold non-included registrations only if the firm in question can adequately supervise the activities covered by such registrations, which may be doubtful in the context of an LCFB.

- Does an LCFB normally make recommendations to customers to purchase or sell securities? Should an LCFB be subject to rules requiring firms to know their customers (LCFB Rule 209) and imposing suitability obligations (LCFB Rule 211) to an LCFB?

The extent to which an LCFB's advice constitutes "recommendations to customers to purchase or sell securities" is a consequence of the general definition of securities and the forms of business acquisitions and divestitures. The manner in which an acquisition or divestiture is accomplished – the sale or purchase of assets and liabilities or securities is driven by considerations that bear no relationship to the securities laws or FINRA regulations. Given the nature of LCFB activities and client base, an LCFB should not be subject to rules requiring firms to know their customers (LCFB Rule 209) and imposing suitability obligations (LCFB Rule 211) on an LCFB.


- Does the SEC staff no-action letter issued to Faith Colish, et al., dated January 31, 2014, impact the analysis of whether a firm would become an LCFB? Is it likely that some limited corporate financing firms will not register as a broker consistent with the fact pattern set forth in the no-action letter, or will they register as an LCFB?


HW&Co. has no comment.

Thank you for the opportunity to provide comments to this important proposed rule set. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

Harris Williams & Co.

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