

June 20, 2017

Philip Shaikun
Vice President and Associate General Counsel
FINRA
Office of General Counsel

Re: Regulatory Notice 17-20

Dear Mr. Shaikun,

I am writing today on behalf of Ouisa Capital, LLC (“Ouisa”) in response to the Financial Industry Regulatory Authority’s (“FINRA”) Regulatory Notice 17-20 - Retrospective Rule Review on the efficiency of its rules regulating outside business activities and private securities transactions. Ouisa is a financial technology (“FinTech”) company and broker-dealer registered with the U.S. Securities and Exchange Commission (“SEC”) and FINRA. Ouisa is the operator of an alternative trading system (“ATS”) that plans to use blockchain technology as part of the operation of the ATS. Ouisa’s comments in this letter pertain to FINRA Rules 3270 and 3280, regulating outside business activities and private securities transactions of associated persons respectively.

I would like to thank FINRA for the opportunity to provide comments on this matter. FINRA and its staff have dedicated a great amount of time and effort to engaging with the public and market participants to better understand and assess the effects of FINRA's rules. My experiences with FINRA in my current and previous roles has shown it to be open and engaging, with a commitment to educating and informing market participants and other interested parties during the rule-making process. We provide these comments in the hope of improving FINRA's rules in a manner that will protect the investing public, while promoting capital formation and market integrity.

Rule 3270 is Overly Burdensome for Members and Associated Persons

FINRA Rule 3270 was adopted in an effort to address the increasing business opportunities for persons associated with member firms, both in and outside the scope of their employment. Prior to the adoption of Rule 3270, FINRA noted a growing number of disciplinary cases that could have been avoided had there been a disclosure of the associated persons’ outside business activities. As a result, FINRA adopted a rule aimed at facilitating firms’ prior notification of all outside business activities of their associated persons so that members could have the chance to raise objections to any such activities. In its initial request for comments on the proposed rule,

FINRA noted that many member firms already maintained internal limitations on outside business activities and notification requirements. As such, FINRA sought to make such requirements an industry standard.

Though Ouisa believes the concerns addressed by Rule 3270 are important, we have found in our experience that the rule is overly inclusive to a point of becoming burdensome. Rule 3270 requires prior written notification to the member by any registered person if they serve as an “employee, independent contractor, sole proprietor, officer, director or partner of another person.” This provision is very broad and can encompass many activities that have no relevance to the underlying goals of the rule.

The Supplementary Materials to Rule 3270 note that the member is to consider whether the proposed activity will “interfere” or “compromise” the registered person’s responsibilities to the member or may be viewed by customers or the public as part of the member’s business based on the nature of the activity. The bounds created by the rule go far beyond the concerns expressed in the Supplementary Materials. Instead of covering only activities that may interfere with the registered person’s responsibilities, or confuse customers, benign activities such as serving on the board of a non-profit organization or other unrelated activities require disclosure and consideration. We believe that such requirements go beyond the initial goals of the rule and unnecessarily burdensome. Ouisa encourages FINRA to consider tailoring Rule 3270 to help limit the variety of activities covered by the rule to those that are more likely to be a concern based on the stated goals of the rule as approved by the SEC.

Rule 3280 is Effective For Broker-dealers

Rule 3280 was created in an effort to address potential issues relating to private securities transactions of persons associated with broker-dealers. In its initial request for comments, FINRA expressed concern that participants in securities transactions conducted by associated persons outside of their formal employment with a member, such as part of a private offering of limited partnership interests without the person’s employer firm involved, may be done so without needed supervision and oversight by a member firm. Initially, FINRA adopted the Private Securities Transactions Interpretation and initiated a number of enforcement actions based on the interpretation of Rule 3280. While FINRA has found the interpretation to be beneficial in increasing supervision in the concerned transactions, it caused notable industry confusion by speaking only to the notice responsibilities of associated persons, but not the responsibilities of the members. Given this, FINRA amended Rule 3280 to address these concerns. The current version of the rule includes requirements regarding notice for the associated person and responsibilities for the member depending on whether or not the transaction in question is for compensation.

Ouisa believes Rule 3280 is well-tailored to the concerns identified by FINRA. The scope of the rule is effectively limited by the definition provided for “private securities transaction,” which includes those transactions that are outside the regular course or scope of an associated person’s employment. Such transactions, as identified by FINRA, are those more likely to cause confusion to consumers and the public. Given the important goal of the rule and the rule's

straightforward disclosure requirements, Ouisa believes Rule 3280 is well-suited in its current form for the regulation of private securities transactions.

FINRA Should Provide Clear Guidance on the Application of Rule 3280 to Members That Are Also Registered Investment Advisers

While the regulation of investment advisers that are not FINRA members is outside of FINRA's jurisdiction, Rule 3280 is having a negative impact on entities that are registered as broker-dealers and registered investment advisers. Transactions undertaken by a registered investment adviser that is also a broker-dealer, will frequently trigger disclosure requirements under Rule 3280, creating a burdensome process when their advisory activities are already being regulated by the SEC or a state securities regulator. We believe FINRA should amend Rule 3280 to make it clear that advisory activities of a registered investment adviser fall outside the scope of Rule 3280.

We appreciate the opportunity to provide our comments on this matter. If Ouisa can be of any further assistance to you, please do not hesitate to contact us at the above address or at 646-595-1737 or our counsel Richard B. Levin of Polsinelli PC at 202-772-8474.

Very Truly Yours,



Vincent R. Molinari
Chief Executive Officer



Joseph K. Latona

cc: Robert Cook, President and CEO, FINRA
cc: Robert Colby, Chief Legal Officer, FINRA