

FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of the  
Continued Membership  
of

Houlihan Lokey Capital, Inc.  
(CRD No. 17708)

Notice Pursuant to  
Rule 19h-1  
Securities Exchange Act  
of 1934

SD-2366

**March 13, 2024**

**I. Introduction**

On September 6, 2023, Houlihan Lokey Capital, Inc. (“Houlihan” or “Firm”) submitted a Membership Continuance Application (“MC-400A Application” or “Application”) to FINRA’s Credentialing, Registration, Education, and Disclosure (“CRED”) Department.<sup>1</sup> The Application seeks permission for the Firm, a FINRA member, to continue its membership with FINRA notwithstanding its statutory disqualification. A hearing was not held in this matter; rather, pursuant to FINRA Rule 9523(b), FINRA’s Department of Member Supervision (“FINRA,” “Member Supervision,” or “Department”) approves the Application and is filing this Notice pursuant to Rule 19h-1 of the Securities Exchange Act of 1934 (“Exchange Act” or “SEA”).

**II. The Statutorily Disqualifying Event**

The Firm is subject to statutory disqualification, as that term is defined in Section 3(a)(39)(F) of the Exchange Act, incorporating by reference Sections 15(b)(4)(D) and (E), as a result of an August 8, 2023 Order issued by the Securities and Exchange Commission (“SEC” or “Commission”) finding Houlihan willfully violated Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) and failed reasonably to supervise its employees with a view to preventing or detecting certain of its employees’ aiding and abetting violations of Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder (“SEC Order”).<sup>2</sup>

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<sup>1</sup> See MC-400A Application and related attachments compiled by CRED, with a cover memorandum dated September 14, 2023, attached as Exhibit 1.

<sup>2</sup> See SEC Order, *In re Houlihan Lokey Capital, Inc.*, Exchange Act Release No. 98077 (Aug. 8, 2023), attached as Exhibit 2.

The SEC Order also triggered disqualification under Rules 262(a)(4), 506(d)(1)(iv), and 602(c)(3) of the Securities Act of 1933 and Rule 503(a)(4)(ii) of Regulation Crowdfunding. On August 8, 2023, the SEC granted a waiver from the application of the disqualification provisions of these Rules. See *In re Certain*

According to the SEC Order, from at least January 2019, Houlihan employees sent and received off-channel communications that related to the Firm's business, and a majority of these written communications was not maintained or preserved by the Firm.<sup>3</sup> Further, supervisors who were responsible for preventing this misconduct among junior employees routinely communicated off-channel using their personal devices, and, in so doing, failed to comply with Firm policies by communicating using non-Firm approved methods on their personal devices about the Firm's broker-dealer business.<sup>4</sup>

The Firm was censured, ordered to cease and desist from committing or causing any future violations, ordered to pay a civil money penalty of \$15 million, and ordered to comply with undertakings.<sup>5</sup> The Firm represented that it paid the penalty on August 11, 2023<sup>6</sup> and is in compliance with the undertakings.<sup>7</sup>

### **III. Remedial Measures<sup>8</sup>**

According to the Application, the Firm undertook remedial measures prior to the issuance of the SEC Order, including enhancing its policies, procedures, and training regarding its record retention responsibilities, and regularly conducting compliance reviews of employee communications. Additionally, according to the SEC Order, the SEC considered the Firm's prompt remedial actions and cooperation with the Commission when determining to accept the Offer of Settlement, including the Firm's revisions of its policies and procedures, as well as repeated reminders the Firm issued to its staff about its policies.<sup>9</sup>

### **IV. Firm Background**

The Firm has been a FINRA member since June 1986.<sup>10</sup> It is headquartered in Los Angeles, California, with thirteen branches (three of which are Offices of Supervisory Jurisdiction).<sup>11</sup> The Firm employs approximately 1236 registered representatives

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*Broker-Dealer Practices*, Securities Act Release No. 11221 (Aug. 8, 2023), attached as Exhibit 3.

<sup>3</sup> See Exhibit 2 at p. 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at pp. 9-10.

<sup>6</sup> See Exhibit 1 at FINRA00040, Response 4.

<sup>7</sup> See Firm Discovery Response dated February 14, 2024, attached as Exhibit 4 at FINRA pp. 1, 24 – 47.

<sup>8</sup> See Exhibit 1 at FINRA00043.

<sup>9</sup> See Exhibit 2 at p. 5.

<sup>10</sup> See Central Registration Depository ("CRD") Excerpt – Organization Registration Status, attached as Exhibit 5 at p. 1.

<sup>11</sup> Verified by FINRA staff through a review of information contained in CRD, last performed on February 13, 2024.

(including 115 registered principals) and three non-registered fingerprint employees.<sup>12</sup> The Firm does not presently employ any individuals who are subject to statutory disqualification.<sup>13</sup>

Houlihan is approved to engage in the following lines of business: broker or dealer selling corporate debt securities; underwriter or selling group participant (corporate securities other than mutual funds); private placements of securities; engaged in other securities business; and involved in investment banking and mergers and acquisitions activities (i.e. representing buyers and sellers of business enterprises), financial restructuring activities, and arranging for financing for mergers, acquisitions, leveraged buyouts and venture capital needs.<sup>14</sup>

The Firm is not a member of any other self-regulatory organizations (“SROs”).<sup>15</sup>

### **Recent Examinations**

In the past two years, FINRA completed one routine examination of the Firm that resulted in exceptions and the issuance of a Cautionary Action Letter (“CAL”).<sup>16</sup> FINRA did not complete any non-routine examinations of Houlihan in the past two years that resulted in findings. The SEC did not complete any examinations of the Firm that resulted in findings.

#### **A. FINRA Routine Examination**

On May 31, 2023, FINRA completed an examination of the Firm that resulted in eight exceptions for which the Firm was issued a CAL. The Firm was cautioned for: 1) failure to maintain adequate procedures to ensure compliance with the safe harbor provisions of FINRA Rule 1017; 2) failure to timely inspect its foreign non-registered locations; 3) failure to inspect a branch office location within at least three years; 4) failure to collect foreign associated person disclosure forms as required under Rule 15a-6; 5) failure to conduct annual independent AML testing in violation of FINRA Rule 3310(c); 6) failure to timely amend the Forms U4 of several registered representatives; 7) failure to timely submit or amend within 30 days the Form BR for three registered branch offices; and 8) failure to report to FINRA a securities-related class action complaint involving a registered

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> See CRD Excerpts – Types of Business and Other Business Descriptions, collectively attached as Exhibit 6.

<sup>15</sup> See Exhibit 5. FINRA staff confirmed through a search of public member directories, last performed on February 13, 2024, that the Firm is not a member of the following: Municipal Securities Rulemaking Board; The Depository Trust Company; National Securities Clearing Corporation; Fixed Income Clearing Corporation Government Securities Division; and Fixed Income Clearing Corporation Mortgage-Backed Securities Division.

<sup>16</sup> See Disposition Letter for Examination No. 20220732523 dated May 31, 2023, Examination Report dated March 31, 2023, and Firm Response dated April 17, 2023, collectively attached as Exhibit 7.

representative and failure to amend the registered representative's Form U4 within 30 days of learning of the filing.<sup>17</sup> The Firm acknowledged the exceptions and responded that it took corrective action including amending its policies and procedures, updating supervisory personnel training materials and guidelines, implementing a new automated system for the filing of 15a-6 forms, creating a schedule and calendar alerts for annual AML testing, and updating relevant WSPs.<sup>18</sup>

### **Regulatory Actions**

In the past two years, the Firm has not been the subject of any disciplinary actions, aside from the SEC Order that led to the Application.

#### **V. Prior SEA Rule 19h-1 Notices**

The Firm has not been subject to prior SEA Rule 19h-1 or 19d-1 Notices.

#### **VI. The Firm's Proposed Continued Membership with FINRA Plan of Heightened Supervision**

The Firm seeks to continue its membership with FINRA notwithstanding its status as a disqualified member. The Firm has agreed to the following Plan of Heightened Supervision as a condition of its continued membership with FINRA ("Supervision Plan" or "Plan"):<sup>19</sup>

Houlihan Lokey Capital, Inc. (the "Firm") is subject to statutory disqualification pursuant to Section 3(a)(39)(F) of the Securities Exchange Act of 1934, which incorporates by reference Sections 15(b)(4)(D) & (E), as a result of an order issued by the U.S. Securities and Exchange Commission ("SEC" or "Commission") dated August 8, 2023, which found that the Firm willfully violated Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-4(b)(4) thereunder ("SEC Order"). The SEC Order also found that the Firm failed to reasonably supervise its employees within the meaning of Section 15(b)(4)(E).

For the purpose of this Supervision Plan, the term "Digital Communication Channels" means all written electronic methods of communication used to conduct Firm business, including but not limited to, text messaging platforms, whether via SMS messaging, iMessage, or other messaging services such as WhatsApp; direct messaging platforms including X f/k/a "Twitter," Instagram, LinkedIn, Slack, or Bloomberg Messaging; non-firm domain email accounts; and any other written electronic business-related correspondence. "Digital Communication Channels" encompass platforms used to exchange messages with internal or external stakeholders using either a personal or Firm-provided device.

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<sup>17</sup> *Id.* at FINRA pp. 1-9.

<sup>18</sup> *Id.* at FINRA pp. 10-16.

<sup>19</sup> *See* Executed Consent to Plan of Heightened Supervision dated March 4, 2024, attached as Exhibit 8.

For the purpose of this Supervision Plan, the term “Off-Channel Communications” means all business-related written electronic messages sent on Digital Communication Channels that are not captured by Firm surveillance and record-keeping systems.

In consenting to this Supervision Plan, the Firm agrees to the following:

1. The Firm shall comply with all of the undertakings outlined in the SEC Order.
2. The Firm shall maintain copies of all correspondence between the Firm and Commission staff relating to the SEC Order, including documenting when Commission staff grants extensions to the deadlines set forth in the SEC Order. The Firm shall maintain copies of all such correspondence in a readily accessible place for ease of review by FINRA staff.
3. The Firm shall provide FINRA’s Statutory Disqualification Group with copies of all certifications submitted to the SEC upon completion of the undertakings as specified in the SEC Order. The Firm shall maintain copies of all certifications in a readily accessible place for ease of review by FINRA staff.
4. The Firm shall maintain copies of all reports and supporting documentation submitted to SEC staff in accordance with the SEC Order, as well as any other documentation needed to evidence the status and completion of each of the undertakings outlined in the SEC Order. The Firm shall maintain copies of such documentation in a readily accessible place for ease of review by FINRA staff.
5. Within six months of the SEC’s Letter of Acknowledgement (“LOA”) in this matter, to the extent that it has not already done so within the past six months, and on at least an annual basis thereafter, for a term of six years from the date of the LOA, the Firm shall conduct training for all associated persons regarding the Digital Communication Channels that the Firm has approved for business communication, along with the Firm’s current policies regarding retention of business-related electronic communications. The Firm shall maintain a record of individual completion of said training and a copy of said training materials in a readily accessible place for ease of review by FINRA staff.
6. The Firm shall conduct the training described in item number 5 above for all new hires, within 65 days from the date of commencement of new hire training, for a term of six years from the date of the LOA. The Firm shall retain a record of all new hire training, including a copy of all written training materials, and keep said record(s) in a readily accessible place for ease of review by FINRA staff.
7. Within 90 days of the LOA, the Firm shall, to the extent that it has not already done so, establish and maintain a written list(s) of all Digital Communication Channels that its associated persons are permitted to use to communicate about Firm business. The list(s) shall be circulated to all of the Firm’s associated persons at least on a semi-annual basis, for a term of six years from the date of the LOA. The Firm shall require that all associated persons obtain written approval for use of any Digital Communication Channels to communicate about Firm business that are not already

- on the approved list(s) maintained by the Firm. The Firm shall maintain a record of all requests and approvals or rejections of each request, including the date of the requests and the Firm's decision. The Firm shall maintain copies of such requests and decisions in a readily accessible place for ease of review by FINRA staff.
8. The Firm shall require all associated persons to disclose on at least a semi-annual basis, for a term of six years from the date of the LOA, any unapproved Digital Communication Channels he/she is using to communicate about Firm business. The Firm shall retain records of such disclosures in a readily accessible place for ease of review by FINRA staff.
  9. Subject to Paragraph 7 above, the Firm shall prohibit associated persons from using Off-Channel Communications.
  10. Within 90 days of the LOA, the Firm shall, to the extent that it has not already done so, develop a process whereby, in the event that an associated person sends or receives an Off-Channel Communication, the Off-Channel Communication is submitted to the Firm and retained in compliance with relevant securities laws and regulations. For a term of six years from the date of the LOA, the Firm shall maintain a record of all such Off-Channel Communications, including a record of the Firm's receipt of the communication, in a readily accessible place for ease of review by FINRA staff.
  11. Within 90 days of the LOA, the Firm shall, to the extent that it has not already done so, develop and maintain written supervisory policies and procedures detailing the Firm's processes for disciplining associated persons who use Off-Channel Communications to communicate about Firm business. When the Firm uses the disciplinary process, the Firm shall document each instance. The Firm shall retain records of such written supervisory policies and procedures and records of the disciplinary processes and each outcome.
  12. All requested documents and certifications under this Supervision Plan shall be sent directly to FINRA's Statutory Disqualification Group at [SDMailbox@FINRA.org](mailto:SDMailbox@FINRA.org).
  13. The Firm shall obtain written approval from FINRA's Statutory Disqualification Group prior to changing any provision of the Supervision Plan.
  14. The Firm shall submit any proposed changes or other requested information under this Supervision Plan to FINRA's Statutory Disqualification Group at [SDMailbox@FINRA.org](mailto:SDMailbox@FINRA.org).

## **VII. Discussion**

After carefully reviewing the entire record in this matter, FINRA approves the Firm's request to continue its membership with FINRA, subject to the terms and conditions set forth herein. In evaluating Houlihan's Application, FINRA assessed whether the Firm has demonstrated that its continued membership is consistent with the public interest and does not create an unreasonable risk of harm to investors or the markets. *See* FINRA By-Laws,

Art. III, Sec. 3(d); *cf. Frank Kufrovich*, 55 S.E.C. 616, 624 (2002) (holding that FINRA “may deny an application by a firm for association with a statutorily disqualified individual if it determines that employment under the proposed plan would not be consistent with the public interest and the protection of investors”). Typically, factors that bear on FINRA’s assessment include, among other things, the nature and gravity of the statutorily disqualifying misconduct, the time elapsed since its occurrence, the restrictions imposed, the Firm’s regulatory history, and whether there has been any intervening misconduct.

As of the date of this Notice, FINRA has determined that the Firm’s continued membership is consistent with the public interest and does not create an unreasonable risk of harm to investors or the markets. While the SEC Order identified serious violations of securities laws, the Firm was not expelled or suspended, nor were any limitations placed on Houlihan’s securities activities. Although the SEC Order triggered certain disqualifications from exemptions from registration available under the Securities Act of 1933 (“Securities Act”), specifically Regulations A, D and E of the Securities Act and Regulation Crowdfunding, the SEC granted the Firm a waiver from the application of the disqualification provisions of Rules 262(a)(4)(ii), 506(d)(1)(iv)(B), and 602(c)(3) of the Securities Act and Rule 503(a)(4)(ii) of Regulation Crowdfunding. Moreover, the full amount of the civil monetary penalty was promptly paid, and the Firm represented that it is in compliance with the ordered undertakings.

Member Supervision also acknowledges that within the SEC Order the Commission considered the Firm’s prompt remedial actions and cooperation with the Commission when determining to accept the Offer of Settlement. Specifically, the Commission acknowledged that Houlihan revised its policies and procedures and issued repeated reminders about its policies to broker-dealer staff in an effort to address the risk of staff engaging in off-channel communications.<sup>20</sup> In the Application, the Firm represented that prior to the SEC Order it voluntarily enhanced its policies and procedures, and regularly conducted compliance reviews of employee communications.

In evaluating the Firm’s Application, FINRA notes that Houlihan has no recent regulatory actions filed against it or additional disqualifying orders. Member Supervision further notes that, as of the date of this Notice, the Firm has paid all fines and complied with all undertakings ordered by the SEC. Additionally, in response to Houlihan’s recent examination findings and exceptions, the Firm took steps to resolve them, including taking immediate corrective action by implementing new oversight and controls and updating its procedures and WSPs.

FINRA is further reassured by the controls set in place by the Firm’s Supervision Plan which bolsters the undertakings outlined in the SEC Order and will continue to provide oversight of the Firm and compliance with its remaining undertakings. In accordance with the Plan, the Firm agreed to conduct annual training for all associated persons, including new hires, regarding the Firm’s approved digital communication methods and record retention policies for electronic communications. Further, the Plan calls for the Firm to maintain a list of approved digital communication methods that associated persons are

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<sup>20</sup> See Exhibit 2 at p. 5.

permitted to use for Firm business and to circulate that list to its associated persons semi-annually. The Plan requires the Firm's associated persons to obtain written approval to use digital communication channels not already approved. The Plan prohibits the use of off-channel communications and requires associated persons to semi-annually disclose any unapproved digital communication methods they are using for Firm business; they must also forward any off-channel communications that may have taken place to the Firm for retention purposes. These provisions will help to ensure that the Firm is aware of the communication methods being used by associated persons so that it can appropriately monitor, capture, and retain those communications. Additionally, the Plan mandates that the Firm develop policies and procedures for disciplining associated persons who use unapproved communication methods for Firm business and segregate all certifications, reports, and supporting documentation submitted to the SEC regarding compliance with the undertakings, for ease of review by FINRA staff to ensure ongoing compliance.

The Department is further reassured by the progress the Firm has made on the undertakings required by the SEC. Specifically, the Firm retained a compliance consultant who reviewed the Firm's policies, procedures, and training. The consultant drafted a report of recommendations and submitted it to the SEC.<sup>21</sup>

Following the approval of the Firm's continued membership in FINRA, FINRA also intends to utilize its examination and surveillance processes to monitor the Firm's continued compliance with the standards prescribed by Exchange Act Rule 19h-1 and FINRA Rule 9523.

Thus, FINRA is satisfied, based on the foregoing and on the Firm's representations made pursuant to the Supervision Plan, that the Firm's continued membership in FINRA is consistent with the public interest and does not create an unreasonable risk of harm to the market or investors. Accordingly, FINRA approves Houlihan's Application to continue its membership with FINRA.

In conformity with the provisions of Rule 19h-1 of the Exchange Act, the continued membership of the Firm will become effective within 30 days of the receipt of this Notice by the Commission, unless otherwise notified by the SEC.

On Behalf of FINRA,



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Jennifer Piorko Mitchell  
Vice President, Corporate Governance and  
Deputy Corporate Secretary

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<sup>21</sup> See Exhibit 4 at FINRA page 1.



EXHIBITS  
SD-2366

1. MC-400A Application and related attachments compiled by CRED, with a cover memorandum dated September 14, 2023.
2. SEC Order, *In re Houlihan Lokey Capital, Inc.*, Exchange Act Release No. 98077 (Aug. 8, 2023).
3. *In re Certain Broker-Dealer Practices*, Securities Act Release No. 11221 (Aug. 8 2023).
4. Firm Discovery Response dated February 14, 2024.
5. CRD Excerpt – Organization Registration Status.
6. CRD Excerpts – Types of Business and Other Business Descriptions.
7. Disposition Letter for Examination No. 20220732523 dated May 31, 2023, Examination Report dated March 31, 2023, and Firm Response dated April 17, 2023.
8. Executed Consent to Plan of Heightened Supervision dated March 4, 2024.

## Exhibit A

### Plan of Heightened Supervision

Houlihan Lokey Capital, Inc. (the “Firm”) is subject to statutory disqualification pursuant to Section 3(a)(39)(F) of the Securities Exchange Act of 1934, which incorporates by reference Sections 15(b)(4)(D) & (E), as a result of an order issued by the U.S. Securities and Exchange Commission dated August 8, 2023, which found that the Firm willfully violated Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-4(b)(4) thereunder (“SEC Order”). The SEC Order also found that the Firm failed reasonably to supervise its employees within the meaning of Section 15(b)(4)(E).

In consenting to this Supervision Plan<sup>1</sup> (“Supervision Plan”), the Firm agrees to the following:

1. The Firm shall comply with all the undertakings outlined in the SEC Order.
2. The Firm shall maintain copies of all correspondence between the Firm and Commission staff relating to the SEC Order, including documenting when Commission staff grants extensions to the deadlines set forth in the SEC Order. The Firm shall maintain copies of all such correspondence in a readily accessible place for ease of review by FINRA staff.
3. The Firm shall maintain copies of all reports and supporting documentation submitted to SEC staff in accordance with the SEC Order, as well as any other documentation needed to evidence the status and completion of each of the undertakings outlined in the SEC Order. The Firm shall maintain copies of such documentation in a readily accessible place for ease of review by FINRA staff.
4. The Firm shall provide FINRA’s Statutory Disqualification Group with copies of all certifications submitted to the SEC upon completion of the undertakings as specified under paragraph 34 of the SEC Order.
5. This Supervision Plan shall take effect on the date the Firm executes its consent to this Supervision Plan. The Supervision Plan shall be in effect until FINRA’s receipt of the Firm’s final certifications required by the SEC Order, after which time the Supervision Plan and its provisions thereto will expire.
6. All requested documents and certifications under this Supervision Plan shall be sent directly to FINRA’s Statutory Disqualification Group at [SDMailbox@FINRA.org](mailto:SDMailbox@FINRA.org).
7. The Firm shall obtain written approval from FINRA’s Statutory Disqualification Group prior to changing any provision of the Supervision Plan.
8. The Firm shall submit any proposed changes or other requested information under this Supervision Plan to FINRA’s Statutory Disqualification Group at [SDMailbox@FINRA.org](mailto:SDMailbox@FINRA.org).

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<sup>1</sup> This Supervision Plan supersedes the Firm’s previous Supervision Plan executed on March 4, 2024.