



William B. Heyn
Chief Executive Officer

Tritaurian Capital, Incorporated



November 11, 2020

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: Notice of Proposed Exemptive Order Granting Conditional Exemption from the Broker Registration Requirements of Section 15(a) of the Securities Exchange Act of 1934 for Certain Activities of Finders

Dear Ms. Countryman:

Tritaurian Capital, Incorporated (“Tritaurian” or the “Firm”) is a registered SEC broker-dealer and member of FINRA and SIPC. Tritaurian hereby writes in opposition to the proposed exemptive order for “finders” as proposed by the Securities and Exchange Commission on October 7, 2020.

As a regulated entity, Tritaurian faces constant scrutiny from the regulators. The Firm is reviewed regularly by FINRA through Cycle and other exams. Tritaurian is also further reviewed on case by case basis as FINRA deems necessary. These reviews result in extensive time and costs requirements and Tritaurian absolutely welcomes the scrutiny. The vigilance by the regulators makes the Firm a better practitioner and helps it be sure that it is using best practices to protect the investing public. “Finders” are not subject to any of these rules and regulations. “Finders” are not subject to any of this scrutiny and are effectively free to do and act as they please. Allowing “Finders” to act as if they were registered representatives is a clear danger to the investing public and such an exemptive order would be an abrogation of the duty FINRA and the SEC have to protect the same.

Tritaurian’s primary business is to raise funds for small and medium sized companies and, as such, has a great deal of experience in the relevant sector. This experience includes encountering purported “finders” on a regular basis. While some of these “finders” are honest business people attempting to assist small companies, many tend to be deeply flawed in service to their clients. Their shortcomings range from basic ignorance of securities laws to outright fraud and deception of unsuspecting and unaware companies. The Firm hears repeatedly from clients and potential clients that they have had experiences where “finders” take fees from them to raise money and

deliver absolutely nothing before disappearing. Tritaurian is often contacted by these “finders” directly asking if it can assist them with fund raisings that would clearly violate multiple securities laws. The Firm, just this year, had a “finder” tell a potential client that he was a representative of Tritaurian, when he was, in fact, not registered or employed by the firm in any capacity. Currently, Tritaurian is dealing with a potential client whom asked if they could send the Firm a post dated check, instead of paying an engagement fee upfront, since they have been burned already by several “finders”.

While Tritaurian would never cast aspersions on a broad range of people on a blanket basis, this is an area of business that is absolutely rife with bad actors and wide open for potential fraud and misdoings. The potential for fraud and malfeasance is almost limitless in this particular space as few, if any, of these potential clients are sophisticated and familiar with securities laws or even general financial matters. In fact, Tritaurian is often asked by these potential clients for referrals to reputable accountants and securities law firms. These clients often do not have access to good advisors and are almost never familiar with what needs to be done to raise money in a compliant fashion.

The Firm would argue that situations like this where small, potentially unsophisticated, companies are trying to raise funds are one of the most critically important areas of securities regulations. These small companies are the most vulnerable of the potential clients the Firm see due to their potential lack of sophistication and resources. Large companies have access to teams of advisors, both legal and otherwise, and have the means to seek recourse in the event of a bad act committed against them. Sadly, the small companies can be swindled by a “finder” acting in bad faith, or even simple incompetence, and not have any avenue, or even the financial resources, to seek redress.

This is precisely where the SEC and FINRA are needed the most. While registration as a broker-dealer, or as an individual broker, does have hurdles, these barriers are there for a reason. For example:

1. By becoming a broker-dealer or broker, as firm or individual must have an understanding of securities laws and how to raise money compliantly. This knowledge is required to be updated regularly through the various continuing education programs. A non-registered “finder” has no such requirement and can be, and most often are, completely ignorant of securities rules and regulations.
2. Registered firms and individuals are held responsible for their actions by FINRA and the SEC, and in the event of a bad act, that act is reported publicly and can be accessed by any interested party on BrokerCheck. Small companies would have no ability to avoid being the ninth or tenth company defrauded by a bad actor as they would not be able to find information on previous bad acts.
3. In the event of a bad act by a member, firm or individual, FINRA and the SEC provide an avenue for recourse and remediation. A small company would have no such recourse and might well lack the sophistication or resources to seek redress in the courts, which would be the only avenue open to them against an unregistered “finder”.

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Tritaurian realizes that the process of licensure can be demanding and provides a barrier of entry to a “finder”, many of whom are honest and genuinely trying to assist a client. However, those barriers are there for a reason, the exact reason why FINRA and the SEC exist, to protect the investing public from financial misdeeds.

By enacting this rule change, FINRA and the SEC would be clearly and unequivocally abdicating their roles of protecting the investing public in an area where many of the most vulnerable are to be found. If FINRA and the SEC begin voluntarily surrendering their roles of protecting the investing public where it is most needed, then Tritaurian fails to see any rationale for their continued existence or the necessity for registration of broker-dealers in any instance.

Sincerely,

William B. Heyn