SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104806; File No. SR-FINRA-2025-005]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change, as Modified by Partial Amendment No. 1, to Amend the FINRA Capital Acquisition Broker ("CAB") Rules

February 10, 2026.

I. Introduction

On June 4, 2025, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend certain FINRA capital acquisition broker rules ("CAB Rules"). Specifically, the proposed rule change, as modified by Partial Amendment No. 1, would amend the CAB Rules to: (1) permit capital acquisition brokers ("CABs") to qualify, identify, solicit, or act as placement agents or finders[3] on behalf of an issuer or institutional investor buyer in connection with a sale of newly issued unregistered securities to an expanded scope of institutional investors; (2) permit CABs to qualify, identify, solicit, or act as placement agents or finders in connection with a change of control of a privately held company, regardless of whether the CAB acts on behalf of a seller or a buyer; (3) permit CABs, in limited circumstances, to qualify, identify, solicit, or act as placement agents or finders on behalf of an institutional investor that seeks to sell or buy unregistered securities; (4) permit CAB associated persons to participate in private securities transactions, subject to the requirements of FINRA

---

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 This order may refer to these activities collectively as "acting as a placement agent or finder."

Rule 3280 (Private Securities Transactions of an Associated Person); (5) codify existing FINRA guidance on CAB compensation; and (6) replace a reference to a withdrawn SEC no-action letter with a reference to a corresponding Exchange Act provision.[4]

The proposed rule change was published for comment in the Federal Register on June 16, 2025.[5] The public comment period closed on July 7, 2025. The Commission received comment letters related to this filing.[6] On July 17, 2025, FINRA consented to extend until September 12, 2025, the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[7] On September 11, 2025, the Commission published an order instituting proceedings to determine whether to approve or disapprove the proposed rule change.[8]

On September 24, 2025, FINRA responded to the comment letters received in response to the Notice[9] and filed a partial amendment to the proposed rule change ("Partial Amendment No. 1").[10] On September 26, 2025, the Commission published a notice of filing of Partial

---

4 See Exchange Act Release No. 103216 (Jun. 10, 2025), 90 FR 25396 (Jun. 16, 2025) (File No. SR-FINRA-2025-005) ("Notice"); Exchange Act Release No. 104097 (Sep. 26, 2025), 90 FR 47017 (Sep. 30, 2025) (File No. SR-FINRA-2025-005) ("Notice of Partial Amendment No. 1").

5 See Notice.

6 The comment letters are available at https://www.sec.gov/comments/sr-finra-2025-005/srfinra2025005.htm.

7 See letter from Joseph Savage, Vice President and Associate General Counsel, FINRA (dated Jul. 17, 2025), https://www.finra.org/sites/default/files/2025-07/sr-finra-2025-005-extension1.pdf.

8 Exchange Act Release No. 103945 (Sep. 11, 2025), 90 FR 44747 (Sep. 16, 2025) (File No. SR-FINRA-2025-005) ("OIP").

9 See letter from Lisa Horrigan, Associate General Counsel, FINRA (dated Sep. 24, 2025), https://www.sec.gov/comments/sr-finra-2025-005/srfinra2025005-662647-1977754.pdf ("FINRA Response").

10 Partial Amendment No. 1 is available on FINRA's website at https://www.finra.org/rules-guidance/rule-filings/sr-finra-2025-005.

Amendment No. 1.[11] On December 3, 2025, FINRA consented to an extension of the time period in which the Commission must approve or disapprove the proposed rule change to February 11, 2026.[12] This order approves the proposed rule change, as modified by Partial Amendment No. 1 (hereinafter, the "proposed rule change" unless otherwise specified).

II. Description of the Proposed Rule Change

A. Background

FINRA adopted the CAB Rules in 2017 to provide a tailored regulatory framework for member firms (hereinafter, "members" or "member firms") that elect CAB status.[13] FINRA member firms eligible for CAB status are generally those that limit their activities to acting as placement agents for the sale of unregistered securities to institutional investors, acting as intermediaries in connection with the change of control of privately held companies, and advising companies and private equity funds on capital raising and corporate restructuring.[14] CABs are not permitted to engage in broader broker-dealer activities, such as accepting customers' trading orders, carrying customer accounts, handling customers' funds or securities, or engaging in proprietary trading or market-making.[15] In light of the limitations on CABs' functions, the CAB Rules impose "fewer restrictions" and "less extensive supervisory requirements" on CABs as compared to the FINRA rules applicable to non-CAB member

---

11 Notice of Partial Amendment No. 1.

12 See letter from Joseph Savage, Vice President and Associate General Counsel, FINRA (dated Dec. 3, 2025), https://www.finra.org/sites/default/files/2025-12/SR-FINRA-2025-005-Extension-2.pdf.

13 Notice at 25397.

14 Id. at 25396; see also CAB Rule 016(c) (identifying the limited functions of a CAB).

15 Notice at 25396 (citing CAB Rule 016(c)(2)).

firms.[16] FINRA stated that 44 member firms elected CAB status in 2017, and as of the end of 2024, that number had grown to 65 member firms.[17]

B. The Proposed Rule Change

FINRA stated that it "determined to amend the CAB Rules as part of its efforts to ensure that FINRA rules are effective and efficient, and its rules relating to the capital-raising process support efficient capital formation."[18] Based on its experience with implementing the CAB Rules, engagement with member firms,[19] and the subsequent adoption of Regulation Best Interest[20] and Form CRS,[21] FINRA stated that the current CAB Rules include limitations on CABs' activities that may be unnecessarily restrictive and have unintended consequences.[22]

For example, FINRA stated that, notwithstanding a growth in unregistered securities offerings in recent years, it believes that registered broker-dealers, such as CABs, participate in only a fraction of such offerings.[23] FINRA stated that issuers and intermediaries that are not registered as broker-dealers conduct the rest of these private placements, and for that reason,

---

16 Id. at 25396.

17 Id.

18 Id. at 25398.

19 In 2017, for example, FINRA created the Capital Acquisition and Placement Broker Committee, which comprised of both individuals registered with CABs and individuals registered with non-CAB broker-dealers with similar business models, to make recommendations about policies and rules that impact CABs and non-CABs with similar business models. Notice at 25398. In 2020, FINRA also published a regulatory notice to solicit comment on multiple proposed amendments "to make [the CAB Rules] more useful to CABs without reducing investor protection." FINRA Reg. Notice 20-04 at 1 (Jan. 30, 2020), https://www.finra.org/sites/default/files/2020-01/Regulatory-Notice-20-04.pdf; see Notice at 25398.

20 See Exchange Act Rule 15l-1, 17 CFR 240.15l-1.

21 See Exchange Act Rule 17a-14, 17 CFR 240.17a-14.

22 Notice at 25398.

23 Id. at 25397-98.

investors lack the benefits associated with broker-dealer regulation and oversight in these transactions.[24]

FINRA stated that the proposed rule change may encourage non-CAB members and firms that are eligible for an exemption from broker-dealer registration "to elect CAB status, thereby benefitting these firms and investors alike."[25] FINRA stated that the proposed rule change would address certain limitations in multiple CAB Rules,[26] as well as codify existing FINRA guidance on CAB compensation[27] and update rule text to reflect a subsequent Exchange Act amendment.[28] This order addresses each proposed rule change in turn.

1. Sales of Newly Issued Unregistered Securities

The CAB Rules currently permit a CAB to, among other things, qualify, identify, solicit, or act as a placement agent or finder on behalf of an issuer in connection with the sale of newly issued, unregistered securities to institutional investors.[29] The proposed rule change would broaden these permissible activities in two ways.

First, the proposed rule change would expand the definition of institutional investor for purposes of the CAB Rules.[30] The proposed rule change would add "eligible employee" to the list[31] of persons and entities that qualify as an "institutional investor" for purposes of the CAB

---

24 Id. at 25398.

25 Id.

26 Id. at 25398-25403.

27 Id. at 25403.

28 Id.

29 CAB Rule 016(c)(1)(F)(i).

30 Notice at 25399.

31 CAB Rule 016(i) defines "institutional investor" as any: "(1) bank, savings and loan association, insurance company or registered investment company; (2) governmental entity or subdivision thereof; (3) employee benefit plan, or multiple employee benefit plans offered to employees of the same employer, that meet the requirements of Section 403(b) or Section 457 of the Internal Revenue Code and in the aggregate have at

Rules.[32] Under the proposed rule change, an "eligible employee" would mean, "with respect to an issuer for which the [CAB] has provided services to the issuer or a person that controls the issuer[33] permitted under [CAB Rule 016(c)(1)(F) or (G)]": (1) "any 'Knowledgeable Employee,' as defined in Investment Company Act Rule 3c-5 ("Rule 3c-5")[34] with respect to services provided to an issuer that is a Covered Company as defined in Rule 3c-5[35] or services provided

---

least 100 participants, but does not include any participant of such plans; (4) qualified plan, as defined in Section 3(a)(12)(C) of the Exchange Act, or multiple qualified plans offered to employees of the same employer, that in the aggregate have at least 100 participants, but does not include any participant of such plans; (5) other person (whether a natural person, corporation, partnership, trust, family office or otherwise) with total assets of at least $50 million; (6) person meeting the definition of 'qualified purchaser' as that term is defined in Section 2(a)(51) of the Investment Company Act of 1940; and (7) any person acting solely on behalf of any such institutional investor."

32 Notice at 25399; see Proposed CAB Rules 016(i)(8), 016(m). The proposed rule change would also make two technical amendments to CAB Rule 016(i): (1) it would remove a duplicate "any" in CAB Rule 016(i)(7); and (2) it would relocate the word "and" to appear before the new, eighth item on the definition's list. Notice at 25401 n.44.

33 As originally proposed in the Notice, proposed CAB Rule 016(m) would have defined "eligible employee" "with respect to an issuer for which the capital acquisition broker has provided services to the issuer or *a control person* permitted under subparagraphs (F) or (G) of Rule 016(c)(1)." Id. at 25399-25400 & Exhibit 5 (emphasis added). Partial Amendment No. 1 would delete the term "control person" in proposed CAB Rule 016(c)(1)(F)(ii), and it would replace "control person" with "person that controls the issuer" in proposed CAB Rule 016(m). Notice of Partial Amendment No. 1 at 47020.

34 Rule 3c-5 defines "Knowledgeable Employee" as any natural person, with respect to a Covered Company, who is: "(i) [a]n Executive Officer, director, trustee, general partner, advisory board member, or person serving in a similar capacity, of the Covered Company or an Affiliated Management Person of the Covered Company; or (ii) [a]n employee of the Covered Company or an Affiliated Management Person of the Covered Company (other than an employee performing solely clerical, secretarial or administrative functions with regard to such company or its investments) who, in connection with his or her regular functions or duties, participates in the investment activities of such Covered Company, other Covered Companies, or investment companies the investment activities of which are managed by such Affiliated Management Person of the Covered Company, *provided that* such employee has been performing such functions and duties for or on behalf of the Covered Company or the Affiliated Management Person of the Covered Company, or substantially similar functions or duties for or on behalf of another company for at least 12 months." 17 CFR 270.3c-5(a)(4) (emphasis in original).

35 Rule 3c-5 defines a "Covered Company" as any company that would be an investment company but for the exclusion provided by Investment Company Act Section 3(c)(1) or 3(c)(7). 17 CFR 270.3c-5(a)(2), (a)(5) and (a)(6). Investment Company Act Section 3(c)(1) generally excludes from the definition of "investment company" "[a]ny issuer whose outstanding securities . . . are beneficially owned by not more than one hundred persons . . . and which is not making and does not presently propose to make a public offering of its securities" (hereinafter, "Section 3(c)(1) fund"). 15 U.S.C. 80a-3(c)(1). Investment Company Act Section 3(c)(7) generally excludes from the definition of "investment company" "[a]ny issuer, the outstanding securities of which are owned exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers, and which is not making and does not at that time propose to make a public offering of such securities" (hereinafter, "Section 3(c)(7) fund"). 15 U.S.C. 80a-3(c)(7). For

to an Affiliated Management Person[36] of such Covered Company as defined in Rule 3c-5"; and (2) "the president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions, director, trustee, general partner, advisory board member, or person serving in a similar capacity, of an issuer that is not a Covered Company as defined in Rule 3c-5."[37]

FINRA stated that the CAB Rules' current definition of "institutional investor" includes qualified purchasers, as defined in the Investment Company Act, but does not include Knowledgeable Employees.[38] FINRA stated that Rule 3c-5 "permits Knowledgeable Employees of private funds and certain of their affiliates to invest in such funds to the same extent as other qualified purchasers, even if an employee does not fall within" the "qualified purchaser" definition.[39] FINRA further stated that including Knowledgeable Employees within the scope of "eligible employee" would align the scope of persons to whom a CAB may sell private fund securities under the CAB Rules with the scope of investors permitted to invest in Section 3(c)(7) funds.[40]

---

purposes of determining the number of beneficial owners of a Section 3(c)(1) fund and whether the outstanding securities of a Section 3(c)(7) fund are "owned exclusively by qualified purchasers," Rule 3c-5 excludes any securities beneficially owned by a "person who at the time such securities were acquired was a Knowledgeable Employee" of such fund. 17 CFR 270.3c-5(b)(1).

36 Rule 3c-5 defines "Affiliated Management Person" as "an affiliated person, as such term is defined in section 2(a)(3) of the [Investment Company Act], that manages the investment activities of a Covered Company." 17 CFR 270.3c-5(a)(1).

37 Proposed CAB Rule 016(i)(8), 016(m).

38 Notice at 25400; CAB Rule 016(i). The term "qualified purchaser" includes, among others, any natural person, family-owned company or specified trust that owns not less than $5,000,000 in investments, and any person, acting for its own account or the accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than $25,000,000 in investments. See 15 U.S.C. 80a-2(a)(51).

39 Notice at 25400; see 17 CFR 270.3c-5(b).

40 Notice at 25400.

In addition, FINRA stated that expanding the definition of institutional investor to include certain specified officers, directors, or employees of an issuer that is not a Covered Company would permit CABs "to act as a placement agent or finder in connection with sales to persons who hold similar positions to Knowledgeable Employees at issuers that are not private funds."[41] FINRA further stated that "it is common for officers, directors, and other employees of issuers that are not private funds to invest in those companies' securities, either through stock options that are paid to such persons as compensation or as part of a private offering of securities."[42]

FINRA also stated that the proposed expansion of the definition of "institutional investor" to include "eligible employees" "will not materially impact investor protection" and is "consistent with CABs' limited institutional business model" because "'eligible employees' do not raise the same investor protection concerns as retail investors."[43] Specifically, FINRA stated that eligible employees "are likely to understand and appreciate any risks and limitations associated with investing in the issuer's securities" and that they "likely have the expertise and knowledge about the issuer, and the resources to retain counsel and financial advisers, if necessary, to evaluate a potential investment."[44] FINRA also stated that, to the extent a CAB offers services or recommends a securities transaction to an eligible employee who qualifies as a

41 Id.

42 Id.

43 Id. at 25399-25400. The CAB Rules do not define "retail investor." Notice at 25398 n.27. For purposes of this Order, and unless otherwise stated, a "retail investor" is any investor that does not qualify as an "institutional investor" under the CAB Rules. See id.

44 Id. at 25400.

retail customer under Regulation Best Interest or a retail investor for purposes of Form CRS, those investor protections would apply.[45]

Second, the proposed rule change would provide that a CAB may represent "an issuer *or institutional investor buyer* in connection with a sale of [newly issued], unregistered securities to institutional investors."[46] CAB Rule 016(c)(1)(F)(i) currently limits a CAB to the representation of issuers in such transactions. FINRA stated that "allowing a CAB also to act on behalf of an institutional investor buyer in connection with the sale of newly issued unregistered securities is consistent with CABs' limited institutional business model and would not materially impact investor protection."[47]

2. Change-of-Control Transactions

The CAB Rules currently permit a CAB to, among other things, qualify, identify, solicit, or act as a placement agent or finder "on behalf of an issuer or a control person in connection with a change of control of a privately held company."[48]

FINRA stated that CAB Rule 016(c)(1)(F)(ii) was, in part, modeled on the 2014 SEC staff-issued no-action letter relating to merger and acquisition brokers ("M&A Brokers") (the "M&A Brokers Letter").[49] In 2022, Congress amended the Exchange Act to include a new registration exemption (the "M&A Brokers Exemption") for M&A Brokers, as defined in the

---

45 Id. at 25400-01.

46 Proposed CAB Rule 016(c)(1)(F)(i) (emphasis added); see Notice of Partial Amendment No. 1.

47 Notice of Partial Amendment No. 1 at 47018.

48 CAB Rule 016(c)(1)(F)(ii).

49 See letter from David Blass, Chief Counsel and Associate Director, Division of Trading and Markets, Securities and Exchange Commission (dated Jan. 31, 2014), https://www.sec.gov/divisions/marketreg/mr-noaction/2014/ma-brokers-.pdf (stating that the staff would not recommend enforcement action to the Commission under Section 15(a) of the Exchange Act if, under certain specified circumstances, an M&A Broker, as defined in the no-action letter, were to effect securities transactions solely in connection with the transfer of ownership of a privately held company without registering as a broker-dealer).

statute, that provides relief similar to that in the M&A Brokers Letter.[50] Upon effectiveness of the statutory exemption, SEC staff withdrew the M&A Brokers Letter.[51] In light of differences between CAB Rule 016(c)(1)(F)(ii) and the M&A Brokers Exemption, FINRA proposed changes, as described below, to "more closely align" CAB Rule 016(c)(1)(F)(ii) and the M&A Brokers Exemption.[52] FINRA stated that these changes are appropriate because CAB Rule 016(c)(1)(F)(ii) overlaps with CAB Rule 016(c)(1)(G), which "permits CABs to engage in merger and acquisition transactions to the same extent as exempt broker-dealers under the M&A Brokers Exemption."[53] For this reason, FINRA stated that CAB Rule 016(c)(1)(F)(ii) "should more closely align with the terms and conditions of the M&A Brokers Exemption to avoid having potentially confusing or conflicting requirements under the CAB Rules."[54]

First, CAB Rule 016(c)(1)(F)(ii) only permits a CAB to act on behalf of an issuer or control person in connection with a change of control of a privately held company.[55] The M&A Brokers Exemption, however, does not refer to a "control person"; instead, it uses the defined term "control."[56] The M&A Brokers Exemption also permits an M&A Broker to "represent both buyers and sellers, and to the extent the M&A [B]roker represents both the buyer and seller in the same transaction, the M&A [B]roker must provide clear written disclosure as to the parties it

---

50 15 U.S.C. 78o(b)(13); see Notice at 25403; Notice of Partial Amendment No. 1 at 47019.

51 See letter from Emily Westerberg Russell, Chief Counsel and Associate Director, Division of Trading and Markets, Securities and Exchange Commission (dated Mar. 29, 2023), https://www.sec.gov/divisions/marketreg/mr-noaction/2014/ma-brokers-013114.pdf.

52 Notice of Partial Amendment No. 1 at 47019.

53 Id.

54 Id.

55 Id.; CAB Rule 016(c)(1)(F)(ii). FINRA also stated that this proposed rule change is appropriate for "similar reasons" to those offered for the proposed changes to permit CABs to represent buyers—in addition to issuers or sellers—in connection with a sale of newly issued, unregistered securities and in secondary market transactions. Notice of Partial Amendment No. 1 at 47019.

56 Notice of Partial Amendment No. 1 at 47019; see 15 U.S.C. 78o(b)(13)(E)(ii) (defining "M&A Broker"), (b)(13)(iv)(I)(aa) (defining "control").

represents and obtain written consent from both parties to the joint representation."[57] To address these differences, the proposed rule change would eliminate the reference to "control person" and, consistent with the definition of "control" in the M&A Brokers Exemption,[58] define "control" as "the power, *directly or indirectly*, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise."[59] In addition, the proposed rule change would provide that a CAB may qualify, identify, solicit, or act as a placement agent or finder in connection with a change of control of a privately held company, *regardless of whether the CAB acts on behalf of a seller or buyer*.[60] FINRA stated that a CAB "should be permitted to represent both the buyer and seller in a transaction involving a change of control of a privately held company."[61] Because "such joint representation could present conflicts of interest for the CAB," the proposed rule change also would provide that a CAB "may represent both the buyer and the seller in the same transaction under [CAB Rule 016(c)(1)(F)(ii)] after providing clear written disclosure as to the parties the [CAB] represents and obtaining written consent from both parties to the joint representation."[62] FINRA stated that this proposed

---

57 Notice of Partial Amendment No. 1 at 47019; see 15 U.S.C. 78o(b)(13)(B)(vi) (The exemption does not apply to a broker that "[r]epresents both the buyer and the seller in the same transaction without providing clear written disclosure as to the parties the broker represents and obtaining written consent from both parties to the joint representation.").

58 The M&A Brokers Exemption defines "control" as "the power, *directly or indirectly*, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise." Notice of Partial Amendment No. 1 at 47019 (emphasis in original); see 15 U.S.C. 78o(b)(13)(E)(ii).

59 Proposed CAB Rule 016(c)(1)(F)(ii)a. (emphasis added); see Notice of Partial Amendment No. 1 at 47019. The proposed rule change would relocate the definition of "control" to new subparagraph a. of Proposed CAB Rule 016(c)(1)(F)(ii). Notice at 47019 n.17.

60 Proposed CAB Rule 016(c)(1)(F)(ii) (emphasis added); see Notice of Partial Amendment No. 1 at 47019.

61 Notice of Partial Amendment No. 1 at 47019.

62 Id.; Proposed CAB Rule 016(c)(1)(F)(ii)b.

rule text mirrors similar language in the M&A Brokers Exemption, which "addresses the same potential conflicts of interest . . . and imposes the same disclosure and consent requirements."[63]

Second, CAB Rule 016(c)(1)(F) creates a presumption of control based on circumstances as they exist prior to a transaction.[64] The M&A Brokers Exemption, however, "consider[s] whether control exists *upon completion of the transaction*."[65] To address this difference, the proposed rule change would provide that "[c]ontrol will be presumed to exist if, upon completion of the transaction, the buyer or group of buyers[66] has the right to vote or the power to sell or direct the sale of 25% or more of a class of voting securities or in the case of a partnership or limited liability company has the right to receive upon dissolution or has contributed 25% or more of the capital."[67]

3. Secondary Transactions

The CAB Rules currently prohibit a CAB from acting as a placement agent or finder "in connection with secondary transactions involving unregistered securities, except when the transaction is in connection with the change of ownership or control of a [privately held] company."[68] The proposed rule change would broaden the circumstances in which a CAB could

---

63 Notice of Partial Amendment No. 1 at 47019; see 15 U.S.C. 78o(b)(13)(B)(vi).

64 CAB Rule 016(c)(1)(F) ("Control will be presumed to exist if, *before the transaction*, the person has the right to vote or the power to sell or direct the sale of 25% or more of a class of voting securities or in the case of a partnership or limited liability company has the right to receive upon dissolution or has contributed 25% or more of the capital." (emphasis added)).

65 Notice at 47019 (emphasis in original); see 15 U.S.C. 78o(b)(13)(E)(ii).

66 As stated above, the proposed rule change would eliminate the defined term "control person" and replace it with the defined term "control," consistent with the M&A Brokers Exemption. Proposed CAB Rule 016(c)(1)(F)(ii)a. With the elimination of the term "control person," the proposed rule change would make a corresponding amendment to replace "person" with "buyer or group of buyers," consistent with the M&A Brokers Exemption. Id.; see 15 U.S.C. 78o(b)(13)(E)(ii).

67 Proposed CAB 016(c)(1)(F)(ii)a.

68 Notice at 25401.

participate in a secondary transaction.[69] Specifically, the proposed rule change would permit CABs to qualify, identify, solicit, or act as a placement agent or finder on behalf of an institutional investor that seeks to sell or buy unregistered securities, "provided that: (i) the seller and buyer[70] of such securities are both institutional investors; and (ii) the sale of such securities qualifies for an exemption from registration under the Securities Act."[71]

FINRA stated that this proposed rule change is "appropriately tailored to allow CABs to offer a wider range of services to their clients while remaining consistent with the purpose of the CAB Rules and CABs' limited institutional business model."[72] Specifically, FINRA stated that CABs would only be permitted to act as an intermediary with respect to such transactions where both the buyer and seller are institutional investors.[73] This limitation, FINRA stated, "would help mitigate any concerns that CABs would be acting as a placement agent or finder in connection with the secondary sale of unregistered securities to individuals who lack the knowledge and expertise to understand the risks and limitations of such securities or lack the resources to employ a person with such knowledge and expertise."[74] FINRA also stated that Regulation Best Interest, Form CRS, and CAB Rule 211 (Suitability) offer additional layers of investor protection to the extent a CAB participates in a secondary transaction in circumstances

---

69 See id.

70 As originally proposed in the Notice, the proposed rule change would have used the term "purchaser" in proposed CAB Rule 016(c)(1)(H)(i). See Notice at 25401 & Exhibit 5. FINRA stated that Partial Amendment No. 1 would replace "purchaser" with "buyer" to promote consistency throughout proposed CAB Rule 016(c). Notice of Partial Amendment No. 1 at 47019 n.11.

71 Proposed CAB Rule 016(c)(1)(H).

72 Notice at 25401; see Notice of Partial Amendment No. 1 at 47018.

73 Notice at 25401. As stated above, the proposed rule change would expand the definition of "institutional investor" to include "eligible employees." Id; see supra Part II(B)(1).

74 Notice at 25401.

that would trigger the application of these rules.[75] FINRA also stated that "CABs still would be subject to CAB [R]ules prohibiting any communication concerning the unregistered securities or the CAB's services from including false, exaggerated, unwarranted, promissory or misleading statement[s] or claim[s]."[76] In addition, FINRA stated that "CABs would still be subject to FINRA's core supervisory requirements, and would be subject to FINRA rules restricting borrowing from or lending to customers."[77]

4. Private Securities Transactions

CAB Rule 328 currently prohibits any person associated with a CAB from participating in any manner in a private securities transaction, which is defined as "any securities transaction outside the regular course or scope of an associated person's employment with a member, including, though not limited to, new offerings of securities which are not registered with the Commission."[78] In contrast, FINRA Rule 3280 permits associated persons of non-CAB member firms to participate in private securities transactions, so long as they comply with certain obligations.[79] The proposed rule change would eliminate the prohibition for CABs, and it would permit associated persons of CABs to participate in private securities transactions to the same extent as associated persons of non-CAB member firms, subject to compliance with FINRA Rule 3280.[80]

---

75 See id.

76 Id. (citing CAB Rule 221).

77 Id. (citing CAB Rules 311, 324).

78 CAB Rule 328 (cross-referencing FINRA Rule 3280(e) for the definition of a private securities transaction). The definition of private securities transactions also excludes the following: "transactions subject to the notification requirements of Rule 3210, transactions among immediate family members (as defined in FINRA Rule 5130), for which no associated person receives any selling compensation, and personal transactions in investment company and variable annuity securities." FINRA Rule 3280(e)(1).

79 FINRA Rule 3280. FINRA Rule 3280 imposes certain notice, approval, and supervision requirements where an associated person of a FINRA member firm seeks to participate in a private securities transaction.

80 Proposed CAB Rule 328.

FINRA stated that, at the time it adopted the CAB Rules in 2017, it "believed that an associated person of a CAB should not be engaged in selling securities away from the CAB[,] and a CAB should not have to oversee and review such transactions, given its limited business model."[81] However, FINRA stated that it now believes it is "appropriate to amend the CAB Rules to permit [private securities transactions] to remedy the challenges and unintended consequences presented by the original prohibition."[82] Specifically, FINRA stated that the prohibition's impact on CABs and firms that might have otherwise considered registering with FINRA as a CAB was not intended at the time the CAB Rules were adopted, and that it is unnecessarily restrictive.[83] For example, FINRA stated that some firms have declined to elect CAB status because of the "inability of their associated persons to act as supervised persons of registered investment advisers ('RIAs') if they participate in private securities transactions."[84]

Further, FINRA stated that expanding the range of activities in which CABs can participate may help support capital formation without materially impacting investor protection.[85] Specifically, FINRA stated that although this proposed rule change would expand the scope of permissible activities for CABs and their associated persons, it also would expand the CAB's related supervisory responsibilities regarding those permissible activities.[86] In particular, where the CAB approves its associated person's participation in a transaction for which the person will receive selling compensation, the CAB would be required to record the transaction on its books and records and supervise the person's participation in the transaction as

---

81 Notice at 25402.

82 Id.

83 Id.

84 Id.

85 Id.

86 Id.

if the transaction were executed on behalf of the member.[87] Thus, the proposed rule change would require both CABs and non-CAB member firms to adhere to "the same risk controls and compliance procedures" related to private securities transactions.[88]

5. Compensation

The CAB Rules do not currently address whether a CAB may receive equity securities as compensation for its services.[89] In 2019, FINRA issued an interpretative letter indicating that "CABs may be compensated in the form of securities issued by a privately held CAB client, rather than in cash, provided that the receipt, exercise or subsequent sale of such securities will not cause the CAB to engage in activities prohibited under CAB Rule 016(c)(2) (Definitions)."[90] The proposed rule change would codify this interpretation, permitting a CAB to receive compensation in the form of equity securities of a privately held issuer on behalf of which the CAB provided services permitted under Rule 016(c)(1),[91] provided that the receipt, exercise or subsequent sale of such securities will not cause the CAB to engage in any activity prohibited under CAB Rule 016(c)(2).[92]

---

87 Id.; see FINRA Rule 3280(c).

88 Notice at 25402.

89 Letter from Joseph P. Savage, FINRA, to Jonathan D. Wiley, The Forbes Securities Group (dated May 30, 2019) ("Forbes Letter"), https://www.finra.org/rules-guidance/guidance/interpretive-letters/jonathan-d-wiley-forbes-securities-group; see Notice at 25403.

90 Notice at 25403; see Forbes Letter, supra note 89.

91 As originally proposed in the Notice, the proposed rule change would have referred to "paragraphs (c)(1) of Rule 016." Notice at 25403 & Exhibit 5. FINRA stated that Partial Amendment No. 1 would replace "paragraphs (c)(1) of Rule 016" with "Rule 016(c)(1)" to "correct the inadvertent plural form used in the original proposed text" and promote consistency with the subsequent reference to a proposed rule in the same sentence. Notice of Partial Amendment No. 1 at 47020.

92 Proposed CAB Rule 511.

6. M&A Brokers Exemption

CAB Rule 016(c)(1)(G) currently permits a CAB to "effect[] securities transactions solely in connection with the transfer of ownership and control of a [privately held] company through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the company, to a buyer that will actively operate the company or the business conducted with the assets of the company, *in accordance with the terms and conditions of an SEC rule, release, interpretation or 'no-action' letter* that permits a person to engage in such activities without having to register as a broker or dealer pursuant to Section 15(b) of the Exchange Act."[93] FINRA stated that this rule was designed to "allow CABs to engage in merger and acquisition activities to the same extent as unregistered persons who were relying on the M&A Brokers Letter"[94] before it was superseded by the M&A Brokers Exemption.[95]

The proposed rule change would update CAB Rule 016(c)(1)(G) to reflect the subsequent promulgation of the M&A Brokers Exemption.[96] Specifically, the proposed rule change would permit a CAB to "effect[] securities transactions solely in connection with the transfer of ownership and control of a [privately held] company through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the company, to a buyer that will actively operate the company or the business conducted with the assets of the company, in accordance with the terms and conditions of *Section 15(b)(13) of the Exchange Act or any provision of* an SEC rule, release, interpretation or 'no-action' letter that

---

93 CAB Rule 016(c)(1)(G) (emphasis added).

94 Notice at 25403; see M&A Brokers Letter, supra note 49.

95 See supra Part II(B)(2).

96 See Notice at 25403.

permits a person to engage in *the same or materially similar* activities without having to register as a broker or dealer pursuant to Section 15(b) of the Exchange Act."[97] FINRA stated that this proposed rule change would clarify that CABs may effect M&A transactions to the same extent as an exempt M&A Broker under the M&A Brokers Exemption.[98]

III. Discussion and Commission Findings

After careful review of the proposed rule change, the comment letters, and FINRA's response to the comments, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities association.[99] As discussed in more detail below, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[100]

A. Sales of Newly Issued Unregistered Securities

As noted above, the CAB Rules currently permit a CAB to, among other things, qualify, identify, solicit, or act as a placement agent or finder on behalf of an issuer in connection with a sale of newly issued, unregistered securities to institutional investors.[101] As originally proposed, the proposed rule change would have broadened this permissible activity by expanding the definition of institutional investor to include any "eligible employee," as defined in proposed

---

97 Proposed CAB Rule 016(c)(1)(G) (emphasis added).

98 Notice at 25403.

99 In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

100 15 U.S.C. 78o-3(b)(6).

101 CAB Rule 016(c)(1)(F)(i).

CAB Rule 016(m).[102] Under the proposed rule change, an "eligible employee" would mean: (1) any Knowledgeable Employee, as defined in Rule 3c-5, with respect to services provided to an issuer that is a Covered Company as defined in Rule 3c-5 or services provided to an Affiliated Management Person of such Covered Company as defined in Rule 3c-5; and (2) the president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions, director, trustee, general partner, advisory board member, or person serving in a similar capacity, of an issuer that is not a Covered Company as defined in Rule 3c-5.[103]

Commenters generally supported the proposed rule change.[104] One of these commenters, however, recommended that FINRA provide interpretive guidance or amend the proposed rule change to clarify that a CAB may—in addition to acting as a placement agent or finder on behalf of an issuer—also act as a placement agent or finder on behalf of an institutional investor buyer.[105] This commenter stated that FINRA's historical statements about CAB Rule 016(c)(1)(F) do not include any "policy rationale for limiting CABs to one side of primary

---

102 Notice at 25399 & Exhibit 5; see Proposed CAB Rules 016(i)(8), 016(m).

103 Proposed CAB Rule 016(m).

104 Letter from the Managing Director, Egwele & Company, dated Jun. 14, 2025, https://www.sec.gov/comments/sr-finra-2025-005/srfinra2025005-613087-1796094.html ("Egwele Letter") (stating that it fully supports the proposed rule change and sees several benefits, including the opportunity to generate new business and the ability to better retain and attract talent); letter from Jeffrey L Robins, Debevoise & Plimpton LLP, dated July 7, 2025, https://www.sec.gov/comments/sr-finra-2025-005/srfinra2025005-621228-1824474.pdf ("Debevoise Letter") (stating that it and its client "strongly support" the proposed rule change, agreeing that it would make the CAB Rules more useful); see letter from Matthew Hoffman, Chief Compliance Officer, Cascadia Capital, LLC, dated Dec. 10, 2025, https://www.sec.gov/comments/sr-finra-2025-005/srfinra2025005-2113354.htm ("Cascadia Letter") (expressing support for amendments to CAB Rule 328 without offering a specific position on the rest of the proposed rule change).

105 Debevoise Letter at 1-2.

[private-placement] transactions or a specific intent to do so."[106] In addition, this commenter stated that "there is no material investor protection or other policy rationale for limiting CABs to acting as agent on the issuer / seller side of the market for institutional investor private placements."[107]

In response, FINRA agreed and stated that "allowing a CAB also to act on behalf of an institutional investor buyer in connection with the sale of newly issued unregistered securities is consistent with CABs' limited institutional business model and would not materially impact investor protection."[108] For this reason, FINRA amended the proposed rule change "to allow CABs to represent institutional investor buyers in connection with sales of [newly issued] unregistered securities."[109] Specifically, the proposed rule change, as modified by Partial Amendment No. 1, would provide that a CAB may qualify, identify, solicit, or act as a placement agent or finder on behalf of an issuer *or institutional investor buyer* in connection with a sale of newly issued, unregistered securities to institutional investors.[110]

No commenters directly addressed Partial Amendment No. 1.

The proposed expansion of the definition of "institutional investor" to include any "eligible employee," as defined in proposed CAB Rule 016(m), is reasonably designed to provide a limited expansion of the scope of permissible CAB activities without materially impacting investor protection. As discussed above, the proposed expansion of the term "institutional investor" to include such eligible employees is reasonable because they are likely

---

106 Id.

107 Id. at 3.

108 Notice of Partial Amendment No.1 at 47018.

109 FINRA Response at 3.

110 Proposed CAB Rule 016(c)(1)(F)(i).

to understand and appreciate any risks and limitations associated with investing in the issuer's securities and are likely have expertise and knowledge about the issuer.

In addition, the proposed expansion to permit CABs to represent an institutional investor buyer in connection with the sale of newly issued, unregistered securities is reasonably designed to expand the scope of permissible CAB activities without materially impacting investor protection. It is reasonable for FINRA to conclude that there is no policy reason to limit CABs to the representation of issuers in sales of newly issued, unregistered securities to institutional investors. Institutional investors are likely to have the expertise or resources necessary to understand and appreciate the risks and limitations associated with private-placement investments. In addition, Regulation Best Interest, Form CRS, and CAB Rule 211 (Suitability) help to ensure investor protection to the extent a CAB participates in a transaction in circumstances that would trigger the application of these rules.

For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Change-of-Control Transactions

The proposed rule change would amend CAB Rule 016(c)(1)(F)(ii) to provide that a CAB may qualify, identify, solicit, or act as a placement agent or finder in connection with a change of control of a privately held company, *regardless of whether the CAB acts on behalf of a seller or buyer*.[111] The proposed rule change would also permit joint representation of both a buyer and a seller in connection with a change of control of a privately held company, subject to

[111] Proposed CAB Rule 016(c)(1)(F)(ii).

a disclosure and consent requirement;[112] modify the definition of "control";[113] and modify the presumption for the existence of control.[114] FINRA stated that the proposed changes are "consistent with CABs' limited institutional business model and would not materially impact investor protection."[115] FINRA also stated that it proposed both modifications to "more closely align" CAB Rule 016(c)(1)(F)(ii) and the M&A Brokers Exemption "to avoid having potentially confusing or conflicting requirements under the CAB Rules."[116]

No commenters directly addressed this proposed rule change.

The proposed rule change is reasonably designed to promote consistency among related regulatory obligations and to provide investor protection in the context of CABs' limited activities and their associated tailored regulatory regime. Because CAB Rule 016(c)(1)(F)(ii) addresses transactions similar to those permitted under CAB Rule 016(c)(1)(G) and the M&A Brokers Exemption, the proposed rule change's modifications would help to promote consistency of terminology, scope, and obligations among these related provisions. Specifically, the proposed rule change would align CAB Rule 016(c)(1)(F)(ii) with the M&A Brokers Exemption by: (1) permitting CABs to represent both the buyer and seller in connection with a change of control of a privately held company; and (2) adopting the M&A Brokers Exemption's definition of "control," presumption of control, and disclosure and consent requirement for any joint representation. For these reasons, the proposed rule change is reasonably designed to

---

112 Proposed CAB Rule 016(c)(1)(F)(ii)b.

113 Proposed CAB Rule 016(c)(1)(F)(ii)a.

114 Id.

115 Notice of Partial Amendment No. 1 at 47019-20; see FINRA Response at 3.

116 Notice of Partial Amendment No. 1 at 47019.

prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

C. Secondary Transactions

As originally proposed in the Notice, the proposed rule change would have permitted CABs to qualify, identify, solicit, or act as a placement agent or finder on behalf of an institutional investor that seeks to sell unregistered securities that it owns, provided that: (1) the purchaser of such securities is an institutional investor; and (2) the sale of such securities qualifies for an exemption from registration under the Securities Act.[117]

Commenters generally supported the proposed rule change.[118] One of these commenters recommended that FINRA issue interpretive guidance or amend the proposed rule change to provide that a CAB may—in addition to acting as a placement agent or finder on behalf of an issuer—also act as a placement agent or finder on behalf of an institutional investor buyer.[119] Specifically, this commenter stated that "it would be consistent with the amended definition of 'capital acquisition broker' for a CAB to act as a [private-placement] agent or finder in connection with the sale of . . . securities by an institutional investor to another institutional investor . . . where [] the CAB is engaged as the agent of an institutional investor acting as buyer to find and/or solicit potential issuers or institutional investor sellers."[120] This commenter stated that FINRA's articulated basis for the proposed rule change does not justify a limitation to institutional investor sellers.[121] For that reason, this commenter stated that this limitation

---

117 See Notice at 25401 & Exhibit 5.

118 Egwele Letter; Debevoise Letter; Cascadia Letter.

119 Debevoise Letter at 1-2.

120 Id.

121 Id. at 3.

appears "both unnecessary and potentially unintentional."[122] In addition, this commenter stated that "there is no material investor protection or other policy rationale for limiting CABs to acting as agent on the issuer/seller side of the market for institutional investor private placements."[123]

In response, FINRA stated that it agrees that "allowing a CAB also to act on behalf of an institutional investor buyer in connection with secondary transactions of unregistered securities is consistent with CABs' limited institutional business model and would not materially impact investor protection."[124] For this reason, FINRA amended the proposed rule change to allow CABs to represent institutional investor buyers in connection with secondary transactions of unregistered securities.[125] Specifically, the proposed rule change, as modified by Partial Amendment No. 1, would permit CABs to qualify, identify, solicit, or act as a placement agent or finder on behalf of an institutional investor that seeks to sell or buy unregistered securities, provided that: (1) the seller and buyer of such securities are both institutional investors; and (2) the sale of such securities qualifies for an exemption from registration under the Securities Act.[126]

No commenters directly addressed Partial Amendment No. 1.

The proposed rule change is reasonably designed to expand the scope of permissible CAB activities without materially impacting investor protection. Specifically, the proposed rule change would expand the scope of permissible CAB activities to include qualifying, identifying, soliciting, or acting as a placement agent or finder on behalf of an institutional investor in

---

122 Id.

123 Id.

124 Notice of Partial Amendment No. 1 at 47018.

125 FINRA Response at 3.

126 Proposed CAB Rule 016(c)(1)(H).

connection with the purchase or sale of unregistered securities between institutional investors where the sale of such securities qualifies for an exemption from registration under the Securities Act. FINRA reasonably concluded that there is no policy reason to limit CABs' participation in transactions involving institutional investors to only the sale of newly issued, unregistered securities. Institutional investors are likely to have the expertise or resources necessary to understand and appreciate the risks and limitations associated with private-placement investments. In addition, Regulation Best Interest, Form CRS, and CAB Rule 211 (Suitability) help to ensure investor protection to the extent a CAB participates in a secondary transaction in circumstances that would trigger the application of these rules. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

D. Private Securities Transactions

Proposed CAB Rule 328 would eliminate the prohibition on any associated person of a CAB participating in any manner in a private securities transaction.[127] Specifically, the proposed rule change would permit associated persons of CABs to participate in private securities transactions to the same extent as non-CAB member firms, subject to the requirements of FINRA Rule 3280.[128]

Commenters generally supported the proposed rule change.[129] One supportive commenter stated that the current prohibition is "unnecessarily restrictive" as it prevents a CAB associated person from making the same "simple, non-compensated co-investment" that a non-

---

127 Proposed CAB Rule 328.

128 Id.

129 Egwele Letter; Debevoise Letter; Cascadia Letter.

CAB associated person could make under FINRA Rule 3280.[130] This commenter further stated that eliminating the current prohibition would align the treatment of private securities transactions among CABs and non-CAB member firms.[131]

The proposed rule change is reasonably designed to expand the scope of permissible activities for CABs and their associated persons without materially impacting investor protection. The proposed rule change would eliminate an existing prohibition that prevents CAB associated persons from participating in private securities transactions but would subject those transactions to the same notice, approval, and supervision obligations as those imposed on other non-CAB member firms. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

E. Compensation

The proposed rule change would codify existing FINRA guidance by providing that a CAB may receive compensation in the form of equity securities of a privately held issuer on behalf of which the CAB provided services permitted under Rule 016(c)(1), provided that the receipt, exercise or subsequent sale of such securities will not cause the CAB to engage in any activity prohibited under CAB Rule 016(c)(2).[132]

Commenters generally supported the proposed rule change.[133]

The proposed rule change, which codifies existing guidance, is reasonably designed to promote compliance and increase transparency regarding permissible forms of CAB

---

130 Cascadia Letter.

131 Id.

132 Proposed CAB Rule 511; see Forbes Letter, supra note 89.

133 Egwele Letter; Debevoise Letter; Cascadia Letter.

compensation. For these reasons, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

F. M&A Brokers Exemption

The proposed rule change would permit a CAB to "effect[] securities transactions solely in connection with the transfer of ownership and control of a [privately held] company through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the company, to a buyer that will actively operate the company or the business conducted with the assets of the company, in accordance with the terms and conditions of *Section 15(b)(13) of the Exchange Act or any provision of* an SEC rule, release, interpretation or 'no-action' letter that permits a person to engage in *the same or materially similar* activities without having to register as a broker or dealer pursuant to Section 15(b) of the Exchange Act."[134]

Commenters generally supported the proposed rule change.[135]

The proposed rule change is reasonably designed to promote clarity and transparency by updating the CAB Rules to reflect subsequent regulatory developments. Current CAB Rule 016(c)(1)(G) was drafted to incorporate the M&A Brokers Letter, which SEC staff subsequently withdrew after Congress promulgated the M&A Brokers Exemption.[136] The proposed rule change would update the CAB Rules to directly reference the M&A Brokers Exemption, thereby reflecting the current regulatory landscape and expressly providing that CABs may engage in the same activities as those permitted under the M&A Brokers Exemption. For these reasons, the

---

134 Proposed CAB Rule 016(c)(1)(G) (emphasis added).

135 Egwele Letter; Debevoise Letter; Cascadia Letter.

136 See supra Part II(B)(2).

proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

IV. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, protect investors and the public interest.[137]

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Exchange Act[138] that the proposed rule change (SR-FINRA-2025-005) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[139]

Sherry R. Haywood,

Assistant Secretary.

---

137 15 U.S.C. 78o-3(b)(6).

138 15 U.S.C. 78s(b)(2).

139 17 CFR 200.30-3(a)(12).