

EXHIBIT 5

Exhibit 5 shows the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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Text of Proposed New FINRA Rule

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2200. COMMUNICATIONS AND DISCLOSURES

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2240. CONFLICTS OF INTEREST

2241. Research Analysts and Research Reports

(a) Definitions

For purposes of this Rule, the following terms shall be defined as provided.

(1) “Emerging Growth Company” has the same meaning as in Section 3(a)(80) of the Exchange Act.

(2) “Equity security” has the same meaning as defined in Section 3(a)(11) of the Exchange Act.

(3) “Independent third-party research report” means a third-party research report, in respect of which the person producing the report:

(A) has no affiliation or business or contractual relationship with the distributing member or that member’s affiliates that is reasonably likely to inform the content of its research reports; and

(B) makes content determinations without any input from the distributing member or that member’s affiliates.

(4) “Investment banking department” means any department or division, whether or not identified as such, that performs any investment banking service on behalf of a member.

(5) “Investment banking services” include, without limitation, acting as an underwriter, participating in a selling group in an offering for the issuer or otherwise acting in furtherance of a public offering of the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital or equity lines of credit or serving as placement agent for the issuer or otherwise acting in furtherance of a private offering of the issuer.

(6) “Member of a research analyst’s household” means any individual whose principal residence is the same as the research analyst’s principal residence. This term does not include an unrelated person who shares the same residence as a research analyst, provided that the research analyst and unrelated person are financially independent of one another.

(7) “Public appearance” means any participation in a conference call, seminar, forum (including an interactive electronic forum) or other public speaking activity before 15 or more persons or before one or more representatives of the media, a radio, television or print media interview, or the writing of a print media article, in which a research analyst makes a recommendation or offers an opinion concerning an equity security. This term does not include a password protected Webcast, conference call or similar event with 15 or more existing customers, provided that all of the event participants previously received the most current research report or other documentation that contains the required

applicable disclosures, and that the research analyst appearing at the event corrects and updates during the event any disclosures in the research report that are inaccurate, misleading or no longer applicable.

(8) “Research analyst” means an associated person who is primarily responsible for, and any associated person who reports directly or indirectly to a research analyst in connection with, the preparation of the substance of a research report, whether or not any such person has the job title of “research analyst.”

(9) “Research analyst account” means any account in which a research analyst or member of the research analyst’s household has a financial interest, or over which such analyst has discretion or control. This term shall not include an investment company registered under the Investment Company Act over which the research analyst or a member of the research analyst’s household has discretion or control, provided that the research analyst or member of a research analyst’s household has no financial interest in such investment company, other than a performance or management fee. The term also shall not include a “blind trust” account that is controlled by a person other than the research analyst or member of the research analyst’s household where neither the research analyst nor a member of the research analyst’s household knows of the account’s investments or investment transactions.

(10) “Research department” means any department or division, whether or not identified as such, that is principally responsible for preparing the substance of a research report on behalf of a member.

(11) “Research report” means any written (including electronic) communication that includes an analysis of equity securities of individual companies or industries (other than an open-end registered investment company that is not listed or traded on an exchange) and that provides information reasonably sufficient upon which to base an investment decision. This term does not include:

(A) communications that are limited to the following:

(i) discussions of broad-based indices;

(ii) commentaries on economic, political or market conditions;

(iii) technical analyses concerning the demand and supply for a sector, index or industry based on trading volume and price;

(iv) statistical summaries of multiple companies’ financial data, including listings of current ratings;

(v) recommendations regarding increasing or decreasing holdings in particular industries or sectors;

(vi) notices of ratings or price target changes, provided that the member simultaneously directs the readers of the notice to the most recent research report on the subject company that includes all current applicable disclosures required by this Rule and that such research report does not contain materially misleading disclosures, including disclosures that are outdated or no longer applicable; or

(B) the following communications, even if they include an analysis of an individual equity security and information reasonably sufficient upon which to base an investment decision:

(i) any communication distributed to fewer than 15 persons;

(ii) periodic reports or other communications prepared for investment company shareholders or discretionary investment account clients that discuss individual securities in the context of a fund's or account's past performance or the basis for previously made discretionary investment decisions; or

(iii) internal communications that are not given to current or prospective customers; and

(C) communications that constitute statutory prospectuses that are filed as part of a registration statement.

(12) "Subject company" means the company whose equity securities are the subject of a research report or public appearance.

(13) "Third-party research report" means a research report that is produced by a person other than the member.

(b) Identifying and Managing Conflicts of Interest

(1) A member must establish, maintain and enforce written policies and procedures reasonably designed to identify and effectively manage conflicts of interest related to:

(A) the preparation, content and distribution of research reports;

(B) public appearances by research analysts; and

(C) the interaction between research analysts and those outside of the research department, including investment banking and sales and trading department personnel, subject companies and customers.

(2) A member's written policies and procedures must be reasonably designed to promote objective and reliable research that reflects the truly held opinions of research analysts and to prevent the use of research reports or research analysts to manipulate or condition the market or favor the interests of the member or a current or prospective customer or class of customers. Such policies and procedures must at a minimum:

(A) prohibit prepublication review, clearance or approval of research reports by persons engaged in investment banking services activities and restrict or prohibit such review, clearance or approval by other persons not directly responsible for the preparation, content and distribution of research reports, other than legal and compliance personnel;

(B) restrict or limit input by investment banking department into research coverage decisions to ensure that research management independently makes all final decisions regarding the research coverage plan;

(C) prohibit persons engaged in investment banking activities from supervision or control of research analysts, including influence or control over research analyst compensation evaluation and determination;

(D) limit determination of research department budget to senior management, excluding senior management engaged in investment banking services activities;

(E) prohibit compensation based upon specific investment banking services transactions or contributions to a member's investment banking services activities;

(F) require that the compensation of a research analyst who is primarily responsible for preparation of the substance of a research report be reviewed and approved at least annually by a committee that reports to a member's board of directors, or if the member has no board of directors, a senior executive officer of the member. This committee may not have representation from the member's investment banking department and must consider the following factors when reviewing a research analyst's compensation, if applicable:

(i) the research analyst's individual performance, including the analyst's productivity and the quality of the analyst's research;

(ii) the correlation between the research analyst's recommendations and the performance of the recommended securities; and

(iii) the overall ratings received from clients, sales force and peers independent of the member's investment banking department, and other independent ratings services.

The committee must document the basis upon which each such research analyst's compensation was established;

(G) establish information barriers or other institutional safeguards to ensure that research analysts are insulated from the review, pressure or oversight by persons engaged in investment banking services activities or other persons, including sales and trading department personnel, who might be biased in their judgment or supervision;

(H) prohibit direct or indirect retaliation or threat of retaliation against research analysts employed by the member or its affiliates by persons engaged in investment banking services activities or other employees as the result of an adverse, negative, or otherwise unfavorable research report or public appearance written or made by the research analyst that may adversely affect the member's present or prospective business interests;

(I) define periods during which the member must not publish or otherwise distribute research reports, and research analysts must not make public appearances, relating to the issuer:

(i) of a minimum of 10 days following the date of an initial public offering if the member has participated as an underwriter or dealer in the initial public offering; or

(ii) of a minimum of three days following the date of a secondary offering if the member has acted as a manager or co-manager of that offering.

This subparagraph (I) shall not apply to the publication or distribution of a research report or a public appearance following an initial public offering or secondary offering of the securities of an Emerging Growth Company;

(J) restrict or limit research analyst account trading in securities, any derivatives of such securities and funds whose performance is materially dependent upon the performance of securities covered by the research analyst, including:

(i) ensuring that research analyst accounts, supervisors of research analysts and associated persons with the ability to influence the content of research reports do not benefit in their trading from knowledge of the content or timing of a research report before the intended recipients of such research have had a reasonable opportunity to act on the information in the research report;

(ii) providing that no research analyst account may purchase or sell any security or any option on or derivative of such security in a manner inconsistent with the research analyst's recommendation as reflected in the most recent research report published by the member, and defining financial hardship circumstances, if any (e.g., unanticipated significant change in the personal financial circumstances of the beneficial owner of the research analyst account), in which the member will permit a

research analyst account to trade in a manner inconsistent with such research analyst's most recently published recommendation;
and

(iii) prohibiting a research analyst account from purchasing or receiving any security before an issuer's initial public offering if the issuer is principally engaged in the same types of business as companies that the research analyst follows;

(K) prohibit explicit or implicit promises of favorable research, a particular research rating or recommendation or specific research content as inducement for the receipt of business or compensation;

(L) restrict or limit activities by research analysts that can reasonably be expected to compromise their objectivity, including prohibiting:

(i) participation in pitches and other solicitations of investment banking services transactions; and

(ii) participation in road shows and other marketing on behalf of an issuer related to an investment banking services transaction;

(M) prohibit investment banking department personnel from directly or indirectly:

(i) directing a research analyst to engage in sales or marketing efforts related to an investment banking services transaction; and

(ii) directing a research analyst to engage in any communication with a current or prospective customer about an investment banking services transaction; and

(N) prohibit prepublication review of a research report by a subject company for purposes other than verification of facts.

(c) Content and Disclosure in Research Reports

(1) A member must establish, maintain and enforce written policies and procedures reasonably designed to ensure that:

(A) purported facts in its research reports are based on reliable information; and

(B) any recommendation, rating or price target has a reasonable basis and is accompanied by a clear explanation of any valuation method used and a fair presentation of the risks that may impede achievement of the recommendation, rating or price target.

(2) A member that employs a rating system must clearly define in each research report the meaning of each rating in the system, including the time horizon and any benchmarks on which a rating is based. The definition of each rating must be consistent with its plain meaning.

(A) Irrespective of the rating system a member employs, a member must include in each research report that includes a rating the percentage of all securities rated by the member to which the member would assign a “buy,” “hold” or “sell” rating.

(B) A member must disclose in each research report the percentage of subject companies within each of the “buy,” “hold” and “sell” categories for which the member has provided investment banking services within the previous 12 months.

(C) The information required in paragraphs (c)(2)(A) and (B) must be current as of the end of the most recent calendar quarter or the second most recent calendar quarter if the publication date of the research report is less than 15 calendar days after the most recent calendar quarter.

(3) If a research report contains either a rating or price target for a subject company’s security, and the member has assigned a rating or price target to such security for at least one year, the research report must include a line graph of the security’s daily closing prices for the period that the member has assigned any rating or price target or for a three-year period, whichever is shorter. The graph must:

(A) indicate the dates on which the member assigned or changed each rating or price target;

(B) depict each rating or price target assigned or changed on those dates; and

(C) be current as of the end of the most recent calendar quarter (or the second most recent calendar quarter if the publication date of the research report is less than 15 calendar days after the most recent calendar quarter).

(4) A member must disclose in any research report at the time of publication or distribution of the report:

(A) if the research analyst or a member of the research analyst's household has a financial interest in the debt or equity securities of the subject company (including, without limitation, whether it consists of any option, right, warrant, future, long or short position), and the nature of such interest;

(B) if the research analyst has received compensation based upon (among other factors) the member's investment banking revenues;

(C) if the member or any of its affiliates:

(i) managed or co-managed a public offering of securities for the subject company in the past 12 months;

(ii) received compensation for investment banking services from the subject company in the past 12 months; or

(iii) expects to receive or intends to seek compensation for investment banking services from the subject company in the next three months;

(D) if, as of the end of the month immediately preceding the date of publication or distribution of a research report (or the end of the second most recent month if the publication or distribution date is less than 30 calendar days after the end of the most recent month), the member or its affiliates have received from the subject company any compensation for

products or services other than investment banking services in the previous 12 months;

(E) if the subject company is, or over the 12-month period preceding the date of publication or distribution of the research report has been, a client of the member, and if so, the types of services provided to the issuer. Such services, if applicable, shall be identified as either investment banking services, non-investment banking securities-related services or non-securities services;

(F) if the member or its affiliates maintain a significant financial interest in the debt or equity securities of the subject company including, at a minimum, if the member or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company;

(G) if the member was making a market in the securities of the subject company at the time of publication or distribution of the research report;

(H) if the research analyst received any compensation from the subject company in the previous 12 months; and

(I) any other material conflict of interest of the research analyst or member that the research analyst or an associated person of the member with the ability to influence the content of a research report knows or has reason to know at the time of the publication or distribution of a research report.

(5) A member or research analyst will not be required to make a disclosure required by paragraph (c)(4) to the extent such disclosure would reveal material non-public information regarding specific potential future investment banking transactions of the subject company.

(6) The disclosures required by this paragraph (c) must be presented on the front page of research reports or the front page must refer to the page on which the disclosures are found. Electronic research reports may provide a hyperlink directly to the required disclosures. All disclosures and references to disclosures required by this Rule must be clear, comprehensive and prominent.

(7) A member that distributes a research report covering six or more subject companies (a “compendium report”) may direct the reader in a clear manner as to where the reader may obtain applicable current disclosures required by this paragraph (c). Electronic compendium reports may include a hyperlink directly to the required disclosures. Paper-based compendium reports may provide either a toll free number to call or a postal address to request the required disclosures and may also include a web address where the disclosures can be found.

(d) Disclosure in Public Appearances

(1) A research analyst must disclose in public appearances:

(A) if the research analyst or a member of the research analyst’s household has a financial interest in the debt or equity securities of the subject company (including, without limitation, whether it consists of any

option, right, warrant, future, long or short position), and the nature of such interest;

(B) if the member or its affiliates maintain a significant financial interest in the debt or equity securities of the subject company including, at a minimum, if the member or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company;

(C) if, to the extent the research analyst knows or has reason to know, the member or any affiliate received any compensation from the subject company in the previous 12 months;

(D) if the research analyst received any compensation from the subject company in the previous 12 months;

(E) if, to the extent the research analyst knows or has reason to know, the subject company currently is, or during the 12-month period preceding the date of publication or distribution of the research report, was, a client of the member. In such cases, the research analyst also must disclose the types of services provided to the subject company, if known by the research analyst; or

(F) any other material conflict of interest of the research analyst or member that the research analyst knows or has reason to know at the time of the public appearance.

(2) A member or research analyst will not be required to make a disclosure required by this paragraph (d) to the extent such disclosure would

reveal material non-public information regarding specific potential future investment banking transactions of the subject company.

(3) Members must maintain records of public appearances by research analysts sufficient to demonstrate compliance by those research analysts with the applicable disclosure requirements in this paragraph (d). Such records must be maintained for at least three years from the date of the public appearance.

(e) Disclosure Required by Other Provisions

In addition to the disclosures required by paragraphs (c) and (d), members and research analysts must comply with all applicable disclosure provisions of FINRA Rule 2210 and the federal securities laws.

(f) Termination of Coverage

A member must promptly notify its customers if it intends to terminate coverage of a subject company. Such notice must be made using the member's ordinary means to disseminate research reports on the subject company to its various customers. The notice must be accompanied by a final research report, comparable in scope and detail to prior research reports, and include a final recommendation or rating. If impracticable to provide a final research report, recommendation or rating, a member must disclose to its customers its reason for terminating coverage.

(g) Distribution of Member Research Reports

A member must establish, maintain and enforce written policies and procedures reasonably designed to ensure that a research report is not distributed selectively to internal trading personnel or a particular customer or class of customers in advance of

other customers that the member has previously determined are entitled to receive the research report.

(h) Distribution of Third-Party Research Reports

(1) Subject to paragraph (h)(5), a registered principal or supervisory analyst approved pursuant to Incorporated NYSE Rule 344 must review for compliance with the applicable provisions of paragraph (h) and approve by signature or initial all third-party research reports distributed by a member.

(2) A member may not distribute third-party research if it knows or has reason to know such research is not objective or reliable.

(3) A member must establish, maintain and enforce written policies and procedures reasonably designed to ensure that any third-party research it distributes contains no untrue statement of material fact and is otherwise not false or misleading. For the purposes of this paragraph (h)(3) only, a member's obligation to review a third-party research report extends to any untrue statement of material fact or any false or misleading information that:

(A) should be known from reading the report; or

(B) is known based on information otherwise possessed by the member.

(4) A member must accompany any third-party research report it distributes with, or provide a web address that directs a recipient to, disclosure of any material conflict of interest that can reasonably be expected to have influenced the choice of a third-party research provider or the subject company of a third-party research report, including, at a minimum, the disclosures required by paragraphs (c)(4)(C), (c)(4)(F), (c)(4)(G) and (c)(4)(I) of this Rule.

(5) A member shall not be required to review a third-party research report to determine compliance with paragraph (h)(3) if such research report is an independent third-party research report.

(6) A member shall not be considered to have distributed a third-party research report for the purposes of paragraph (h)(4) where the research is an independent third-party research report and is made available by a member (a) upon request; (b) through a member-maintained website; or (c) to a customer in connection with a solicited order in which the registered representative has informed the customer, during the solicitation, of the availability of independent research on the solicited equity security and the customer requests such independent research.

(7) A member must ensure that a third-party research report is clearly labeled as such and that there is no confusion on the part of the recipient as to the person or entity that prepared the research report.

(i) Exemption for Members with Limited Investment Banking Activity

The provisions of paragraphs (b)(2)(A), (B), (C), (D), (F) and (G) shall not apply to members that over the previous three years, on average per year, have participated in 10 or fewer investment banking services transactions as manager or co-manager and generated \$5 million or less in gross investment banking revenues from those transactions; provided, however, that with respect to paragraph (b)(2)(G), such members must establish information barriers or other institutional safeguards to ensure that research analysts are insulated from pressure by persons engaged in investment banking services activities or other persons, including sales and trading department personnel,

who might be biased in their judgment or supervision. For the purposes of this paragraph (i), the term “investment banking services transactions” include the underwriting of both corporate debt and equity securities but not municipal securities. Members that qualify for this exemption must maintain records sufficient to establish eligibility for the exemption and also maintain for at least three years any communication that, but for this exemption, would be subject to paragraphs (b)(2)(A), (B), (C), (D), (F) and (G).

(j) Exemption for Good Cause

Pursuant to the Rule 9600 Series, FINRA may in exceptional and unusual circumstances, conditionally or unconditionally grant an exemption from any requirement of this Rule for good cause shown after taking into account all relevant factors, to the extent such exemption is consistent with the purposes of the Rule, the protection of investors, and the public interest.

••• Supplementary Material: -----

.01 Efforts to Solicit Investment Banking Business

(a) FINRA interprets paragraph (b)(2)(L)(i) to prohibit in pitch materials any information about a member’s research capacity in a manner that suggests, directly or indirectly, that the member might provide favorable research coverage. For example, FINRA would consider the publication in a pitch book or related materials of an analyst’s industry ranking to imply the potential outcome of future research because of the manner in which such rankings are compiled. On the other hand, a member would be permitted to include in the pitch materials the fact of coverage and the name of the research analyst because such information alone does not imply favorable coverage.

Members must consider whether the facts and circumstances of any solicitation or engagement would warrant disclosure under Section 17(b) of the Securities Act.

(b) Paragraph (b)(2)(L)(i) shall not prevent a research analyst from attending a pitch meeting in connection with an initial public offering of an Emerging Growth Company that also is attended by investment banking personnel; provided, however, that a research analyst may not engage in otherwise prohibited conduct in such meetings, including efforts to solicit investment banking business.

.02 Joint Due Diligence. FINRA interprets paragraph (b)(1)(C) to prohibit the performance of joint due diligence (i.e., confirming the adequacy of disclosure in offering or other disclosure documents for a transaction) by the research analyst in the presence of investment banking department personnel prior to the selection by the issuer of the underwriters for the investment banking services transaction.

.03 Restrictions on Communications with Customers and Internal Personnel

(a) Consistent with the requirements of paragraph (b)(2)(M) of this Rule, no research analyst may engage in any communication with a current or prospective customer in the presence of investment banking department personnel or company management about an investment banking services transaction.

(b) FINRA interprets paragraph (b)(1)(C) of this Rule to require that any written or oral communication by a research analyst with a current or prospective customer or internal personnel related to an investment banking services transaction must be fair, balanced and not misleading, taking into consideration the overall context in which the communication is made.

.04 Disclosure of Non-Investment Banking Services Compensation. A member may satisfy the disclosure requirement in paragraph (c)(4)(D) with respect to receipt of non-investment banking services compensation by an affiliate by implementing policies and procedures reasonably designed to prevent the research analyst and associated persons of the member with the ability to influence the content of research reports from directly or indirectly receiving information from the affiliate as to whether the affiliate received such compensation. However, a member must disclose receipt of non-investment banking services compensation by its affiliates from the subject company in the past 12 months when the research analyst or an associated person with the ability to influence the content of a research report has actual knowledge that an affiliate received such compensation during that time period.

.05 Submission of Sections of a Draft Research Reports for Factual Review.

Consistent with the requirements of paragraphs (b)(2)(A) and (b)(2)(N), sections of a draft research report may be provided to non-investment banking personnel or to the subject company for factual review so long as:

(a) the sections of the report submitted do not contain the research summary, the research rating or the price target;

(b) a complete draft of the report is provided to legal or compliance personnel before sections of the report are submitted to non-investment banking personnel or the subject company; and

(c) if, after submitting sections of the report to non-investment banking personnel or the subject company, the research department intends to change the proposed rating or price target, it must first provide written justification to, and receive written authorization

from, legal or compliance personnel for the change. The member must retain copies of any draft and the final version of such report for three years after publication.

.06 Beneficial Ownership of Equity Securities. With respect to paragraphs (c)(4)(F) and (d)(1)(B), beneficial ownership of any class of common equity securities shall be computed in accordance with the same standards used to compute ownership for purposes of the reporting requirements under Section 13(d) of the Exchange Act.

.07 Distribution of Member Research Products. With respect to paragraph (g), a member may provide different research products and services to different classes of customers. For example, a member may offer one research product for those with a long-term investment horizon (“investor research”) and a different research product for those customers with a short-term investment horizon (“trading research”). These products may lead to different recommendations or ratings, provided that each is consistent with the meaning of the member’s ratings system for each respective product. However, a member may not differentiate a research product based on the timing of receipt of a recommendation, rating or other potentially market moving information, nor may a member label a research product with substantially the same content as a different product as a means to allow certain customers to trade in advance of other customers. In addition, a member that provides different research products and services for different customers must inform its other customers that its alternative research products and services may reach different conclusions or recommendations that could impact the price of the equity security. Thus, for example, a member that offers trading research must inform its investment research customers that its trading research product may contain

different recommendations or ratings that could result in short-term price movements contrary to the recommendation in its investment research.

.08 Ability to Influence the Content of a Research Report. For the purposes of this Rule, an associated person with the ability to influence the content of a research report is an associated person who, in the ordinary course of that person's duties, has the authority to review the research report and change that research report prior to publication or distribution.

.09 Obligations of Persons Associated with a Member. Consistent with Rule 0140, persons associated with a member must comply with such member's written policies and procedures as established pursuant to this Rule 2241. Failure of an associated person to comply with such policies and procedures shall constitute a violation of this Rule. In addition, consistent with Rule 0140, it shall be a violation of this Rule for an associated person to engage in the restricted or prohibited conduct to be addressed through the establishment, maintenance and enforcement of policies and procedures required by this Rule or related Supplementary Material.

.10 Divesting Research Analyst Holdings. With respect to paragraph (b)(2)(J)(ii), FINRA shall not consider a research analyst account to have traded in a manner inconsistent with a research analyst's recommendation where a member has instituted a policy that prohibits any research analyst from holding securities, or options on or derivatives of such securities, of the companies in the research analyst's coverage universe; provided that the member establishes a reasonable plan to liquidate such holdings consistent with the principles in paragraph (b)(2)(J)(i) and such plan is approved by the member's legal or compliance department.

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9600. PROCEDURES FOR EXEMPTIONS

9610. Application

(a) Where to File

A member seeking exemptive relief as permitted under NASD Rules 1021, 1050, 1070, 2340, or 3150, or Rules 2114, 2210, 2241, 2310, 2359, 2360, 3170, 4210, 4311, 4320, 4360, 5110, 5121, 5122, 5123, 5130, 5131, 6183, 6625, 6731, 7470, 8211, 8213, 11870, or 11900, or Municipal Securities Rulemaking Board Rule G-37 shall file a written application with the appropriate department or staff of FINRA.

(b) through (c) No Change.

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**Text of NASD Rule and Incorporated NYSE Rules to Remain
in the Transitional Rulebook**

NASD Rule

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1050. Registration of Research Analysts

(a) All persons associated with a member who are to function as research analysts shall be registered with [NASD]FINRA. Before registration as a Research Analyst can become effective, an applicant shall:

- (1) be registered pursuant to NASD Rule 1032 as a General Securities Representative; and

(2) pass a Qualification Examination for Research Analysts as specified by the Board of Governors.

(b) For the purposes of this Rule 1050, “research analyst” shall mean an associated person whose primary job function is to provide investment research and who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report.

(c) Upon written request pursuant to the FINRA Rule 9600 Series, [NASD]FINRA will grant a waiver from the analytical portion of the Research Analyst Qualification Examination (Series 86) upon verification that the applicant has [passed]:

(1) passed Levels I and II of the Chartered Financial Analyst (“CFA”) Examination; or

(2) [if the applicant functions as a research analyst who prepares only technical research reports as defined in paragraph (e),] passed Levels I and II of the Chartered Market Technician (“CMT”) Examination, if the applicant functions as a research analyst who prepares only technical research reports as defined in paragraph (e); and

(3) [has] either functioned as a research analyst continuously since having passed the Level II CFA or CMT examination or applied for registration as a research analyst within two years of having passed the Level II CFA or CMT examination.

(d) An applicant who has been granted an exemption pursuant to paragraph (c) still must become registered as a General Securities Representative and then complete the regulatory portion of the Research Analyst Qualification Examination (Series 87) before that applicant can be registered as a Research Analyst.

(e) For the purposes of paragraph (c)(2), a “technical research report” shall mean a research report, as that term is defined in FINRA Rule [2711]2241(a)(8), that is based solely on stock price movement and trading volume and not on [the]a subject company’s financial information, business prospects, contact with a subject company’s management, or the valuation of a subject company’s securities.

(f) The requirements of paragraph (a) shall not apply to an associated person who:

- (1) is an employee of a non-member foreign affiliate of a member (“foreign research analyst”),
- (2) resides outside the United States, and
- (3) contributes, partially or entirely, to the preparation of globally [-] branded or foreign affiliate research reports but does not contribute to the preparation of a member’s research, including a mixed-team report, that is not globally [-]branded.

Provided that the following conditions are satisfied:

(A) A member that publishes or otherwise distributes globally [-] branded research reports partially or entirely prepared by a foreign research analyst must subject such research to pre-use review and approval by a registered principal in accordance with NASD Rule 1022(a)(5) or a supervisory analyst pursuant to NYSE Rule 344.11. In addition, the member must ensure that such research reports comply with [NASD] FINRA Rule [2711]2241, as applicable.

(B) In publishing or otherwise distributing globally [-] branded research reports partially or entirely prepared by a foreign research analyst, a member must prominently disclose:

(i) each affiliate contributing to the research report;

(ii) the names of the foreign research analysts employed by each contributing affiliate;

(iii) that such research analysts are not registered/qualified as research analysts with FINRA[with the NYSE and/or NASD]; and

(iv) that such research analysts may not be associated persons of the member and therefore may not be subject to FINRA Rule [2711]2241 restrictions on communications with a subject company, public appearances and trading securities held by a research analyst account.

(C) The disclosures required by paragraph (f)(3)(B) of this Rule must be presented on the front page of the research report or the front

page must refer to the page on which the disclosures can be found. In electronic research reports, a member may hyperlink to the disclosures. References and disclosures must be clear, comprehensive and prominent.

(D) Members must establish and maintain records that identify those individuals who have availed themselves of this exemption, the basis for such exemption, and evidence of compliance with the conditions of the exemption. Failure to establish and maintain such records shall create an inference of a violation of Rule 1050. Members must also establish and maintain records that evidence compliance with the applicable content, disclosure and supervision provisions of FINRA Rule 2241[2711]. Members must maintain these records in accordance with the supervisory requirements of NASD Rule 3010, and in addition to such requirement, the failure to establish and maintain such records shall create an inference of a violation of the applicable content, disclosure and supervision provisions of FINRA Rule 2241[2711].

(E) Nothing in paragraph (f) of this Rule shall affect the obligation of any person or broker-dealer, including a foreign broker-dealer, to comply with the applicable provisions of the federal securities laws, rules and regulations and any self-regulatory organization rules.

(F) The fact that a foreign research analyst avails himself of the exemption in paragraph (f) shall not be probative of whether that individual is an associated person of the member for other purposes, including whether the foreign research analyst is subject to the FINRA Rule 2241[2711] restrictions on communications with a subject company, public appearances and trading securities held by a research analyst account.

(G) A member that distributes non-member foreign affiliate research reports that are clearly and prominently labeled as such must comply with the third-party research report requirements in FINRA Rule [2711]2241(h)[(13)].

(H) For the purposes of the exemption in paragraph (f), the terms “affiliate,” “globally [-]branded research report” and “mixed-team research report” shall have the following meanings:

(i) “Affiliate” shall mean a person that directly or indirectly controls, is controlled by, or is under common control with, a member.

(ii) “Globally [-]branded research report” refers to the use of a single marketing identity that encompasses the member and one or more of its affiliates.

(iii) "Mixed-team research report" refers to any member research report that is not globally [-]branded and includes a contribution by a research analyst who is not an associated person of the member.

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Incorporated NYSE Rules

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Rule 344. Research Analysts and Supervisory Analysts

Research analysts and supervisory analysts must be registered with, qualified by, and approved by the Exchange.

••• Supplementary Material: -----

.10 For purposes of this Rule, the term "research analyst" includes a member, allied member, associated person or employee whose primary job function is to provide investment research and who is primarily responsible for the preparation of the substance of a research report and/or whose name appears on such report. Such research analysts must pass a qualification examination acceptable to the Exchange.

.11 For purposes of this Rule, the term "supervisory analyst" includes a member, allied member, or employee who is responsible for preparing or approving research reports under Rule 472(a)(2). In order to show evidence of acceptability to the Exchange as a supervisory analyst, a member, allied member, or employee may do one of the following:

(1) Present evidence of appropriate experience and pass an Exchange Supervisory Analyst Examination (Series 16).

(2) Present evidence of appropriate experience and successful completion of a specified level of the Chartered Financial Analysts Examination prescribed by the Exchange and pass only that portion of the Exchange Supervisory Analyst Examination (Series 16) dealing with Exchange rules on research standards and related matters.

The Exchange publishes a Study Outline for the Research Analyst Examination and the Supervisory Analyst Examination (Series 16).

.12 For purposes of this Rule, the term "associated person" is defined as a natural person engaged in investment banking, or a securities or kindred business, who is directly or indirectly controlling or controlled by a member or member organization, whether or not any such person is registered, applying for registration or exempt from registration with the NYSE.

* * * * *

Rule 472. Communications With The Public

(a) Approval of Communications and Research Reports

(1) Reserved.

(2) Research reports must be approved, in advance, by a supervisory analyst acceptable to the Exchange under the provisions of Rule 344. Where a supervisory analyst does not have technical expertise in a particular product area, the basic analysis contained in such report may be co-approved by a product specialist designated by the organization. In the event that the member organization has no principal or employee qualified with the Exchange to approve such material, it must be approved by a qualified supervisory analyst in another member organization by arrangement between the two member organizations.

[(b) Investment Banking, Research Department and Subject Company Relationships and Communications]

[(1) Research analysts may not be subject to the supervision, or control, of any employee of the member organization's investment banking department and personnel engaged in investment banking activities may not have any influence or control over the compensatory evaluation of a research analyst.]

[(2) Research reports may not be subject to review or approval prior to publication by Investment Banking personnel or any other employee of the member organization who is not directly responsible for investment research ("non-research personnel") other than Legal or Compliance personnel.]

[(3) Non-research personnel may review research reports prior to publication only to verify the factual accuracy of information in the research report or to identify any potential conflicts of interest that may exist, provided that:]

[(i) any written communication concerning the content of research reports between non-research personnel and Research personnel must be made either through Legal or Compliance personnel or in a transmission copied to Legal or Compliance personnel; and]

[(ii) any oral communication concerning the content of research reports between non-research personnel and Research personnel must be documented and made either with Legal or Compliance personnel acting as intermediary or in a conversation conducted in the presence of Legal or Compliance personnel.]

[(4) A member organization may not submit a research report to the subject company prior to publication, except for the review of sections of a draft of the research report solely to verify facts. Members organizations may not, under any circumstances, provide the subject company sections of research reports that include the research summary, the research rating or the price target.]

[(i) Prior to submitting any sections of the research report to the subject company, the Research Department must provide a complete draft of the research report to the Legal or Compliance Department.]

[(ii) If after submission to the subject company, the Research Department intends to change the proposed rating or price target, the Research Department must provide written justification to, and receive prior written authorization from, the Legal or Compliance Department for any change. The Legal or Compliance Department must retain copies of any drafts and changes thereto of the research reports provided to the subject company.]

[(iii) The member organization may not notify a subject company that a rating will be changed until after the close of trading in the principal market of the subject company one business day prior to the announcement of the change.]

[(5) A research analyst is prohibited from participating in efforts to solicit investment banking business. This prohibition includes, but is not limited to, participating in meetings to solicit investment banking business (e.g., "pitch" meetings) of prospective investment banking clients, or having other

communications with companies for the purpose of soliciting investment banking business. This prohibition shall not apply to any communication between the research analyst, company, and/or nonresearch personnel, the sole purpose of which is due diligence. This paragraph shall not prevent a research analyst from attending a pitch meeting in connection with an initial public offering of an Emerging Growth Company that is also attended by investment banking personnel; provided, however, that a research analyst may not engage in otherwise prohibited conduct in such meetings, including efforts to otherwise solicit investment banking business.]

[(6) (i) A research analyst is prohibited from directly or indirectly:]

[(a) participating in a road show related to an investment banking services transaction; and]

[(b) engaging in any communication with a current or prospective customer(s) in the presence of investment banking department personnel or company management about an investment banking services transaction.]

[(ii) Investment banking department personnel are prohibited from directly or indirectly:]

[(a) directing a research analyst to engage in sales or marketing efforts related to an investment banking services transaction; and]

[(b) directing a research analyst to engage in any communication with a current or prospective customer(s) about an investment banking services transaction.]

[(iii) Research analyst written and oral communications relating to an investment banking services transaction, with a current or prospective customer(s), or with internal personnel, must be fair, balanced and not misleading, taking into consideration the overall context in which the communication is made.]

[(c) Written Procedures]

[Each member organization must establish written procedures reasonably designed to ensure that allied members, member organizations and their employees are in compliance with this Rule (see Rule 351(f) and Rule 472(h)(2) for attestations to the Exchange regarding compliance).]

[(d) Retention of Communications]

[Communications with the public prepared or issued by a member organization must be retained in accordance with Rule 440 ("Books and Records"). The names of the persons who prepared and who reviewed and approved the material must be ascertainable from the retained records and the records retained must be readily available to the Exchange, upon request.]

[(e) Restrictions on Trading Securities by Associated Persons]

[(1) No research analyst or household member may purchase or receive an issuer's securities prior to its initial public offering (e.g., so-called pre-IPO shares), if the issuer is principally engaged in the same types of business as

companies (or in the same industry classification) which the research analyst usually covers in research reports.]

[(2) No research analyst or household member may trade in any subject company's securities or derivatives of such securities that the research analyst follows for a period of thirty (30) calendar days prior to and five (5) calendar days after the member organization's publication of research reports concerning such security or a change in rating or price target of a subject company's securities.]

[(3) No research analyst or household member may effect trades in a manner inconsistent with the research analyst's most current recommendations (i.e., sell securities while maintaining a "buy" or "hold" recommendation, buy securities while maintaining a "sell" recommendation, or effecting a "short sale" in a security while maintaining a "buy" or "hold" recommendation on such security).]

[(4) Listed below are exceptions to the prohibitions contained in paragraphs (1), (2), and (3) (Each exception granted must be in compliance with policies and procedures adopted by the member organization that are reasonably designed to ensure that transactions effected pursuant to these exceptions do not create a conflict of interest between the professional responsibilities and the personal trading activities of the research analyst and/or his or her household member.):]

[(i) transactions by research analysts and/or household members that have been pre-approved in writing by the Legal or Compliance

Department that are made due to an unanticipated significant change in their personal financial circumstances;]

[(ii) a member organization may permit the publication of research reports or permit a change to the rating or price target on a subject company, regardless of whether a research analyst and/or household members traded the subject company's securities or derivatives of such securities, within the thirty (30) calendar day period described in paragraph (e)(2), when the publication of such research reports, or change in such rating or price target is attributable to some significant news or events regarding the subject company, provided that the publication of such research reports, or change in rating or price target on such subject company has been pre-approved in writing by the Legal or Compliance Department;]

[(iii) sale transactions by a research analyst, who is new to the member organization, and/or his or her household members within thirty (30) calendar days of such research analyst's employment with the member organization when such research analyst and/or household members had previously purchased such security or derivatives of such security prior to the research analyst's employment with the member organization;]

[(iv) sale transactions by a research analyst and/or household member within thirty (30) calendar days from the date of the member organization's publication of research reports or changes to the rating or

price target on a subject company when such research analyst and/or household members had previously purchased the subject company's securities or derivatives of such securities prior to initiation of coverage of the subject company by the research analyst;]

[(v) transactions in accounts not controlled by the research analyst and for investment funds in which a research analyst or household member has no investment discretion or control, provided the interest of the research analyst or household member in the assets of the fund does not exceed 1% of the fund's assets, and the fund does not invest more than 20% of its assets in securities of issuers principally engaged in the same types of business as companies (or in the same industry classification) which the research analyst usually covers in research reports. If an investment fund distributes securities in kind to a research analyst before the issuer's initial public offering, the research analyst must either divest those securities immediately or refrain from participating in the preparation of research reports concerning that issuer;]

[(vi) transactions in a registered diversified investment company as defined under Section 5(b)(1) of the Investment Company Act of 1940.]

[(5) No person who supervises research analysts (e.g., Director of Research), a Supervisory Analyst, or a member of a committee, who has direct influence and/or control with respect to (1) preparing the substance of research reports, or (2) establishing or changing a rating or price target of a subject company's equity securities, may effect trades in securities of companies that are

the subject of such research reports, or ratings or price target changes, without the prior approval of the Legal or Compliance personnel of the member organization.]

[(6) Members organizations must maintain written records for each transaction and the justification for permitting such transactions for three years following the date the transactions were made pursuant to the exceptions provided for in Rule 472(e)(4)(i)–(iv), and (5).]

[(f) Restrictions on Member's or Member Organization's Issuance of Research Reports and Participation in Public Appearances]

[(1) A member organization may not publish or otherwise distribute research reports regarding an issuer and a research analyst may not recommend or offer an opinion on an issuer's securities in a public appearance, for which the member organization acted as manager or co-manager of an initial public offering within forty (40) calendar days following the offering date.]

[(2) A member organization may not publish or otherwise distribute research reports regarding an issuer and a research analyst may not recommend or offer an opinion on an issuer's securities in a public appearance, for which the member organization acted as manager or co-manager of a secondary offering within ten (10) calendar days following the offering date. This prohibition shall not apply to public appearances or research reports published or otherwise distributed under Securities Act Rule 139 regarding issuers whose securities are actively traded, as defined in Securities Exchange Act Rule 101(c)(1) of Regulation M.]

[(3) No member organization that has agreed to participate or is participating as an underwriter or dealer (other than as manager or co-manager) of an issuer's initial public offering may publish or otherwise distribute a research report regarding that issuer and a research analyst may not recommend or offer an opinion on that issuer's securities in a public appearance for twenty-five (25) calendar days following the offering date.]

[(4) No member organization which has acted as a manager or co-manager of a securities offering may publish or otherwise distribute a research report and a research analyst may not recommend or offer an opinion on an issuer's securities in a public appearance within fifteen (15) days prior to or after the expiration, waiver or termination of a lock-up agreement or any other agreement that the member organization has entered into with a subject company and its shareholders that restricts or prohibits the sale of the subject company's or its shareholders' securities after the completion of a securities offering. This prohibition shall not apply to public appearances or research reports published or otherwise distributed under Securities Act Rule 139 regarding issuers whose securities are actively traded, as defined in Securities Exchange Act Rule 101(c)(1) of Regulation M.]

[(5) A member organization may permit exceptions to the prohibitions in paragraphs (f)(1), (2), and (4) (consistent with other securities laws and rules) for research reports that are published or otherwise distributed or recommendations or opinions on an issuer's securities made in a public appearance due to significant

news or events, provided that such research reports are pre-approved in writing by the member organization's Legal or Compliance personnel.]

[(6) Paragraphs (f)(1), (f)(2), (f)(3) and (f)(4) shall not apply to the publication or distribution of a research report or a public appearance following an initial public offering or secondary offering of the securities of an Emerging Growth Company.]

[(7) If a member organization intends to terminate its research coverage of a subject company, notice of this termination must be made. The member organization must make available a final research report on the subject company using the means of dissemination equivalent to those it ordinarily uses to provide the customer with its research reports on the subject company. The report must be comparable in scope and detail to prior research reports and must include a final recommendation or rating, unless it is impracticable for the member organization to produce a comparable report (e.g., if the research analyst covering the subject company or sector has left the employ of the member organization, or where the member organization terminates coverage on the industry or sector). In instances where it is impracticable for the member organization to provide a final recommendation or rating, the member organization must provide the rationale for the decision to terminate coverage.]

[(g) Prohibition of Offering Favorable Research for Business]

[(1) No member organization may directly or indirectly offer a favorable research rating or specific price target, or offer to change a rating or price target,

to a subject company as consideration or inducement for the receipt of business or for compensation.]

[(2) No member organization and no employee of a member organization who is involved with the member organization's investment banking activities may, directly or indirectly, retaliate against or threaten to retaliate against any research analyst employed by the member organization or its affiliates as a result of an adverse, negative, or otherwise unfavorable research report written or public appearance made by the research analyst that may adversely affect the member organization's present or prospective investment banking relationship with the subject company of a research report. This prohibition shall not limit a member organization's authority to discipline or terminate a research analyst, in accordance with the member organization's policies and procedures, for any cause other than the writing of such an unfavorable research report or the making of such unfavorable public appearance.]

[(h) Restrictions on Compensation to Research Analysts]

[(1) No member organization may compensate a research analyst for specific investment banking services transactions. A research analyst may not receive an incentive or bonus that is based on a specific investment banking services transaction. However, a member organization is not prohibited from compensating a research analyst based upon such member organization's overall performance (see Rule 472(k)(1)(ii)a.2. for disclosure of such compensation).]

[(2) The compensation of a research analyst primarily responsible for the preparation of the substance of a research report must be reviewed and approved

at least annually by a committee which reports to the Board of Directors or, where the member organization has no Board of Directors, to a senior executive officer of the member organization. Such committee may not include representatives from the member organization's Investment Banking Department. The committee must, among other things, consider the following factors, if applicable, when reviewing such research analyst's compensation:]

[i. The research analyst's individual performance, (e.g., productivity, and quality of research product);]

[ii. The correlation between the research analyst's recommendations and stock price performance;]

[iii. The overall ratings received from clients, sales force, and peers independent of the Investment Banking Department, and other independent rating services.]

[The committee may not consider as a factor in reviewing and approving such research analyst's compensation, his or her contributions to the member organization's investment banking business.]

[The committee must document the basis upon which such research analyst's compensation was established. The annual attestation required by Rule 351(f) must certify that the committee reviewed and approved the compensation for each research analyst primarily responsible for the preparation of the substance of a research report and has documented the basis upon which such compensation was established.]

[(i) Reserved.]

[(j) Reserved.]

[(k) Disclosure]

[(1) Disclosures Required in Research Reports]

**[Disclosure of Member Organization's and Research Analyst's
Ownership of Securities, Receipt of Compensation, and Subject Company
Relationships]**

[The front page of a research report either must include the disclosures required under this Rule or must refer the reader to the page(s) on which each such disclosure is found. Disclosures, and references to disclosures, must be clear, comprehensive, and prominent.]

[(i) A member organization must disclose in research reports:]

[a. if the member organization or its affiliates:]

[1. has managed or co-managed a public offering of securities for the subject company in the past twelve (12) months;]

[2. has received compensation for investment banking services from the subject company in the past twelve (12) months; or]

[3. expects to receive or intends to seek compensation for investment banking services from the subject company in the next three (3) months.]

[b. if the member organization is making a market in the subject company's securities at the time the research report is issued;]

[c. if, as of the last day of the month immediately preceding the date the publication (or the end of the second most recent month if the publication is less than ten (10) calendar days after the end of the most recent month), the member organization or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company. The member organization must make the required beneficial ownership computation no later than ten (10) calendar days after the end of the prior month. Computation of beneficial ownership of securities must be based upon the same standards used to compute ownership for purposes of the reporting requirements under Section 13(d) of the Securities Exchange Act of 1934;]

[d. if, as of the last day of the month immediately preceding the date of publication of the research report (or the end of the second most recent month if the publication date is less than thirty (30) calendar days after the end of the most recent month):]

[1. the subject company currently is a client of the member organization or was a client of the member organization during the twelve (12)-month period preceding the date of distribution of the research report (In such instances, the member organization also must disclose the types of services provided to the subject company. For purposes of this paragraph, the types of services provided

to the subject company may be described as investment banking services, non-investment banking-securities related services, and non-securities services.);]

[2. the member organization received any compensation for products or services other than for investment banking services from the subject company in the past twelve (12) months.]

[e. if a research report contains a price target, the valuation methods used, and any price objectives must have a reasonable basis and include a discussion of risks;]

[f. if a research report contains a rating, the meanings of all ratings used by the member organization in its ratings system (For example, a member organization might disclose that a "strong buy" rating means that the rated security's price is expected to appreciate at least 10% faster than other securities in its sector over the next twelve (12)-month period. Definitions of ratings terms also must be consistent with their plain meaning. Therefore, for example, a "hold" rating should not mean or imply that an investor should sell a security.);]

[g. if a research report contains a rating, the percentage of all securities that the member organization recommends an investor "buy," "hold," or "sell." Within each of the three (3) categories, a member organization must also disclose the

percentage of subject companies that are investment banking services clients of the member organization within the previous twelve (12) months (see Rule 472.70 for further information);]

[h. if a research report contains either a rating or a price target, and the member organization has assigned a rating or price target to the subject company for at least one (1) year, the research report must include a chart that depicts the price of the subject company's stock over time and indicates points at which a member organization assigned or changed a rating or price target. This provision would apply only to securities that have been assigned a rating or a target price for at least one (1) year, and need not extend more than three (3) years prior to the date of the research report. The information in the price chart must be current as of the end of the most recent calendar quarter (or the second most recent calendar quarter if the publication date is less than fifteen (15) calendar days after the most recent calendar quarter).]

[(ii) A member organization must include the following disclosures in research reports:]

[a. if a research analyst received any compensation:]

[1. from the subject company in the past twelve (12) months;]

[2. that is based upon (among other factors) the member organization's overall investment banking revenues.]

[b. if, to the extent the research analyst or an employee of the member organization with the ability to influence the substance of a research report, knows:]

[1. the subject company currently is a client of the member organization or was a client of the member organization during the twelve (12)-month period preceding the date of distribution of the research report. In such instances, such member organization also must disclose the types of services provided to the subject company (For purposes of paragraph (k)(1) of this Rule, the types of services provided to the subject company may be described as investment banking services, noninvestment banking-securities related services, and non-securities services.). (For purpose of paragraph (k)(1) of this Rule, an employee of a member organization with the ability to influence the substance of the research report is an employee who, in the ordinary course of that person's duties, has the authority to review the particular research report and to change that research report prior to publication.);]

[2. that the member organization or any affiliate thereof, received any compensation for products or services other than investment banking services from the subject company in the past twelve (12) months.]

[(iii) A research analyst and a member organization must disclose in research reports:]

[a. if, to the extent the research analyst or member organization has reason to know, an affiliate of the member organization received any compensation for products or services other than investment banking services from the subject company in the past twelve (12) months;]

[1. This requirement will be deemed satisfied if such compensation is disclosed in research reports within thirty (30) days after completion of the most recent calendar quarter, provided that the member organization has taken steps reasonably designed to identify such compensation during that calendar quarter.]

[2. The member organization and the research analyst will be presumed not to have reason to know whether an affiliate received compensation for other than investment banking services from the subject company in the past twelve (12) months if the member organization maintains and enforces policies and procedures reasonably

designed to prevent all research analysts and employees of the member organization with the ability to influence the substance of research reports from, directly or indirectly, receiving information from the affiliate concerning such compensation.]

[3. Paragraph 472(k)(1)(iii)a. shall not apply to any subject company as to which the member organization initiated coverage since the beginning of the current calendar quarter.]

[b. if the research analyst or a household member has a financial interest in the securities of the subject company, and the nature of the financial interest, including, without limitation, whether it consists of any option, right, warrant, futures contract, long or short position;]

[c. if the research analyst or a household member is an officer, director, or advisory board member of the subject company;]

[d. any other actual, material conflict of interest of the research analyst, or member organization, of which the research analyst knows, or has reason to know, at the time the research report is published or otherwise distributed.]

[When a member organization publishes or otherwise distributes a research report covering six (6) or more subject companies (a "compendium report") for purposes of the disclosures required in paragraph (k)(1) of this Rule, the compendium report may direct the reader in a clear and prominent manner as

to where the reader may obtain applicable current disclosures Electronic compendium reports may include a hyperlink to the required disclosures. Paper-based compendium reports must provide either a toll-free number to call or a postal address to write for the required disclosures and may also include a web address of the member organization where the disclosures can be found.]

[(2) Disclosures Required in Public Appearances]

[Disclosure of Member Organization's and Research Analyst's Ownership of Securities, Receipt of Compensation, and Subject Company Relationships]

[(i) A research analyst must disclose in public appearances:]

[a. if, as of the last day of the month before the appearance (or the end of the second most recent month if the appearance is less than ten (10) calendar days after the end of the most recent month), the member organization or its affiliates beneficially own 1% or more of any class of common equity securities of the subject company. The member organization must make the required beneficial ownership computation no later than ten (10) calendar days after the end of the prior month. Computation of beneficial ownership of securities must be based upon the same standards used to compute ownership for purposes of the reporting requirements under Section 13(d) of the Securities Exchange Act of 1934;]

[b. if the research analyst or a household member has a financial interest in the securities of the subject company, and the nature of the financial interest, including, without limitation, whether it consists of any option, right, warrant, futures contract, long or short position;]

[c. if, to the extent the research analyst knows or has reason to know:]

[1. the subject company currently is a client of the member organization or was a client of the member organization during the twelve (12)-month period preceding the date of the public appearance by the research analyst. In such instances, the research analyst also must disclose the types of services provided to the subject company (For purposes of this paragraph, the types of services provided to the subject company may be described as investment banking services, non-investment banking-securities related services, and non-securities services.);]

[2. the member organization or any affiliate thereof, received any compensation from the subject company in the past twelve (12) months.]

[d. any other actual, material conflict of interest of the research analyst, or member organization, of which the research

analyst knows, or has reason to know, at the time the public appearance is made;]

[e. if the research analyst or a household member is an officer, director, or advisory board member of the subject company;]

[f. if the research analyst received any compensation from the subject company in the past twelve (12) months.]

[(3) Exceptions to the Required Disclosures]

[(i) A member organization or a research analyst will not be required to make a disclosure required by Rule 472(k)(1)(i)a.2. and 3., (k)(1)(i)d.1., (k)(1)(ii)b.1., and (k)(2)(i)c. to the extent such disclosure would reveal material non-public information regarding specific potential future investment banking services transactions of the subject company.]

[(4) Third-Party Research Reports]

[(i) Subject to paragraph (k)(4)(ii) of this Rule, if a member organization distributes or makes available any third-party research report, the member organization must accompany the research report with, or provide a web address that directs the recipient to, the current applicable disclosures, as they pertain to the member organization, required by paragraphs (k)(1)(i)c, (k)(1)(i)a, (k)(1)(i)b and (k)(1)(iii)d of this Rule. Member organizations must establish written supervisory policies and procedures reasonably designed to ensure the completeness and accuracy of all applicable disclosures.]

[(ii) The requirements in paragraph (k)(4)(i) of this Rule shall not apply to independent third-party research reports made available by a member organization to its customers:]

[a. upon request;]

[b. in connection with a solicited order in which a registered representative has informed the customer, during the solicitation, of the availability of independent research on the solicited equity security, and the customer requests such independent research; or]

[c. through a member organization-maintained website.]

[(iii) Subject to paragraph (k)(4)(iv) of this Rule, a supervisory analyst, qualified under NYSE Rule 344, or a qualified person, designated pursuant to Rule 342(b)(1), must approve by signature or initial all third-party research reports distributed by a member organization. The approval of third-party research shall be based on a review by the designated supervisory analyst or qualified person to determine that the content of the research report, pursuant to Rule 472(i), contains no untrue statement of material fact or is otherwise not false or misleading. For the purposes of paragraph (k)(4) of this Rule only, a member organization's obligation to review a third-party research report pursuant to Rule 472(i) extends to any untrue statement of material fact or any false or misleading information that:]

[1. should be known from reading the report; or]

[2. is known based on information otherwise possessed by the member organization.]

[(iv) The requirements of paragraph (k)(4)(iii) of this Rule shall not apply to independent third-party research reports distributed or made available by a member organization.]

[(v) For the purposes of this Rule, "third-party research report" shall mean a research report that is produced by a person or entity other than the member organization and "independent third-party research report" shall mean a third-party research report, in respect of which the person or entity producing the report:]

[a. has no affiliation or business or contractual relationship with the distributing member organization or that member organization's affiliates that is reasonably likely to inform the content of its research reports; and]

[b. makes content determinations without any input from the distributing member organization or that member organization's affiliates.]

[(l) Reserved.]

[(m) Small Firm Exception]

[The provisions of Rule 472(b)(1), (2) and (3) do not apply to member organizations that over the three previous years, on average per year, have participated in ten (10) or fewer investment banking services transactions as manager or co-manager and generated \$5 million or less in gross investment banking services revenues from those

transactions. For purposes of this paragraph, the term "investment banking services transactions" shall include both debt and equity underwritings but not municipal securities underwritings. Members organizations that qualify for this exemption must maintain records for three (3) years of any communications that, but for this exemption, would be subject to paragraphs (b)(1), (2), and (3) of this Rule.]

[••• Supplementary Material: -----]

[.10 Definitions]

[(1) Reserved.]

[(2) Research Report]

["Research report" is generally defined as a written or electronic communication which includes an analysis of equity securities of individual companies or industries, and provides information reasonably sufficient upon which to base an investment decision.

This term does not include:]

[(a) communications, that are limited to the following:]

[(1) reports discussing broad-based indices, e.g. the Russell 2000 or S&P 500 index;]

[(2) reports commenting on economic, political or market conditions;]

[(3) technical analysis concerning the demand and supply for a sector, index or industry based on trading volume and price;]

[(4) statistical summaries of multiple companies' financial data (including listings of current ratings);]

[(5) reports that recommend increasing or decreasing holdings in particular industries or sectors; or]

[(6) notices of ratings or price target changes, provided that the member organization simultaneously directs the readers of the notice as to where to obtain the most recent research report on the subject company that includes the current applicable disclosures required by this rule and that such research report does not contain materially misleading disclosures, including disclosures that are outdated or no longer applicable;]

[(b) the following communications, even if they include an analysis of an individual security and information reasonably sufficient upon which to base an investment decision:]

[(1) any communication distributed to fewer than 15 persons;]

[(2) periodic reports, solicitations or other communications prepared for investment company shareholders or discretionary investment account clients that discuss individual securities in the context of a fund's or account's past performance or the basis for previously made discretionary investment decisions; or]

[(3) internal communications that are not given to current or prospective customers; and]

[(c) communications that constitute statutory prospectuses that are filed as part of the registration statement.]

[For purposes of approval by a supervisory analyst pursuant to Rule 472(a)(2), the term research report includes, but is not limited to, a report which recommends equity securities, derivatives of such securities, including options, debt and other types of fixed income securities, single stock futures products, and other investment vehicles subject to market risk. This term does not include:]

[(3) Reserved.]

[(4) Reserved.]

[(5) Reserved.]

[(6) "Emerging Growth Company" has the same meaning as defined in Section 3(a)(80) of the Securities Exchange Act of 1934.]

[.20 For purposes of this Rule, "investment banking services" includes, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs (private investment, public equity transactions), or similar investments; serving as placement agent for the issuer; or acting as a member of a selling group in a securities underwriting.]

[.30 For purposes of this Rule, the term "Investment Banking Department" means any department or division of the member organization, whether or not identified as such, that performs any investment banking services on behalf of the member organization.]

[.40 For purposes of this Rule, the term "research analyst" includes an allied member, associated person or employee of a member organization primarily responsible for, and any person who reports directly or indirectly to such research analyst in connection with, the preparation of the substance of a research report whether or not any such person has

the job title of "research analyst".]

[For purposes of this Rule, the term "household member" means any individual whose principal residence is the same as the research analyst's principal residence. This term does not include an unrelated person who shares the same residence as a research analyst, provided that the research analyst and unrelated person are financially independent of one another. Paragraphs (e)(1), (2), (3), (4)(i), (ii), (iii), (iv) and (v), (k)(1)(iii)b., c., and (k)(2)(i)b. and e. apply to any account in which a research analyst has a financial interest, or over which the research analyst exercises discretion or control, other than an investment company registered under the Investment Company Act of 1940. The trading restrictions applicable to research analysts and household members (i.e., paragraphs (e)(1), (2), (3), (4)(i), (ii), (iii), (iv) and (v)); do not apply to a "blind trust" account that is controlled by a person other than the research analyst or research analyst's household member where neither the research analyst nor household member knows of the account's investments or investment transactions.]

[.50 For purposes of this Rule, the term "public appearance" includes, without limitation, participation by a research analyst in a conference call, seminar, forum (including an interactive electronic forum) or other public speaking activity before fifteen (15) or more persons or before one or more representatives of the media, radio, television or print media interview, or the writing of a print media article in which such research analyst makes a recommendation or offers an opinion concerning any equity securities. This term does not include a password protected Webcast, conference call or similar event with fifteen (15) or more existing customers, provided that all of the event participants previously received the most current research report or other documentation that contains

the required applicable disclosures, and that the research analyst appearing at the event corrects and updates during the public appearance any disclosures in the research report that are inaccurate, misleading or no longer applicable.]

[.60 For purposes of this Rule, "subject company" is the company whose equity securities are the subject of a research report or a public appearance.]

[.70 For purposes of Rule 472(k)(1)(i)g, a member organization must determine, based on its own ratings system, into which of the three (3) categories each of their securities ratings utilized falls. This information must be current as of the end of the most recent calendar quarter (or the second most recent calendar quarter if the publication date is less than fifteen (15) calendar days after the most recent calendar quarter) and must reflect the distribution of the most recent ratings that the member organization has issued for all subject companies, within the previous twelve (12) months. For example, a research report might disclose that the member organization has assigned a "buy" rating to 58% of the securities that it follows, a "hold" rating to 15%, and a "sell" rating to 27%.]

[Rule 472(k)(1)(i)g requires member organizations to disclose the percentage of companies that are investment banking services clients for each of the three (3) ratings categories within the previous twelve (12) months. For example, if twenty (20) of the twenty-five (25) companies to which a member organization has assigned a "buy" rating are investment banking clients of the member organization, the member organization would have to disclose that 80% of the companies that received a "buy" rating are its investment banking clients. Such disclosure must be made for the "buy," "hold" and "sell" ratings categories as appropriate.]

[.80 For purposes of this Rule, the term "Legal or Compliance Department" also includes, but is not limited to, any department of the member organization which performs a similar function.]

[.90 Reserved.]

[.100 For purposes of this Rule, the term "initial public offering" refers to the initial registered equity security offering by an issuer, regardless of whether such issuer is subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, prior to the time of the filing of such issuer's registration statement.]

[.110 For purposes of this Rule, a secondary offering shall include a registered follow-on offering by an issuer or a registered offering by persons other than the issuer involving the distribution of securities subject to Regulation M of the Securities Exchange Act of 1934.]

[.120 For purposes of this Rule, the term "offering date" refers to the later of the effective date of the registration statement or the first date on which the security was bona fide offered to the public.]

[.130 For purposes of this Rule, the term associated person is defined as a natural person engaged in investment banking, or a securities or kindred business, who is directly or indirectly controlling or controlled by a member organization, whether or not any such person is registered, applying for registration or exempt from registration with the NYSE.]

[.140 For the purpose of this Rule, the term "equity security" has the same meaning as defined in Section 3(a)(11) of the Securities Exchange Act of 1934.]

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Text of NASD Rule, Incorporated NYSE Rule, and Incorporated NYSE Rule Interpretation to be Deleted In Their Entirety from the Transitional Rulebook

NASD Rule

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Rule 2711. Research Analysts and Research Reports

Entire text deleted.

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Incorporated NYSE Rule

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Rule 351. Reporting Requirements

Entire text deleted.

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NYSE Rule Interpretation

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Rule 472. Communications With The Public

Entire text deleted.

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