



February 25, 2023

Vanessa Countryman, Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1090

Subject: Consolidated Appropriations Act, 2023, M&A Broker Exemptions

Dear Ms. Countryman

Our firm is registered with FINRA as a broker-dealer authorized to conduct the business of Mergers & Acquisitions. This letter is to express our concerns about the Consolidated Appropriations Act, specifically the M&A Broker Exemptions section.

**CONCERNS:**

- 1. The term that defines “Small Business” in this law is too broad because it extends to “middle market.”** The term in the law meant to define “Small Business” in the context of the M&A Broker Exemption (the term “Eligible Privately Held Company”) includes dollar figure limits that are not based on existing federal size limits that relate to “Small Business” – the size limits in the law are middle market size:
  - <\$25 million EBITDA
  - <\$250 million gross sales
- 2. The M&A Broker size limits should be based on existing size limits for “Small Business.”** The existing size limits in the law that define “Eligible Privately Held Company” are not based on objective standards or an actual definition of “small business.” The SEC has the power to modify this definition.
- 3. Small Business Administration (SBA) regulations define “Small Business” in a range of ~\$0-\$47 million.** The SBA is dedicated to the needs of small businesses and issues regulations regarding business size (Small Business Size Regulations) in the Code of Federal Regulations:  
*“SBA’s size standards define whether a business entity is small and, thus, eligible for Government programs and preferences reserved for “small business” concerns. Size standards have been established for types of economic activity, or industry, generally under the North American Industry Classification Systems (NAICS).”* (Title 13 part 121.101(a) of the Code of Federal Regulation).

SBA size standards are an objective and established way the federal government measures and defines the term “Small Business;” the SBA size standards are based on annual receipts, are regularly updated and readily available at the SBA website; the most recent size standards are dated December 19, 2022.

- 4. The law itself gives the SEC the power to modify the M&A Broker Exemption dollar amounts\*.**  
The language of the statute contains the following directive from Congress to the SEC regarding the definition of “Eligible Privately Held Company” (see Definitions at 501(a)(13)(E)(II)(bb)):  
*“For purposes of this subclause, the Commission may by rule modify the dollar figures if the Commission determines that such a modification is necessary or appropriate in the public interest or for the protection of investors.”*
- 5. The SEC should modify the law, as Congress has empowered them to do,\* by changing the size limits to those set by SBA regulations (e.g., gross sales of <\$47 million) to define “Small Business.”**
- 6. A business owners’ business is the largest retirement asset they own and should be afforded the same protections as any investor under the law.**

Very truly yours,

Sincerely,  
Dante Fichera  
President