

## Comparison of Existing and Proposed Securities Regulation

The following is a summary of some of the principal attributes of existing broker-dealer regulation, the proposed M&A Broker rules, and the activities permissible for business brokers under the SEC's no-action letter to *Country Business, Inc.* The M&A Broker proposal is likely to evolve as the rulemaking process moves forward at both the federal and state levels. Note that the following bullet points cannot capture the complexities and nuances relevant to these wide-ranging activities and associated regulation under federal and applicable state securities laws and related rules and rules adopted by the Financial Industry Regulatory Authority ("FINRA" f/k/a NASD). This chart does not identify any other state laws that may also apply to these activities such as real estate and mortgage brokerage or business brokerage licensing.

Description	Fully-registered Broker-Dealer	Proposed M&A Broker	Business Broker ( <i>Country Business Letter</i> )
<b>Permitted securities-related activities</b>	<ul style="list-style-type: none"> <li>■ All activities permitted subject to related requirements and prohibitions listed below;</li> <li>■ Activities are generally restricted by the BD's business plan as submitted to FINRA in the new membership process and the FINRA membership agreement signed when membership is approved, unless and until those documents are amended by later application.</li> </ul>	<p>Limited to the following and subject to prohibitions listed below:</p> <ul style="list-style-type: none"> <li>■ Participation in the purchase or sale of a business, a line of business, or a controlling interest if the buyer is actively involved in its management or operation; and</li> <li>■ Assist the seller or buyer with financial modeling and analysis of the business; and</li> <li>■ All asset sale BB activities.</li> </ul>	<ul style="list-style-type: none"> <li>■ If the transaction turns into a stock sale, the activities must be limited to:               <ul style="list-style-type: none"> <li>• Transmitting documents between the parties;</li> <li>• Valuing the assets of the business as a going concern;</li> <li>• Providing the seller with administrative support; and</li> <li>• Assisting seller in preparing financial statements;</li> </ul> </li> <li>■ Assisting with commercial loan applications</li> </ul>
<b>Prohibited securities-related activities</b>	<ul style="list-style-type: none"> <li>■ No handling funds or securities unless qualified as a BD with at least \$50,000 net capital.</li> </ul>	<ul style="list-style-type: none"> <li>■ No handling funds\securities;</li> <li>■ No involvement in, or compensation from, raising capital;</li> <li>■ No advice about the value of securities or publicly offering securities;</li> <li>■ No transactions involving a "public shell company," a "special purpose acquisition company," a "blind pool" or a "blank check" company; and</li> <li>■ No power to bind either party.</li> </ul>	<ul style="list-style-type: none"> <li>■ No handling funds\securities;</li> <li>■ No power to bind either party;</li> <li>■ No compensation for referrals to finance the transaction;</li> <li>■ Business cannot be larger than a "small business" as defined by the SBA (varies by industry code classification); and</li> <li>■ Transaction cannot start as a stock sale unless broker's role is extremely limited; and</li> <li>■ <u>Prohibited</u>: all other participation or involvement in the securities transaction.</li> </ul>
<b>Compensation</b>	<ul style="list-style-type: none"> <li>■ Any form of compensation is permitted; securities issued as compensation <u>may</u> be restricted.</li> </ul>	<ul style="list-style-type: none"> <li>■ Any form of compensation is permitted; securities issued as compensation <u>must</u> be restricted;</li> <li>■ FINRA rules currently prohibit members from sharing transaction-based compensation with unregistered persons.</li> </ul>	<ul style="list-style-type: none"> <li>■ Only cash compensation is permitted;</li> <li>■ Method of computation cannot vary between asset sale and transactions that become stock sales.</li> </ul>

Description	Fully-registered Broker-Dealer	Proposed M&A Broker	Business Broker (Country Business Letter)
<b>Federal and state BD registration</b>	<ul style="list-style-type: none"> <li>■ Federal and state BD registration/licensing required;</li> <li>■ All registrations are filed and amended electronically on FINRA’s WebCRD System.</li> </ul>	<ul style="list-style-type: none"> <li>■ No federal registration;</li> <li>■ Simplified registration or notice filing with applicable states; might be a paper filing or might be via WebCRD (more expeditious and cost-effective).</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable.</li> </ul>
<b>FINRA membership</b>	<ul style="list-style-type: none"> <li>■ Membership required; subject to full FINRA (a self-regulatory organization) regulation;</li> <li>■ Application process is time-consuming (typically 180 days or more), extensive (e.g., detailed business plan with financial forecasts), document intensive (e.g., all forms, contracts, policies, evidence of net capital contribution), individual registrations in place, and pre-opening membership interview.</li> </ul>	<ul style="list-style-type: none"> <li>■ No FINRA membership required; no FINRA regulation.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable.</li> </ul>
<b>Individual testing, registration, or licensing</b>	<ul style="list-style-type: none"> <li>■ Personal background investigation required;</li> <li>■ Registration required through a fully-registered BD;</li> <li>■ Testing/qualifications for: <ul style="list-style-type: none"> <li>• General securities principal (Series 24 exam); and</li> <li>• Financial and operations principal (Series 27 or 28 exam); and</li> <li>• General securities representative (Series 7), to be replaced by limited investment banking representative (Series 79 exam).</li> </ul> </li> <li>■ Individuals subject to “bad boy” disqualifications generally prevented from registering.</li> </ul>	<ul style="list-style-type: none"> <li>■ No individual registration or testing has been proposed; and</li> <li>■ Individuals who are subject to various disciplinary and “bad boy” disqualifications would generally be prevented from being employed by an M&amp;A broker;</li> <li>■ Firm certification that it does not employ or share compensation with any person subject to the “bad boy” disqualifications.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable;</li> <li>■ No mechanism for identifying and monitoring activities of “bad boys.”</li> </ul>
<b>Fingerprinting personnel</b>	Required for all registered persons and any person handling or having access to funds or securities.	Not required; handling or having access to funds or securities is prohibited.	Not applicable.
<b>Continuing professional education (CE)</b>	Mandatory continuing education program required from the firm (“Firm Element”) including annual CE assessment and training plan and annual CE meetings; plus CE content/testing prescribed by FINRA (“Regulatory Element”).	Not proposed.	Not applicable.
<b>Registration of offices</b>	<ul style="list-style-type: none"> <li>■ Home office, any office of supervisory jurisdiction (“OSJ”), and each branch office must be annually registered on WebCRD (with associated fees).</li> </ul>	<ul style="list-style-type: none"> <li>■ Not proposed.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable.</li> </ul>

Description	Fully-registered Broker-Dealer	Proposed M&A Broker	Business Broker (Country Business Letter)
<b>Minimum net capital and fidelity bonding</b>	<ul style="list-style-type: none"> <li>■ Minimum net capital is prescribed based on activities; \$5,000 is the lowest net capital level if all conditions are met;</li> <li>■ Fidelity bond required.</li> </ul>	<ul style="list-style-type: none"> <li>■ No net capital requirement;</li> <li>■ Must be financially solvent;</li> <li>■ No fidelity bond required.</li> </ul>	Not applicable.
<b>Financial reporting</b>	<ul style="list-style-type: none"> <li>■ Quarterly and, for some, monthly financial reporting on prescribed “FOCUS” forms;</li> <li>■ Annual, independently audited, full financial statements, explanatory notes, net capital computation, various supporting schedules, and auditor’s opinion.</li> </ul>	<ul style="list-style-type: none"> <li>■ No financial reporting; specified financial recordkeeping available for inspection.</li> </ul>	Not applicable.
<b>Required books and records</b>	<ul style="list-style-type: none"> <li>■ Extensive documentation required with respect to transactions, business activities, financial accounting and reports, personnel, regulatory, internal and external communications, advertising, sales literature, compliance manuals, written supervisory procedures (“WSPs”), disclosures, and clients; and</li> <li>■ Written complaint file.</li> </ul>	<p>Documents generally limited to:</p> <ul style="list-style-type: none"> <li>■ Engagement-related disclosures;</li> <li>■ Primary transaction-related documentation;</li> <li>■ Basic financial accounting records;</li> <li>■ Evidence supporting basis for reliance on the federal and state M&amp;A broker rules;</li> <li>■ Compliance manual; and</li> <li>■ Written complaint file.</li> </ul>	<ul style="list-style-type: none"> <li>■ No documentation is required;</li> <li>■ Evidence supporting basis for reliance on the SEC no-action letter would be prudent.</li> </ul>
<b>Suitability of advice and recommendations</b>	<ul style="list-style-type: none"> <li>■ FINRA imposes affirmative obligation to determine and document that recommendation is suitable based client’s financial situation and needs.</li> </ul>	<ul style="list-style-type: none"> <li>■ No advice about raising capital in a private or registered public offering;</li> <li>■ No advice about the value of securities except to the extent advising on the value of the business itself.</li> </ul>	<ul style="list-style-type: none"> <li>■ No securities-related recommendations are permitted;</li> <li>■ No advice about the value of securities except to the extent advising on the value of the business itself.</li> </ul>
<b>Required Disclosures</b>	<p>Disclosures required:</p> <ul style="list-style-type: none"> <li>■ Transaction confirmations must disclose the BD’s compensation and specified information;</li> <li>■ Initial and annual consumer Privacy Notice to individual clients.</li> </ul>	<p>Disclosures required:</p> <ul style="list-style-type: none"> <li>■ Broker’s role, relationships, and compensation, contact, and background information;</li> <li>■ Representatives’ education, experience, and credentials;</li> <li>■ Conflicts of interests, control or ownership relationships with a party; and</li> <li>■ Disclosure of limited M&amp;A broker status and cautionary statements about securities laws.</li> </ul>	No securities-related disclosures.

Description	Fully-registered Broker-Dealer	Proposed M&A Broker	Business Broker (Country Business Letter)
<b>Compliance, Supervision and Internal Controls</b>	<ul style="list-style-type: none"> <li>■ Compliance manual required;</li> <li>■ System of supervisory procedures to reasonably assure compliance;</li> <li>■ Regular internal inspections of OSJ and branch offices with written reports;</li> <li>■ Establish, maintain, and enforce a system of supervisory control policies and procedures to test and verify that WSPs are effective;</li> <li>■ Designate chief compliance officer (“CCO”);</li> <li>■ Annual CEO certification about the adequacy of compliance policies, WSPs, supervisory controls/testing, and meeting with CCO during preceding 12 months.</li> </ul>	<ul style="list-style-type: none"> <li>■ None specifically proposed; a compliance manual will be needed to explain applicable requirements and guide the firm’s supervision of activities to monitor compliance with the exemption's requirements and with other aspects of federal and state securities laws.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable.</li> </ul>
<b>On-going compliance obligations</b>	<ul style="list-style-type: none"> <li>■ Compliance with all securities registration requirements and anti-fraud prohibitions of securities laws;</li> <li>■ FINRA business conduct rules include, among other things, regular reporting to the BD of its rep’s brokerage transactions and accounts, handling all “private securities transactions” through the BD, and reporting all outside business activities to the BD;</li> <li>■ Restrictions on gifts and gratuities; and</li> <li>■ Steady stream (e.g., delivered by weekly FINRA emails) of new securities industry-wide, federal, state, and FINRA notices to members, rules, interpretations, announcements affecting legal and compliance obligations.</li> </ul>	<ul style="list-style-type: none"> <li>■ Compliance with all securities registration requirements and anti-fraud prohibitions of securities laws; but no involvement in securities offerings to raise capital is permitted;</li> <li>■ FINRA rules not applicable.</li> </ul>	<ul style="list-style-type: none"> <li>■ If a securities transaction occurs, compliance with all securities registration requirements and anti-fraud prohibitions of securities laws; but no planning nor involvement in a securities offering is permitted.</li> </ul>
<b>Advertising</b>	<ul style="list-style-type: none"> <li>■ Advertising content guidelines;</li> <li>■ Letterhead, business cards, website, and other advertisements may note registration as a BD and membership in FINRA and the Securities Investor Protection Corporation;</li> <li>■ Firm supervisory approval and retention of all letterhead, business cards, website, and other advertisements; and</li> <li>■ FINRA approval of all advertising is required during first year.</li> </ul>	<ul style="list-style-type: none"> <li>■ Advertising regulation not proposed;</li> <li>■ Letterhead, business cards, website, and other advertisements may note that the firm is registered or licensed under the securities laws of specified states;</li> <li>■ “Short-hand” reference to regulatory status might read: “M&amp;A broker registered with [specific states].”</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable; not regulated.</li> </ul>

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<b>Communications</b>	<ul style="list-style-type: none"> <li>■ Review/retention/retrieval of all forms of public and internal communication, including: correspondence, email, instant messaging, to/from the firm and its representatives.</li> </ul>	<ul style="list-style-type: none"> <li>■ No specific requirements proposed other than the key disclosures and specified recordkeeping.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable; not regulated.</li> </ul>
<b>Anti-money laundering (AML)</b>	<ul style="list-style-type: none"> <li>■ Firm must have and test written policies, procedures, and system to reasonably assure compliance with AML laws and rules.</li> </ul>	<ul style="list-style-type: none"> <li>■ No AML program;</li> <li>■ Purchase price in M&amp;A transactions must be handled by institution subject to AML laws.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable; not regulated.</li> </ul>
<b>Dispute resolution</b>	<ul style="list-style-type: none"> <li>■ Mandatory, binding FINRA arbitration for disputes with FINRA members and registered persons.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not prescribed.</li> </ul>	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>
<b>Material change of BD's business activities, size, ownership, and control; mergers and acquisitions of BDs</b>	<ul style="list-style-type: none"> <li>■ FINRA application and approval required for material changes in business activities, products, or services, or material growth (number of offices or reps);</li> <li>■ FINRA approval required for mergers and acquisitions of other members, change of control, or transfer of 25%+ ownership or assets measured over 36 month period;</li> <li>■ FINRA approval process typically takes 60 to 180 days after filing is deemed complete by FINRA staff; and</li> <li>■ Amend Form BD on WebCRD.</li> </ul>	<ul style="list-style-type: none"> <li>■ Update annual registration/notification filing.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable.</li> </ul>
<b>Inspections and examinations</b>	<ul style="list-style-type: none"> <li>■ Periodic "cycle" inspections by FINRA and by SEC;</li> <li>■ Inspections by state securities regulators;</li> <li>■ "For cause" investigations by FINRA, SEC, and state securities regulators.</li> </ul>	<ul style="list-style-type: none"> <li>■ Inspections, examinations and investigations by SEC and state securities regulators;</li> <li>■ No FINRA inspections, examinations, or investigations; FINRA does not have jurisdiction.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable.</li> </ul>
<b>Fees and costs</b>	<ul style="list-style-type: none"> <li>■ Initial cost of preparing FINRA application, registration forms, business plan, financial statements, disclosures, compliance manual, WSPs and controls, and related legal documentation is very substantial (typically \$50,000 to \$150,000 depending many factors and variables);</li> <li>■ Annual registration fees for firm, registered persons, and offices payable to SEC, FINRA, and applicable states; and</li> <li>■ Annual membership dues payable to FINRA (assessments based in part on firm revenue).</li> </ul>	<ul style="list-style-type: none"> <li>■ Initial cost of preparing state registration/notice filing forms, disclosures, and legal documentation is anticipated to be substantially less than either a fully-registered BD;</li> <li>■ Annual fees payable to applicable states are to be determined.</li> </ul>	<ul style="list-style-type: none"> <li>■ Not applicable.</li> </ul>

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