Response to FINRA Comment Request: Capital Formation Rule Modernization (Regulatory Notice 25-06)

Submitted on behalf of: Stonehaven, LLC and peer-member firms focused on private placement and investment banking activities.

Overview: Private placement-focused broker-dealers and their registered representatives play an essential role in the U.S. capital formation ecosystem, particularly for small- and medium-sized enterprises (SMEs), real estate sponsors, and alternative investment managers. FINRA's modernization initiative is both timely and necessary, as current regulations often fail to reflect the operational models and compliance capabilities of limited-purpose broker-dealers serving sophisticated and accredited investors.

A. CABs and Limited Purpose Broker-Dealers

A.1 & A.2: CABs should be allowed to expand their role to include a broader range of M&A and secondary private market transactions. Many private placement BDs today support independent investment bankers who advise on both primary and secondary securities placements involving private company stock. These activities are consistent with FINRA's investor protection objectives when conducted under a well-supervised broker-dealer structure.

A.3: The current limitation to only $5M+ institutional investors excludes a substantial portion of sophisticated accredited investors who are protected under Reg D and Reg BI standards. CABs should be permitted to transact with all accredited investors, especially under Rule 506(c), where verification requirements already apply.

A.4 & A.5: FINRA should create a parallel rule set for “independent placement agents” or limited-purpose BDs which do not carry customer accounts or have a clearing arrangement, and which focus on facilitating Reg D exempt offerings and operate under a registered firm’s supervision. These entities should be exempt from certain operational rules (e.g., trading desk requirements, full 15c3-1 net capital obligations) and allowed to operate in a cost-effective manner while maintaining investor protection.

B. Research

B.1 – B.6: The current research rules (2241, 2242) are largely inapplicable to the private placement market, where smaller investment banks rarely issue formal research and where transactions are not driven by public analyst coverage. To the extent smaller firms do create informal and appropriately disclosed diligence summaries or market intelligence, they should be excluded from the scope of these rules, or an exemption framework should be developed based on firm size, product type (e.g., private placements), or investor sophistication.

C. Rules Supporting Capital Formation

C.1 – C.2: Rule 2310 is outdated in several respects and does not reflect how modern private placements (e.g., real estate syndications, fund offerings) are marketed. The limitations on non-cash compensation, due diligence interpretations, and definitions of “reasonable fees” require more precise and common sense clarification or removal for exempt offerings.

C.3 – C.5: Rule 5110’s underwriting compensation caps and lookback periods often do not fit the bespoke nature of private placements. A more precise filing requirement for Reg A or Regulation CF offerings and a materiality threshold for indirect ownership or control person compensation would allow more efficient filings.

C.6: Rule 5121 should not apply to non-public offerings in which the issuer and the broker-dealer have disclosed relationships and accredited investors are capable of assessing risk. In the private placement space, reps commonly raise capital for issuer-affiliated funds or GP-led deals where full disclosures are made; and there should be common sense, tailored exemptions applied in these scenarios to avoid unnecessary compliance burdens and costs.

C.7 – C.8: Rules 5122 and 5123 create duplicative and sometimes unclear filing requirements. A harmonized and digital-first filing portal, with structured templates and automatic exemptions for offerings sold only to qualified purchasers, would reduce administrative burden. FINRA should consider safe harbors for pre-approved offering types (e.g., Rule 506(b) funds with third-party due diligence opinions).

C.9 – C.10: Rules 5130 and 5131 are primarily designed for IPO abuse prevention. In private capital markets, these risks are minimal, and the rules should either be scoped out or replaced with disclosure standards tailored for direct placements.

C.11 – C.12: Notice 09-05 and guidance on OTC securities should be updated to reflect changes under Rule 15c2-11 and acknowledge the rise of alternative trading systems (ATS) and technology platforms. FINRA should provide an updated framework for broker-dealers offering secondary liquidity in private securities.

D. General Feedback

D.1 – D.6: FINRA's rules are still calibrated for traditional full-service broker-dealers and fail to accommodate modern, distributed, RegTech-enabled BD platforms which serve as sponsor BDs for independent RRs. Independent RRs affiliated with sponsor BDs can and do comply with investor protection rules via centralized compliance infrastructure. FINRA should:

- Provide specific rule interpretations tailored to modern BD business models which focus on private placement activity and Reg D offerings.
- Recognize electronic workflows for KYC/AML, suitability, and disclosure, in consideration of member firms who do not carry customer accounts and therefore cannot confirm certain investor information. Private placement focused BDs contractually engage with their private issuer clients and DO NOT contractually engage with their investor relationships. In the present digital age which includes an intense focus on data privacy and cybersecurity, investor-specific details cannot and will not be confirmed by the source: the investor, as this information is not required to be divulged by the investor to the registered representative and their broker-dealer.
- Permit modular business models under tailored supervision programs. The aforementioned rule sets need to be updated as a one-size fits all application is not efficient nor effective, overly burdensome, costly, and imprecise which exposes modern broker-dealer business models of smaller firms unnecessarily.

D.7: FINRA should collect and publish anonymized data from its small member firms on exempt offering filings, BD firm types, and investor complaints to guide policy discussions on capital formation. More empirical feedback loops will lead to smarter rule adjustments.

Conclusion Modern capital formation requires modern regulation. FINRA's rules must evolve to support the distributed, technology-forward, and investor-protected models used by private placement broker-dealers and their independent representatives. We support FINRA's modernization efforts and urge the organization to adopt a principles-based, risk-scaled, and innovation-friendly framework that balances oversight with opportunity.