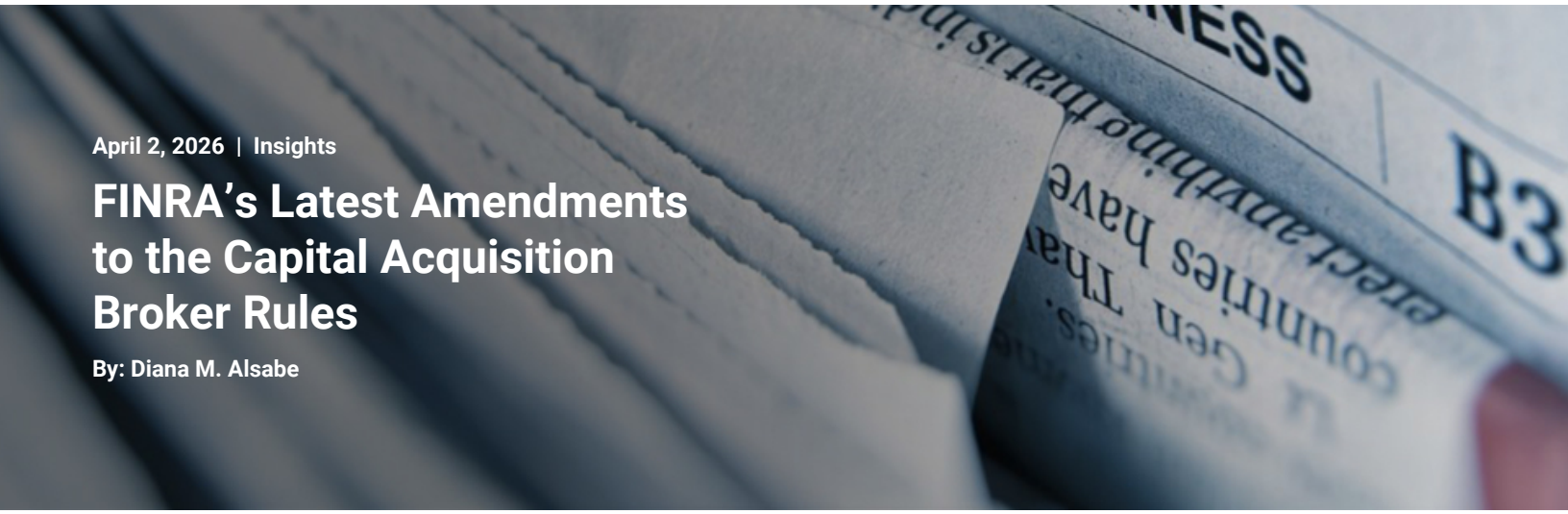

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FINRA's Latest Amendments to the Capital Acquisition Broker Rules

By: Diana M. Alsabe

On February 23, 2026, FINRA issued Regulatory Notice 26-04, announcing the adoption of targeted amendments to the Capital Acquisition Broker ("CAB") rules. The amendments have an effective date of March 25, 2026.

What is a Capital Acquisition Broker?

CABs are a specialized category of FINRA member broker-dealers created to facilitate capital formation and corporate transactions without engaging in higher-risk retail or trading activities. CABs typically act as placement agents in private offerings, advise on mergers and acquisitions involving privately held companies, and assist with capital raising and restructuring transactions. They do not accept customer orders, carry accounts, handle customer funds or securities, or engage in proprietary trading or market-making.

Because of this narrow institutional focus, CABs are subject to a streamlined rule set that imposes fewer supervisory and operational requirements than those applicable to traditional broker-dealers, while still maintaining core investor protections.

What is the Amended Definition of an "Institutional Investor"?

The most notable amendment involves the definition of "institutional investor" under CAB Rule 016(i).

Prior to the amendments, the definition largely mirrored traditional institutional categories, such as banks, insurance companies, governmental entities, employee benefit plans, and persons meeting the "qualified purchaser" standard under the Investment Company Act of 1940. Under the amended rule, FINRA has expanded the definition to include "eligible employees."

"Eligible employees" generally include certain officers, directors, and employees of an issuer, or of a person controlling the issuer, where the CAB has provided permitted



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advisory or placement services. This change expands the pool of permissible investors in private, unregistered securities offerings in which CABs may participate.

Expanding Capital Acquisition Brokers as Placement Agents

The CAB rules previously permitted CABs to act as a placement agent or finder on behalf of an issuer in connection with newly issued and unregistered securities being offered to institutional investors. Under the most recent amendments, CABs are now permitted to act on behalf of the institutional investor, as buyer, in connection with the sale of such securities.

Capital Acquisition Brokers Soliciting in Change of Control Transactions

Previously, CAB Rule 016(c)(1)(F)(ii) allowed CABs to act as a finder or placement agent in connection with a change of control of a privately held company. The amended rules permit a CAB to represent both the buyer and seller in a change of control transaction, provided that clear written disclosure is made to the parties, and both parties consent in writing to the joint representation.

The amendments define "control" as the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise. It is established where, at the conclusion of the transaction, the buyer has the right to vote or the power to sell or direct the sale of 25 percent or more of a class of voting securities. In the case of a partnership or limited liability company, control is established where the buyer has the right to receive upon dissolution or has contributed 25 percent or more of the capital.

Secondary Transactions of Unregistered Securities

CABs may now act as placement agents or finders in secondary transactions involving unregistered securities between institutional investors. These transactions must qualify for an exemption from registration under the Securities Act of 1933, such as Rule 144 or Rule 144A, which increases CABs' flexibility in institutional secondary liquidity transactions.

Private Securities Transactions by Associated Persons of Capital Acquisition Brokers

The amendments also permit associated persons of CABs to participate in private securities transactions, aligning CAB requirements with FINRA Rule 3280. Associated persons must provide advance written notice describing the transaction, their role, and any selling compensation. If compensation is involved, the CAB must approve, record, and supervise the transaction as if conducted on the firm's behalf; otherwise, the CAB must acknowledge the notice and may impose conditions.

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Securities as Compensation

New CAB Rule 511 allows CABs to receive securities as compensation from privately held issuer clients for certain permitted services. This codifies previous FINRA staff guidance and reflects common market practice in private capital transactions. Under this new rule, the receipt, exercise, or resale of such securities must not cause the CAB to engage in activities prohibited under the CAB rules.

Updated M&A Brokers Exemption

The amendments update CAB Rule 016(c)(1)(G) to mirror the statutory M&A brokers exemption under Section 15(b)(13) of the Securities Exchange Act of 1934, following the SEC's withdrawal of its 2014 M&A Brokers no-action letter. CABs may now rely directly on the statutory exemption, or other SEC guidance permitting materially similar activities, when effecting transactions involving the transfer of ownership and control of privately held companies.

What Does this Mean for Me as an Existing or Prospective Capital Acquisition Broker?

For existing CABs, the amendments may open new opportunities to structure private offerings more efficiently, particularly where eligible employees are expected to participate. Firms should, however, carefully review the amended definitions and ensure that internal policies clearly reflect the changes to ensure compliance. For broker-dealers evaluating whether CAB registration is appropriate, the amendments reinforce the CAB model as a viable, lower-burden alternative for qualifying firms.

Firms active in private placements and M&A advisory should take note, and consider how these rule changes may impact their practice. If you have questions about the latest amendments to the CAB rules, and how they may impact your practice, please contact a Rich May attorney.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney Diana Alsabe.

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