May 12, 2020

Jennifer Piorko Mitchell
Financial Industry Regulatory Authority
Office of the Corporate Secretary
1735 K Street, NW
Washington, DC 20006-1506

Subject: Comments on the Proposed Amendments to the Capital Acquisition Broker (CAB) Rules

Dear Ms. Mitchell:

Harris Williams ("HW") appreciates the opportunity to provide comments regarding proposed amendments to the CAB rules, as requested in FINRA Regulatory Notice 20-04. HW is a specialized investment bank that solely provides mergers and acquisitions ("M&A")-related advisory services to companies. HW only provides M&A-related advice; the firm does not extend credit, hold customer accounts or provide services to retail customers, or engage in banking transactions on its own or its clients' behalf. HW's revenue is composed entirely of advisory fees.

When FINRA initially considered adopting the CAB model, HW was interested in exploring the prospect of a broker-dealer regulatory approach right-sized to the firm's lower-risk, advisory-only business model, and therefore in potentially electing the new CAB designation. HW's Chief Operating Officer, Paul Poggi, served for a time on the FINRA Committee established to provide practitioner insight to FINRA about the CAB proposal.

Ultimately, HW chose not to avail itself of the CAB designation. The reason is that under section 016 of FINRA's Capital Acquisition Broker rules, the definition of a "capital acquisition broker" is "any broker that solely engages in any one or more of the following activities". Among the listed activities is:

> (F) qualifying, identifying, soliciting, or acting as a placement agent or finder...(ii) on behalf of an issuer or a control person in connection with a change of control of a privately-held company. For purposes of this subparagraph, a "control person" is a person who has the power to direct the management or policies of a company through ownership of securities, by contract, or otherwise. Control will be presumed to exist if, before the transaction, the person has the right to vote or the power to sell or direct the sale of 25% or more of a class of voting securities or in the case of a partnership or limited liability company has the right to receive upon dissolution or has contributed 25% or more of the capital.

While most of HW's advisory engagements do involve transactions that result in a change of control as defined by section 016, not all do. Sometimes the firm is engaged to advise a client – a company – with respect to the potential sale of less than 25% of its ownership interests, typically to a single institutional buyer. Because HW does not want to relinquish its ability to advise clients with respect to a capital raise

or liquidity event that involves a sale of less than 25% of that client's ownership interests, the firm has not elected the CAB designation. As a result, HW remains registered as a traditional broker–dealer.

We respectfully encourage FINRA to reassess this position and allow broker-dealers that advise clients regarding the sale of minority interests to register as CABs. We believe that the M&A-related advisory services that we provide with respect to change-of-control transactions result in relatively lower overall risk than other activities performed by broker-dealers – and we believe that providing advice on sales of minority interests poses even less risk, as the interest is typically sold to a sophisticated institutional buyer. It seems counterintuitive to exclude these related and relatively lower-risk activities from the CAB definition. And because such advisory services do not involve retail securities activities, including them within the CAB definition would not subject the investing public to any additional risk or loss of protection.

HW's opinion is that if advisory services with respect to non-change-of-control transactions that involve less than 25% of ownership interests were included in the CAB definition, more firms such as HW would seek to register as a CAB. CAB registration would benefit advisory firms like HW that are currently registered as broker-dealers. The benefits include lower compliance costs, lower burdens of supervision, and more targeted oversight in areas of greater risk. Additionally it would support FINRA's continuing efforts to tailor risk-based approaches to firms' different risk profiles.

We appreciate your consideration and welcome the opportunity to discuss further.

Respectfully submitted,

Harris Williams LLC

By: _____

Ashley Van der Waag
Chief Compliance Officer