

## § 240.151-1

the purchase price can make a resale of a stock very costly. To be profitable when you sell, the bid price of your stock must rise above the amount of this spread and the compensation charged by both your selling and purchasing dealers. *Remember that if the dealer has no bid price, you may not be able to sell the stock after you buy it, and may lose your whole investment.*

*After you buy penny stock, your brokerage firm must send you a monthly account statement that gives an estimate of the value of each penny stock in your account, if there is enough information to make an estimate. If the firm has not bought or sold any penny stocks for your account for six months, it can provide these statements every three months.*

Additional information about low-priced securities—including penny stocks—is available on the SEC's Web site at <http://www.sec.gov/investor/pubs/microcapstock.htm>. In addition, your broker will send you a copy of this information upon request. The SEC encourages you to learn all you can before making this investment.

### Brokers' Duties and Customers' Rights and Remedies

Remember that your salesperson is not an impartial advisor—he or she is being paid to sell you stock. Do not rely only on the salesperson, but seek outside advice before you buy any stock. You can get the disciplinary history of a salesperson or firm from NASD at 1-800-289-9999 or contact NASD via the Internet at <http://www.nasd.com>. You can also get additional information from your state securities official. The North American Securities Administrators Association, Inc. can give you contact information for your state. You can reach NASAA at (202) 737-0900 or via the Internet at <http://www.nasaa.org>.

If you have problems with a salesperson, contact the firm's compliance officer. You can also contact the securities regulators listed above. Finally, if you are a victim of fraud, you may have rights and remedies under state and Federal law. In addition to the regulators listed above, you also may contact the SEC with complaints at (800)

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SEC-0330 or via the Internet at [help@sec.gov](mailto:help@sec.gov).

[70 FR 40632, July 13, 2005]

### § 240.151-1 Regulation best interest.

(a) *Best interest obligation.* (1) A broker, dealer, or a natural person who is an associated person of a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, shall act in the best interest of the retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or natural person who is an associated person of a broker or dealer making the recommendation ahead of the interest of the retail customer.

(2) The best interest obligation in paragraph (a)(1) of this section shall be satisfied if:

(i) *Disclosure obligation.* The broker, dealer, or natural person who is an associated person of a broker or dealer, prior to or at the time of the recommendation, provides the retail customer, in writing, full and fair disclosure of:

(A) All material facts relating to the scope and terms of the relationship with the retail customer, including:

(1) That the broker, dealer, or such natural person is acting as a broker, dealer, or an associated person of a broker or dealer with respect to the recommendation;

(2) The material fees and costs that apply to the retail customer's transactions, holdings, and accounts; and

(3) The type and scope of services provided to the retail customer, including any material limitations on the securities or investment strategies involving securities that may be recommended to the retail customer; and

(B) All material facts relating to conflicts of interest that are associated with the recommendation.

(ii) *Care obligation.* The broker, dealer, or natural person who is an associated person of a broker or dealer, in making the recommendation, exercises reasonable diligence, care, and skill to:

(A) Understand the potential risks, rewards, and costs associated with the

recommendation, and have a reasonable basis to believe that the recommendation could be in the best interest of at least some retail customers;

(B) Have a reasonable basis to believe that the recommendation is in the best interest of a particular retail customer based on that retail customer's investment profile and the potential risks, rewards, and costs associated with the recommendation and does not place the financial or other interest of the broker, dealer, or such natural person ahead of the interest of the retail customer;

(C) Have a reasonable basis to believe that a series of recommended transactions, even if in the retail customer's best interest when viewed in isolation, is not excessive and is in the retail customer's best interest when taken together in light of the retail customer's investment profile and does not place the financial or other interest of the broker, dealer, or such natural person making the series of recommendations ahead of the interest of the retail customer.

(iii) *Conflict of interest obligation.* The broker or dealer establishes, maintains, and enforces written policies and procedures reasonably designed to:

(A) Identify and at a minimum disclose, in accordance with paragraph (a)(2)(i) of this section, or eliminate, all conflicts of interest associated with such recommendations;

(B) Identify and mitigate any conflicts of interest associated with such recommendations that create an incentive for a natural person who is an associated person of a broker or dealer to place the interest of the broker, dealer, or such natural person ahead of the interest of the retail customer;

(C)(1) Identify and disclose any material limitations placed on the securities or investment strategies involving securities that may be recommended to a retail customer and any conflicts of interest associated with such limitations, in accordance with subparagraph (a)(2)(i), and

(2) Prevent such limitations and associated conflicts of interest from causing the broker, dealer, or a natural person who is an associated person of the broker or dealer to make rec-

ommendations that place the interest of the broker, dealer, or such natural person ahead of the interest of the retail customer; and

(D) Identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific securities or specific types of securities within a limited period of time.

(iv) *Compliance obligation.* In addition to the policies and procedures required by paragraph (a)(2)(iii) of this section, the broker or dealer establishes, maintains, and enforces written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest.

(b) *Definitions.* Unless otherwise provided, all terms used in this rule shall have the same meaning as in the Securities Exchange Act of 1934. In addition, the following definitions shall apply for purposes of this section:

(1) *Retail customer* means a natural person, or the legal representative of such natural person, who:

(i) Receives a recommendation of any securities transaction or investment strategy involving securities from a broker, dealer, or a natural person who is an associated person of a broker or dealer; and

(ii) Uses the recommendation primarily for personal, family, or household purposes.

(2) *Retail customer investment profile* includes, but is not limited to, the retail customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the retail customer may disclose to the broker, dealer, or a natural person who is an associated person of a broker or dealer in connection with a recommendation.

(3) *Conflict of interest* means an interest that might incline a broker, dealer, or a natural person who is an associated person of a broker or dealer—consciously or unconsciously—to make a recommendation that is not disinterested.

[84 FR 33491, July 12, 2019]

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NATIONAL AND AFFILIATED SECURITIES  
ASSOCIATIONS

**§ 240.15Aa-1 Registration of a national  
or an affiliated securities associa-  
tion.**

Any application for registration of an association as a national, or as an affiliated, securities association shall be made in triplicate on Form X-15AA-1 accompanied by three copies of the exhibits prescribed by the Commission to be filed in connection therewith.

(Sec. 15A, 52 Stat. 1070; 15 U.S.C. 78o-3)

[13 FR 8209, Dec. 22, 1948. Redesignated at 30 FR 11851, Sept. 16, 1965]

**§ 240.15Aj-1 Amendments and supple-  
ments to registration statements of  
securities associations.**

Every association applying for registration or registered as a national securities association or as an affiliated securities association shall keep its registration statement up-to-date in the manner prescribed below:

(a) *Amendments.* Promptly after the discovery of any inaccuracy in the registration statement or in any amendment or supplement thereto the association shall file with the Commission an amendment correcting such inaccuracy.

(b) *Current supplements.* Promptly after any change which renders no longer accurate any information contained or incorporated in the registration statement or in any amendment or supplement thereto the association shall file with the Commission a current supplement setting forth such change, except that:

(1) Supplements setting forth changes in the information called for in Exhibit C need not be filed until 10 days after the calendar month in which the changes occur.

(2) No current supplements need be filed with respect to changes in the information called for in Exhibit B.

(3) If changes in the information called for in items (1) and (2) of Exhibit C are reported in any record which is published at least once a month by the association and promptly filed in triplicate with the Commission, no current supplement need be filed with respect thereto.

(c) *Annual supplements.* (1) Promptly after March 1 of each year, the association shall file with the Commission an annual consolidated supplement as of such date on Form X-15AJ-2 (§249.803) except that:

(i) If the securities association publishes or cooperates in the publication of the information required in Items 6(a) and 6(b) of Form X-15AJ-2 on an annual or more frequent basis, in lieu of filing such an item the securities association may:

(A) Identify the publication in which such information is available, the name, address, and telephone number of the person from whom such publication may be obtained, and the price thereof; and

(B) Certify to the accuracy of such information as of its date.

(ii) Promptly after March 1, 1995, and every three years thereafter each association shall file complete Exhibit A to Form X-15AJ-2. The information contained in this exhibit shall be up to date as of the latest practicable date within 3 months of the date on which these exhibits are filed. If the association publishes or cooperates in the publication of the information required in this exhibit on an annual or more frequent basis, in lieu of filing such exhibit the association may:

(A) Identify the publication in which such information is available, the name, address, and telephone number of the person from whom such publication may be obtained, and the price thereof; and

(B) Certify to the accuracy of such information as of its date. If a securities association keeps the information required in this exhibit up to date and makes it available to the Commission and the public upon request, in lieu of filing such an exhibit a securities association may certify that the information is kept up to date and is available to the Commission and the public upon request.

(2) Promptly after the close of each fiscal year of the association, it shall file with the Commission a supplement setting forth its balance sheet as of the close of such year and its income and expense statement for such year.

(d) *Filing, dating, etc.* Each amendment or supplement shall be filed in