

FILED
SECURITIES DIVISION
APR 03 2025

**INDIANA SECRETARY OF STATE
SECURITIES DIVISION**

INDIANA
SECRETARY OF STATE

IN THE MATTER OF:)
)
MERGER AND ACQUISITION) 25-001 AO
BROKER-DEALERS)
)

ADMINISTRATIVE ORDER

Comes now Marie Castetter, Indiana Securities Commissioner (“Commissioner”), and pursuant to the authority vested in her by the Indiana Uniform Securities Act, Ind. Code § 23-19, *et seq.* (“IUSA”), hereby finds that it is appropriate and in the public interest to issue an Administrative Order regarding broker-dealers who engage in certain merger and acquisition (“M&A”) activities.

WHEREAS, Ind. Code § 23-19-4-1(a) states that it is unlawful for a person to transact business in Indiana as a broker-dealer unless that person is registered under the IUSA as a broker-dealer or exempt from registration as a broker-dealer under the IUSA.

WHEREAS, on December 29, 2022, former U.S. President Joseph R. Biden signed the Consolidated Appropriations Act, 2023, H.R. 2617 (“Consolidated Act”), which created a statutory registration exemption under Section 15(b)(13) of the Securities Exchange Act of 1934, as amended (“Exchange Act”) for certain qualifying broker-dealers that effect securities transactions involving transfers of ownership of control of certain privately held companies. On March 29, 2023, that new exemption from registration as a broker-dealer under the Exchange Act came into effect.

WHEREAS, uniformity between state and federal law is important to private company business sellers and buyers engaged in interstate M&A transactions, as well as state economic development and business growth.

IT IS THEREFORE ORDERED that the Indiana Securities Division will not seek enforcement action against unregistered Merger & Acquisition Broker-Dealer/Agent as part of its broker dealer activities in Indiana if: (1) not engaged in any of the nine (9) Excluded Activities defined under Section 15(b)(13) of the Exchange Act; (2) otherwise complied with the requirements of 15(b)(13); and (3) otherwise complied with the Indiana Uniform Securities Act (Ind. Code § 23-19, *et seq.*) and underlying Rules (710 IAC 4, *et seq.*). The nine (9) Excluded Activities defined under Exchange Act are listed as follows:

- i. Directly or indirectly in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction.
- ii. Engages on behalf of an issuer in a public offering of any class of securities that is registered, or is required to be registered, with the U.S. Securities and Exchange Commission under § 12 of the Exchange Act or with respect to which the issuer files, or is required to file, periodic information, documents, and reports under subsection (d) of the Exchange Act.
- iii. Engages on behalf of any party in a transaction involving a shell company, other than a business combination related shell company.
- iv. Directly or indirectly through any of its affiliates, provides financing related to the transfer of ownership of an eligible privately held company.
- v. Assists any party to obtain financing from an unaffiliated third party without:

- a. complying with all other applicable laws in connection with such assistance, including, if applicable, Regulation T (12 C.F.R. § 220, *et seq.*); and
 - b. disclosing any compensation in writing to the party.
- vi. Represents both the buyer and the seller in the same transaction without providing clear written disclosure as to the parties the broker represents and obtaining written consent from both parties to the joint representation.
 - vii. Facilitates a transaction with a group of buyers formed with the assistance of the broker-dealer engaging in M&A activities to acquire the eligible privately held company.
 - viii. Engages in a transaction involving the transfer of ownership of an eligible privately held company to a passive buyer or group of passive buyers.
 - ix. Binds a party to a transfer of ownership of an eligible privately held company.

This exemption shall take effect immediately and shall remain in full force and effect until such time as it is amended or modified.

SO ORDERED this 3rd day of April, 2025 in Indianapolis, Indiana.

DIEGO MORALES
SECRETARY OF STATE




MARIE CASTETTER
SECURITIES COMMISSIONER