

BEFORE THE NATIONAL ADJUDICATORY COUNCIL
FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of the Continued Membership
of
Halifax America LLC
with
FINRA

Notice Pursuant to
Rule 19h-1
Securities Exchange Act
of 1934

SD-2315

Date: September 15, 2023

I. Introduction

On January 21, 2022, Halifax America LLC (the “Firm”) submitted to FINRA a Membership Continuance Application (“MC-400A” or “the Application”). The Application seeks to permit the Firm, a FINRA member subject to a statutory disqualification, to continue its membership with FINRA. A hearing was not held in this matter. Rather, pursuant to FINRA Rule 9523(a), FINRA’s Department of Member Supervision (“Member Supervision”) recommended that the Chairperson of the Statutory Disqualification Committee, acting on behalf of the National Adjudicatory Council, approve the Firm’s continued membership with FINRA pursuant to the terms and conditions set forth below.

For the reasons explained below, we approve the Application.

II. The Statutorily Disqualifying Event

The Firm is subject to a statutory disqualification because of a December 7, 2021 decision issued by the National Futures Association (the “Disqualifying Decision”). Pursuant to the Disqualifying Decision, the Firm was ordered not to reapply for membership in the National Futures Association (“NFA”) or to be listed or act as a principal of any NFA member.¹ The Disqualifying Decision was based on a complaint filed by the NFA against the Firm, Devin D. Brady (“Brady”) (the Firm’s chief executive officer (“CEO”)), and another individual not registered with FINRA (“Individual 1”). The NFA alleged that Individual 1, while working for the Firm’s NFA-regulated business, aided another individual who was subject to a two-year suspension from NFA membership in participating in activities requiring NFA registration. The NFA’s

¹ Section 3(a)(39)(A) of the Securities Exchange Act of 1934 (“Exchange Act”) provides that a firm is statutorily disqualified if it has been expelled or barred from membership or participation in any self-regulatory organization.

complaint further alleged that Brady was responsible for supervising Individual 1. It further alleged that the Firm was liable for violations of NFA rules committed by Brady as the Firm's CEO.² The Firm consented to entry of the Disqualifying Decision without admitting or denying the allegations in the complaint.

III. Background Information

A. The Firm

The Firm is based in Sherman Oaks, California and has been a FINRA member since 2015. It describes its business as "servicing retail self-directed customers and [it] does not make trade recommendations to any of [its] customers." Halifax withdrew its NFA membership in 2019, although the NFA did not process the Firm's request to withdraw its membership until 2021 because of its investigation into the misconduct underlying the Disqualifying Decision.

According to the Firm's Central Registration Depository ("CRD"®) record, it has one branch office, which is the Firm's Office of Supervisory Jurisdiction. The Firm employs three registered principals, and does not currently employ any statutorily disqualified individuals. Brady serves as the Firm's CEO, chief compliance officer, anti-money laundering compliance officer, and financial and operations principal. He is also the CEO and a control person of Zytrade.

B. Examinations and Regulatory History

1. Examinations

Since 2015, the Firm has been the subject of three routine examinations and seven non-routine examinations. The most recent routine examinations, in 2020 and 2017, did not result in any exceptions. Further, in connection with the Firm's non-routine examinations, the Firm has not been issued any Cautionary Actions and has not been subject to any formal regulatory action by FINRA.

² The Disqualifying Decision incorporated an agreement between Brady and the NFA that required that Brady pay a \$20,000 fine and engage in certain undertakings in his capacity as CEO of another NFA member, Zytrade LLC ("Zytrade"). The Firm represents that Brady has complied with these undertakings.

Zytrade, which is not a FINRA member, was approved to act as an introducing broker NFA member in October 2019, during the NFA's investigation of the Firm. The Firm represents that it does not have any business relationship with Zytrade, although the Firm's three employees are currently dually registered with Zytrade. The record shows that Zytrade does not have any regulatory or disciplinary history, and Individual 1 is not currently registered with Zytrade.

2. Regulatory History

Other than the Disqualifying Decision, the Firm is the subject of a March 2019 Letter of Acceptance, Waiver and Consent (“AWC”) addressing violations of FINRA Rules 1031, 1122, 2010, 2040, 3110, and 3310. Without admitting or denying the allegations, the Firm consented to findings that: (1) from December 2014 through May 2015, it made misstatements to FINRA in connection with its application for membership; (2) from May 2015 through October 2015, it permitted an unregistered person to engage in securities business; (3) in January and February 2016, it made two payments totaling approximately \$4,460 to an unregistered entity; (4) from October 2015 through February 2016, it failed to establish, maintain, and enforce a supervisory system (including written supervisory procedures) reasonably designed to review trading activity in customer accounts; and (5) from May through November 2015, it failed to establish, document, and maintain a reasonable customer identification program. FINRA censured the Firm and fined it \$60,000.³

IV. The Firm’s Proposed Continued Membership with FINRA and Proposed Plan of Heightened Supervision

The Firm seeks to continue its membership with FINRA notwithstanding the Disqualifying Decision, which renders the Firm statutorily disqualified. The Firm has therefore agreed to the following Plan of Heightened Supervision as a condition of its continued membership with FINRA:

1. The Firm must comply with the restrictions from acting in a principal capacity and reapplying for NFA membership as specified in the Disqualifying Decision, *In the Matter of Halifax America, et al.*, NFA Case No. 21-BCC-012 (Dec. 7, 2021) and the corresponding side letter entered into by Brady, which is incorporated by reference.
2. The Firm will implement a mandatory annual training for all FINRA registered persons. The annual training will specifically cover securities rules and regulations surrounding registrations required for any line of business that the Firm participates in as well as the Firm’s policies prohibiting representatives from facilitating the unregistered activities of a third party. The Firm will maintain documentation of the content and individual completion of such trainings in a segregated file for ease of review by FINRA staff during FINRA examinations.

³ The Firm represents that it made certain changes to its processes and procedures with respect to the deficiencies noted in the AWC.

3. The mandatory annual training for all FINRA registered persons referenced in provision 2 above will be conducted initially within six months of the issuance of the SEC's Letter of Acknowledgment ("LOA") in this matter and then be conducted annually for a term of five years from the date of the LOA. Following that five-year term, the Firm will continue providing said training on a risk-based cadence determined by the Firm.
4. The Firm will not contribute any funds to any NFA member constituting 10 percent or more of that member's capital.
5. Should the Firm, including the Firm's CEO or any other control person of the Firm, make a capital contribution to any NFA member, the Firm's Compliance Manager, Joseph Vartanian, must review documentation demonstrating the source of funds used for the contribution. The Firm will maintain documentation of this review in a segregated file for ease of review by FINRA staff during FINRA examinations.
6. The Firm will conduct a review of the registrations held by each of its registered representatives no later than 30 days after the SEC's LOA issuance in this matter to determine whether the registered individuals hold the appropriate registrations to participate in the lines of business that the Firm engages in. The Firm will then complete the same review annually. The Firm will maintain documentation of this review in a segregated file for ease of review by FINRA staff during FINRA examinations.
7. The Firm must obtain prior approval from FINRA Member Supervision if it wishes to change any provision of this Plan. The Firm will submit any proposed changes or other requested information under this Plan to FINRA's SD Group at SDMailbox@FINRA.org.

If the Firm's request to continue its membership in FINRA is approved, Member Supervision represents that FINRA intends to utilize its examination and surveillance processes to assess the Firm's continued compliance with the standards prescribed by Exchange Act Rule 19h-1 and FINRA Rule 9523.

V. Discussion

Member Supervision recommends approving the Firm's request to continue its membership in FINRA. After carefully reviewing the entire record in this matter, we approve the Application.

In evaluating an application like this, we assess whether the statutorily disqualified firm seeking to continue its membership in FINRA has demonstrated that its continued membership is consistent with the public interest and does not create an

unreasonable risk of harm to the market or investors. *See* FINRA By-Laws, Art. III, Sec. (3)(d); *cf. Frank Kufrovich*, 55 S.E.C. 616, 624 (2002) (holding that FINRA “may deny an application by a firm for association with a statutorily-disqualified individual if it determines that employment under the proposed plan would not be consistent with the public interest and the protection of investors”). Factors that bear on our assessment include the nature and gravity of the statutorily disqualifying misconduct, the time elapsed since its occurrence, the restrictions imposed, and whether there has been any intervening misconduct.

We recognize that the Disqualifying Decision effectively expelled the Firm from NFA membership and prohibits it from being listed or acting as a principal for any NFA member. We note, however, that the Disqualifying Decision did not contain any specific findings of misconduct against the Firm but rather stemmed from the misconduct of Individual 1 (who has never been and is not currently registered with the Firm) and Brady’s failure to supervise Individual 1. Further, we note that Brady, the Firm’s CEO, was not suspended and did not have his ability to associate with Zytrade limited as a result of the Disqualifying Decision and that the heightened supervisory plan helps to ensure that the Firm and Brady do not violate the terms of the Disqualifying Decision by virtue of Brady’s role as CEO of Zytrade. In addition, the Firm has represented that Brady has complied with all undertakings related to the Disqualifying Decision.

We further agree with Member Supervision that the Firm’s regulatory history should not prevent the continuance of the Firm as a FINRA member. The Firm has undergone a number of examinations with no exceptions or Cautionary Actions issued, and we note that the single regulatory matter against the Firm—the 2019 AWC—involved misconduct that occurred approximately seven to eight years ago. Further, the Firm represents that it took certain corrective actions in response to the AWC, and the heightened supervisory plan should help to ensure that misconduct similar to the misconduct underlying the 2019 AWC (some of which shares similarities with the misconduct underlying the Disqualifying Decision) does not reoccur. At this time, we are satisfied, based in part upon the Firm’s representations, Member Supervision’s representations, the heightened supervisory plan, and the record currently before us, that the Firm’s continued membership in FINRA is consistent with the public interest and does not create an unreasonable risk of harm to the market or investors.

Accordingly, we approve the Firm's Application to continue its membership in FINRA as set forth herein. In conformity with the provisions of Exchange Act Rule 19h-1, the approval of the continued membership of the Firm will become effective within 30 days of the receipt of this notice by the SEC, unless otherwise notified by the SEC.

On Behalf of the National Adjudicatory Council,

Jennifer Mitchell Piorko
Vice President and Deputy Corporate Secretary