

under paragraph (b)(4) above shall provide the following information with respect to the offering through [the Association's] NASD's electronic filing system:

(i)-(ii) *No change.*

(iii) a statement of the association or affiliation with any member of any officer[, or director of the issuer, of any [or security holder] *beneficial owner* of [the issuer in an initial public offering of equity securities, and with respect to any other offering provide such information with respect to any officer, director or security holder of five percent] 5% or more of any class of the issuer's securities, and of any *beneficial owner of the issuer's unregistered equity securities that were acquired during the 180-day period immediately preceding the required filing date of the public offering, except for purchases described in subparagraph (c)(3)(B)(iv) below. This statement must identify* [to include]:

a. [the identity of] the person;

b. [the identity of] the member and whether such member is participating in any capacity in the public offering; and

c. the number of equity securities or the face value of debt securities owned by such person, the date such securities were acquired, and the price paid for such securities.

(iv) [a statement addressing the factors in subparagraphs (c)(4)(C) and (D), where applicable;]

[(v)] a detailed explanation of any other arrangement entered into during the [12-month] 180-day period immediately preceding the *required filing date* of the *public offering*, which arrangement provides for the receipt of any item of value [and/or] the transfer of any warrants, options, or other securities from the issuer to the underwriter and related persons, *provided however:* [; and]

a. *information regarding debt securities and derivative instruments not considered an item of value under subsection (c)(3)(B)(vi) and (vii) is not required to be filed; and*

b. *information initially filed in connection with debt securities and derivative instruments acquired or entered into for a "fair price" as defined in subsection (a)(9), but not excluded from items of value under subsection (c)(3)(B)(vi) or (vii), may be limited to a brief description of the transaction (additional information may be required in the review process) and a representation by the member that a registered principal or senior manager on behalf of the member has determined that the transaction was or (if the pricing terms have not been set) will be entered into at a fair price as defined in subsection (a)(9).*

(v) *a statement demonstrating compliance with all of the criteria of an exception from underwriting compensation in subparagraph (d)(5) below, when applicable; and*

(vi) a detailed explanation and any documents related to:

a. *the modification of any information or representation previously provided to the NASD or of any item of underwriting compensation, including the information required in subparagraph (b)(6)(A)(iii) above with respect to any securities of the issuer acquired subsequent to the required filing date and prior to the effectiveness or commencement of the offering[.]; or*

b. *any new arrangement that provides for the receipt of any additional item of value by any participating member subsequent to the [review and approval of such compensation] issuance of an opinion of no objections to the underwriting terms and arrangements by [the Association] NASD and within 90 days immediately following the date of effectiveness or commencement of sales of the public offering, provided, however, that information filed in connection with debt securities and derivative instruments acquired or entered into for a "fair price" as defined in subsection (a)(9) may be limited as described in subsection (b)(6)(A)(iv)b.*

(vii) any other information required to be filed under this Rule.

(B) *No change.*

(7)-(11) *No change.*

(c) Underwriting Compensation and Arrangements

(1) General

No member or person associated with a member shall participate in any manner in any public offering of securities in which the underwriting or other terms or arrangements in connection with or relating to the distribution of the securities, or the terms and conditions related thereto, are unfair or unreasonable.

(2) Amount of Underwriting Compensation

(A) No member or person associated with a member shall receive an amount of underwriting compensation in connection with a public offering [which] *that is unfair or unreasonable* and no member or person associated with a member shall underwrite or participate in a public offering of securities if the underwriting compensation in connection with the public offering is unfair or unreasonable.

(B)-(D) *No change.*

(E) The maximum amount of compensation (stated as a percentage of

the dollar amount of the offering proceeds) [which] *that is considered fair and reasonable generally will vary directly with the amount of risk to be assumed by [the underwriter and related persons] participating members and inversely with the dollar amount of the offering proceeds.*

(3) Items of [Compensation] Value

(A) For purposes of determining the amount of underwriting compensation received or to be received by the underwriter and related persons pursuant to subparagraph (c)(2) above, the following items and all other items of value received or to be received by the underwriter and related persons in connection with or related to the distribution of the *public offering*, as determined pursuant to [sub]paragraph [(4)] (d) below shall be included:

(i)-(iii) *No change.*

(iv) *finder's fees, whether in the form of cash, securities or any other item of value;*

(v) *wholesaler's fees;*

(vi) *financial consulting and advisory fees, whether in the form of cash, securities, or any other item of value;*

(vii) *common or preferred stock, options, warrants, and other equity securities, including debt securities convertible to or exchangeable for equity securities, [including securities] received [as underwriting compensation, for example]:*

a. *[in connection with a] for acting as private placement agent [of securities] for the issuer;*

b. *for providing or arranging a loan, credit facility, [bridge financing] merger or acquisition services, or any other service for the issuer;*

[c. *as a finder's fee;*]

[d. *for consulting services to the issuer; and*]

[e. *[c. [securities purchased] as an investment in a private placement made by the issuer; or*

d. *at the time of the public offering.*

(viii) *special sales incentive items [in compliance with subparagraph (6)(B)(xi)];*

(ix) *any right of first refusal provided to [the underwriter and related persons] any participating member to underwrite or participate in future public offerings, private placements or other financings, which will have a compensation value of 1% of the offering proceeds or that dollar amount contractually agreed to by the issuer and underwriter to waive or terminate the right of first refusal;*

(x) *No change.*

(xi) *commissions, expense reimbursements, or other compensation to be received by the underwriter and related persons as a result of the*