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FINRA Gift-Giving Rules - Application to TisBest Charity Gift Cards

Customers in the financial services industry often ask if TisBest Charity Gift Cards are subject to the \$100 per client per year gift restriction established by FINRA Rule 3220. After inquiry and research, our understanding is that TisBest Charity Gift Cards are not subject to the Rule 3220 gift giving restrictions because Charity Gift Cards are of *de minimis* value.

FINRA gift giving restrictions are set forth in Rule 3220.¹ In general, Rule 3220 says that “anything of value” given as gifts that are “in relation to the business of the [FINRA firm]” may not exceed \$100 per recipient per year, and are subject to record keeping and reporting requirements. In 2006 the National Association of Securities Dealers (NASD) issued Notice to Members #06-69 (“NTM 06-69”), and NTM 06-69 has since become accepted as a widely applicable interpretation and fleshing out of Rule 3220.²

The unique financial structures of TisBest Philanthropy result in FINRA compliance. TisBest Philanthropy is a 501c3 nonprofit corporation that operates a Donor Advised Fund. Charity Gift Card purchase money is deposited directly to the TisBest Philanthropy Donor Advised Fund, and held there until a Charity Gift Card is spent. The recipient of a Charity Gift Card cannot exchange the Charity Gift Card for goods or services, and cannot cause money held in the Donor Advised Fund associated with that gift card to be directed to any person, or put to any purpose, other than a donation to an unrelated third-party charitable organization.³ Accordingly, a Charity Gift Card has no financial or utility value to the recipient. NTM 06-69 provides, “Rule [3220] does not apply to gifts of *de minimis* value (e.g pens, notpads or modest desk ornaments)....” Therefore, TisBest Charity Gift Cards fall within the *de minimis* value exemption to FINRA Rule 3220.

In general, our FINRA-regulated clients tell us that their compliance departments agree with this interpretation, and have concluded that employees do not need to report Charity Gift Cards as gifts. That being said, TisBest will always recommend and support a purchasing firm’s compliance process. Please don’t hesitate to reach out to info@tisbest.org if your compliance team has questions!

¹ [FINRA Rule 3220](#).

² [NASD Notice to Members 06-69](#). Although NASD Notice to Members 06-69 refers to FINRA Rule 3060, Rule 3660 was succeeded and replaced by Rule 3220 and so NTM 06-69 is accepted as an interpretation of current FINRA Rule 3220.

³ [IRC 4966\(d\)\(2\)\(B\)](#).