

Congress Enacts M&A Broker But What About George Babbit?

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Those who made it to page 1,080 of [H.R. 2617](#) (the "Consolidated Appropriations Act") will know that Congress has amended Section 15(b) of the Securities and Exchange Act of 1934 to exempt "M&A Brokers" from the requirement to register as brokers with the Securities and Exchange Commission. As might be expected, this new exemption is both complicated and limited. The new exemption will become effective on March 29 of this year.

Brokers who rely on this exemption must still account for state broker-dealer registration requirements. California practitioners will know that the California has long had a rule exempting merger and acquisition specialists, 10 CCR 260.204.5. The California rule is not nearly so cabined and labyrinthian as the new federal exemption. It is quite simply available to "any person who effects transactions in securities in California only in connection with mergers, consolidations or purchases of corporate assets, and who does not receive, transmit, or hold for customers any funds or securities in connection with such transactions". What the California Commissioner of Corporations did in fewer than 100 words, Congress accomplished in about 1,000 words.

California practitioners will also note that mergers and acquisition specialists may nevertheless be required to be licensed under California's Real Estate Law, even when there is no sale of real estate. This is a topic that I covered more than a decade ago in this [post](#).

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