

Open Meeting Matter

November 8, 2017 Agenda - Item A-1

To: The Board
cc: Legal Staff
From: Amber Marie Gonzalez AMG
Date: October 31, 2017
Re: Amendment to Board Rules Section 1-11

Charter Section 2603(a) requires that once every four years the Board, by rule, shall adjust the dollar amount established in Charter Section 2601(16) to reflect changes in the Consumer Price Index (“CPI”) published by the Bureau of Labor Statistics of the United States Department of Labor. In 2014, the Board amended Board Rules Section 1-11 to adjust the dollar amount in the definition of “ownership interest” in Charter Section 2601(16) from \$44,000 to \$48,000. Four years having nearly passed, it is now time again to adjust the amount.

Pursuant to Chapter 45 of the New York City Charter, the New York City Administrative Procedure Act (“CAPA”), attached is the text of the proposed adjustment to Board Rules Section 1-11, including notice of a public hearing, statutory authority, and statement of basis and purpose, to increase the dollar amount from \$48,000 to \$50,000. The increase in the dollar amount is based on the change in the CPI for the metropolitan New York-New Jersey region. From January 1990 (when Chapter 68 took effect) to September 2017, the CPI for the metropolitan area increased from 135.1 to 270.1, an increase of 99.9%. Thus, the \$25,000 “ownership interest” amount in Charter Section 2601(16) should be adjusted to \$50,000, reflecting a 99.9% increase from the original “ownership interest” amount of \$25,000, rounded to the nearest \$1,000.

Open Meeting Matter

Attached as exhibits are:

1. Draft of notice and proposed amended rule (Exhibit 1);
2. Bureau of Labor Statistics data reflecting the CPI for January 1990 through September 2017 (Exhibit 2); and
3. The CPI and ownership interest dollar amount calculation worksheets (Exhibit 3).

Open Meeting Matter

City of New York Conflicts of Interest Board

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Conflicts of Interest Board intends to amend its rule on Adjustment of Dollar Amount in Definition of “Ownership Interest,” Section 1-11 of Title 53 of the Rules of the City of New York, to adjust the dollar amount in the definition of “Ownership Interest” (Charter Section 2601(16)) from \$48,000 to \$50,000, to reflect changes in the Consumer Price Index for the metropolitan New York-New Jersey region published by the United States Department of Labor, Bureau of Labor Statistics.

When and where is the Hearing? The Conflicts of Interest Board will hold a public hearing on the proposed rule. The public hearing will take place from 9:00 A.M. to 5:00 P.M. on [date]. The hearing will be in the Conflicts of Interest Board hearing room at 2 Lafayette Street, Suite #1010, 10th Floor, New York, New York 10007.

This location has the following accessibility option(s) available: Accessibility Not Applicable

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Conflicts of Interest Board through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Amber Gonzalez at gonzalez@coib.nyc.gov.
- **Mail.** You can mail comments to Amber Gonzalez, Associate Counsel, Conflicts of Interest Board, 2 Lafayette Street, Suite #1010, New York, New York 10007.
- **Fax.** You can fax comments to the Conflicts of Interest Board at (212) 437-0705.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 437-0723. You can also sign up in the hearing room before the hearing begins on [date]. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit written comments by [date].

Do you need assistance to participate in the hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 437-0723. You must tell us by [date].

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of

Open Meeting Matter

oral comments concerning the proposed rule will be available to the public at the Conflicts of Interest Board, 2 Lafayette Street, Suite #1010, New York, New York 10007.

What authorizes the Conflicts of Interest Board to make this rule? Sections 1043 and 2603(a) of the City Charter and authorize the Conflicts of Interest Board to make this proposed rule. This proposed rule was not included in the Conflicts of Interest Board's regulatory agenda for this Fiscal Year because it was not contemplated when the Conflicts of Interest Board published the agenda.

Where can I find the Conflicts of Interest Board's rules? The Conflicts of Interest Board's rules are in title 53 of the Rules of the City of New York.

What rules govern the rulemaking process? The Conflicts of Interest Board must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Open Meeting Matter

Statement of Basis and Purpose of Proposed Rule

Subject to certain exceptions, the conflicts of interest provisions of Chapter 68 of the New York City Charter prohibit New York City public servants from having “interests” in firms engaged in business dealings with the City or from taking actions as a public servant particularly affecting the public servant’s interest in a firm. See Charter Sections 2604(a) and 2604(b)(1). Interest is defined in Charter Section 2601(12) as either an ownership interest in a firm or a position with a firm. “Ownership interest” is, in turn, defined in Charter Section 2601(16) as

an interest in a firm held by a public servant, or the public servant’s spouse, domestic partner, or unemancipated child, which exceeds five percent of the firm or an investment of twenty-five thousand dollars in cash or other form of commitment, whichever is less, or five percent or twenty-five thousand dollars of the firm’s indebtedness, whichever is less, and any lesser interest in a firm when the public servant, or the public servant’s spouse, domestic partner, or unemancipated child exercises managerial control or responsibility regarding any such firm, but shall not include interests held in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by the public servant, the public servant’s spouse, domestic partner, or unemancipated child, or in any blind trust which holds or acquires an ownership interest. The amount of twenty-five thousand dollars specified herein shall be modified by the board pursuant to subdivision a of section twenty-six hundred three. (Emphasis added.)

Charter Section 2603(a) requires the Conflicts of Interest Board, by rule amendment, once every four years to adjust the \$25,000 amount established in Section 2601(16) to reflect changes in the Consumer Price Index for the metropolitan New York-New Jersey region as published by the United States Bureau of Labor Statistics. The foregoing provision became effective on January 1, 1990.

Effective Year	Consumer Price Index (CPI)	Ownership Interest Amount (rounded to the nearest \$1,000)	Percent change from 1990 CPI
1990	135.1	\$25,000	-
1994	156.0	\$29,000	15.5%
1998	172.1	\$32,000	27.4%
2002	188.5	\$35,000	39.5%
2006	216.6	\$40,000	60.3%
2010	238.8	\$44,000	76.8%
2014	258.5	\$48,000	91.3%
2018	270.1	\$50,000	99.9%

According to the United States Department of Labor, Bureau of Labor Statistics, for the twenty-seven year period from January 1990, to September 2017, the Consumer Price Index for the metropolitan area increased from 135.1 to 270.1, reflecting a total increase of 99.9%. Thus, the

Open Meeting Matter

\$25,000 Charter amount should be adjusted to \$50,000, rounded to the nearest \$1,000, reflecting the requisite increase from the \$25,000 Charter amount.

The Conflicts of Interest Board's authority for these rules is found in Section 2603(a) of the New York City Charter.

Open Meeting Matter

Text of the Proposed Rule

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1-11. ADJUSTMENT OF DOLLAR AMOUNT IN DEFINITION OF “OWNERSHIP INTEREST”

Effective as of January 1, [2014] 2018, the dollar amount in the definition of “Ownership Interest” in subdivision (16) of § 2601 of the New York City Charter shall be adjusted from [\$44,000] \$48,000 to [\$48,000] \$50,000.

**CPI-All Urban Consumers (Current Series)
Original Data Value**

Series Id: CUURA101SA0
 Not Seasonally Adjusted
 Series Title: All items in New York-Northern New Jersey-Long
 Area: New York-Northern New Jersey-Long Island, NY-
 Item: All items
 Base Period: 1982-84=100
 Years: 2007 to 2017

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2007	221.767	223.066	224.551	225.780	227.146	228.258	228.628	228.326	228.308	228.552	229.504	229.395	226.940	225.095	228.785
2008	229.869	231.020	233.122	233.822	236.151	238.580	240.273	240.550	240.089	238.403	234.498	233.012	235.782	233.761	237.804
2009	233.402	234.663	235.067	235.582	235.975	237.172	237.600	238.282	238.568	238.380	238.777	238.427	236.825	235.310	238.339
2010	238.970	238.862	240.101	240.529	241.075	240.817	241.147	241.569	241.485	241.981	241.960	241.874	240.864	240.059	241.669
2011	242.639	243.832	245.617	246.489	248.073	248.505	249.164	250.058	250.559	250.051	249.317	248.307	247.718	245.859	249.576
2012	249.322	250.285	251.887	252.349	252.652	252.406	252.016	253.472	254.554	254.277	254.285	253.555	252.588	251.483	253.693
2013	254.807	256.234	256.589	255.967	256.270	256.911	257.326	257.659	258.504	257.069	257.377	257.284	256.833	256.130	257.537
2014	259.596	259.019	259.971	259.985	261.225	261.350	261.498	261.075	261.074	260.500	259.382	258.080	260.230	260.191	260.268
2015	258.376	259.240	259.647	259.959	261.066	261.512	261.199	261.347	261.887	261.515	261.009	259.941	260.558	259.967	261.150
2016	260.342	260.875	261.508	262.619	263.312	263.877	263.722	264.160	264.602	264.738	265.203	265.421	263.365	262.089	264.641
2017	266.917	267.662	267.582	267.948	268.183	268.666	268.051	268.657	270.059					267.826	

Open Meeting Matter

Ownership Interest - Dollar Adjustment

Date	CPI	\$
Jan-90	135.1	\$25,000
Jan-94	156.0	\$29,000
Jan-98	172.1	\$32,000
Jan-02	188.5	\$35,000
Oct-05	216.6	\$40,000
Aug-09	238.8	\$44,000
Aug-13	257.7	\$48,000
Sep-17	270.1	\$50,000

Calculation from January 1990 to January 1994:

$\frac{\$25,000}{135.1} = \frac{X}{156.0}$	$135.1 X = 3900000$	$X = \$28,868$	~ <u><u>\$29,000</u></u>
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Calculation from January 1990 to January 1998:

$\frac{\$25,000}{135.1} = \frac{X}{172.1}$	$135.1 X = 4302500$	$X = \$31,847$	~ <u><u>\$32,000</u></u>
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Calculation from January 1990 to January 2002:

$\frac{\$25,000}{135.1} = \frac{X}{188.5}$	$135.1 X = 4712500$	$X = \$34,882$	~ <u><u>\$35,000</u></u>
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Calculation from January 1990 to October 2005:

$\frac{\$25,000}{135.1} = \frac{X}{216.6}$	$135.1 X = 5415000$	$X = \$40,081$	~ <u><u>\$40,000</u></u>
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Calculation from January 1990 to August 2009:

$\frac{\$25,000}{135.1} = \frac{X}{238.8}$	$135.1 X = 5970000$	$X = \$44,189$	~ <u><u>\$44,000</u></u>
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Calculation from January 1990 to September 2014:

$\frac{\$25,000}{135.1} = \frac{X}{258.5}$	$135.1 X = 6462500$	$X = \$47,835$	~ <u><u>\$48,000</u></u>
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Calculation from January 1990 to September 2017:

$\frac{\$25,000}{135.1} = \frac{X}{270.1}$	$135.1 X = 6751475$	$X = \$49,974$	~ <u><u>\$50,000</u></u>
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Open Meeting Matter

Ownership Interest - CPI and Dollar Changes

<u>Date</u>	<u>CPI</u>	<u>\$</u>	<u>CPI</u> <u>% Change</u> <u>4 Years</u>	<u>CPI</u> <u>% Change</u> <u>From 1990</u>	<u>\$</u> <u>% Change</u> <u>4 Years</u>	<u>\$</u> <u>% Change</u> <u>From 1990</u>
Jan-90	135.1	\$25,000				
Jan-94	156.0	\$29,000	15.5%	15.5%	16.0%	16.0%
Jan-98	172.1	\$32,000	10.3%	27.4%	10.3%	28.0%
Jan-02	188.5	\$35,000	9.5%	39.5%	9.4%	40.0%
Oct-05	216.6	\$40,000	14.9%	60.3%	14.3%	60.0%
Nov-09	238.8	\$44,000	10.2%	76.8%	10.0%	76.0%
Nov-13	258.5	\$48,000	8.2%	91.3%	9.1%	92.0%
Sep-17	270.1	\$50,000	4.5%	99.9%	4.2%	100.0%