NOTICE OF RULEMAKING HEARING
NEBRASKA DEPARTMENT OF BANKING AND FINANCE

Notice is hereby given that the Nebraska Department of Banking and Finance will hold a rulemaking hearing on August 19, 2019, commencing at 1:30 p.m., at the offices of the Department of Banking and Finance, 1526 K Street, Suite 300, Lincoln, Nebraska 68508.

The purpose of the hearing is to take testimony and evidence concerning the following changes to the Rules and Regulations of the Department:

1) The proposed revision of 48 NAC Chapters 2, 4, 5, 7, 10, 12, 18, 20, and 21.
2) The proposed outright repeal of 48 NAC Chapters 17, 22-34, and 36.

48 NAC 2—Definitions. The purpose of the proposed amendments is to repeal definitions that are no longer necessary due to the proposed amendments to 48 NAC 21, and the proposed outright repeal of 48 NAC 22-34, and 36. The proposal also clarifies existing definitions and adopts a definition of the term “Department.”

48 NAC 4—Broker-Dealers. The purpose of the proposed amendments is to eliminate requirements for manual signatures and the payment of filing fees by physical checks or money orders.

48 NAC 5—Issuer-Dealers. The purpose of the proposed amendments is to eliminate requirements for manual signatures and the payment of filing fees by physical checks or money orders.

48 NAC 7—Investment Advisers. The purpose of the proposed amendments is to adopt cybersecurity requirements for investment advisers. In addition, the proposed amendments eliminate requirements for manual signatures and the payment of filing fees by physical checks or money orders.

48 NAC 10—Recordkeeping by Investment Advisers. The purpose of the proposed amendments is to amend recordkeeping requirements for investment advisers as related to cybersecurity.

48 NAC 12—Fraudulent, Dishonest and Unethical Business Practices. The purpose of the proposed amendments is to provide that an investment adviser’s use of a client’s password to access the client’s account is a dishonest and unethical business practice. The rule further provides that an investment adviser’s failure to establish, maintain and enforce a required policy is a dishonest and unethical business practice.

48 NAC 17—Uniform Limited Offering Exemption. This chapter is proposed for outright repeal as such rule is no longer necessary as a result of the United States Securities and Exchange Commission’s repeal of Regulation D, Rule 505, 17 CFR 230.505.

48 NAC 18—Information Requirements for the Section 8-1111(20) Nebraska Intrastate Issuer Exemption. The purpose of the proposed amendments is to eliminate

requirements for manual signatures and the payment of filing fees by physical checks or money order.

48 NAC 20—Federal Covered Securities. The purpose of the proposed amendments is to eliminate the requirement that issuers offering securities in Nebraska pursuant to the Securities & Exchange Commission ("SEC") Regulation A, Tier 2 use a broker-dealer, provided no commissions or other remuneration are paid as provided by LB 259 (2019). The proposal also eliminates requirements that filing fees be paid by physical check or money order.

48 NAC 21—Underwriting Expenses, Underwriter's Warrants, Selling Expenses, and Selling Securities Holders. The purpose of the proposed amendment is to replace this rule with a rule captioned "North American Securities Administrator Association Statements of Policy." The rule incorporates by reference Statements of Policy adopted by the North American Securities Administrators Association ("NASAA") and requires issuers registering offerings to comply with the requirements of the Statements of Policy. The following NASAA Statements of Policy are proposed for adoption:

1) "Statement of Policy Regarding Corporate Securities Definitions" as amended on May 6, 2018.

2) "Statement of Policy Regarding Underwriting and Selling Expenses, Underwriter's Warrants and Selling Expenses" as amended on May 6, 2018.

3) "Statement of Policy Regarding Promotional Shares" as amended on March 31, 2008.

4) "Statement of Policy Regarding Promoters' Equity Investment" as amended on September 11, 2016.

5) "Statement of Policy Regarding Loans and Other Material Transactions" as amended on May 6, 2018.

6) "Statement of Policy Regarding the Impoundment of Proceeds" as amended on March 31, 2008.

7) "Statement of Policy Regarding Unequal Voting Rights" as amended on September 11, 2016.

8) "Statement of Policy Regarding Specificity in Use of Proceeds" as amended on September 11, 2016.

9) "Statement of Policy Regarding Unsound Financial Condition" as amended on May 6, 2018.

10) "Statement of Policy Regarding Debt Securities" as adopted on April 25, 1993.

11) “Statement of Policy Regarding Preferred Stock” as amended on September 11, 2016.

12) “Statement of Policy Regarding Options and Warrants” as amended on March 31, 2008.

13) “Statement of Policy Regarding Real Estate Investment Trusts” as amended on May 7, 2007.

14) “Statement of Policy Regarding Real Estate Programs” as amended on May 7, 2007.

15) “Registration of Oil and Gas Programs” as amended on May 6, 2012.

16) “Registration of Publicly-Offered Cattle Feeding Programs” as adopted on September 17, 1980.

17) “Registration of Commodity Pool Programs” as amended on May 6, 2012.

18) “Equipment Programs” as amended on May 6, 2012.

19) “Registration of Asset Backed Securities” as amended on May 6, 2012.

20) “Statement of Policy Regarding Church Extension Fund Securities” as amended on April 18, 2004.

21) “Mortgage Program Guidelines” as amended on May 7, 2007.

22) “Omnibus Guidelines” as amended on May 7, 2007.

23) “Statement of Policy Regarding Use of Electronic Offering Documents and Electronic Signatures” as adopted on May 7, 2017.

48 NAC 22—Promotional Shares. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 23—Promoter’s Equity Investment. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 24—Loans and Other Material Affiliated Transactions. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 25—Impoundment of Proceeds. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 26—Unequal Voting Rights. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 27—Specificity Regarding Use of Proceeds. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 28—Unsound Financial Condition. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 29—Debt Securities. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 30—Preferred Stock. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 31—Options and Warrants. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 32—Real Estate Investment Trusts. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 33—Limited Partnerships. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 34—Registration of Asset Backed Securities. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

48 NAC 36—General Obligation Financing by Religious Denominations. This chapter is proposed for outright repeal due to the adoption of the NASAA Statements of Policy in the proposed amendments to 48 NAC 21.

The rulemaking hearing is being conducted under and by virtue of the provisions of Section 84-907, R.R.S 1943, as amended, which provides that COPIES OF THE PROPOSED RULES ARE AVAILABLE FOR PUBLIC EXAMINATION at the Office of the Department of Banking and Finance, 1526 K Street, Suite 300, Lincoln, Nebraska 68508, and at the Office of the Secretary of State, 1201 N Street, Suite 120, Lincoln, Nebraska 68509. In addition, the proposed rules are available on the Department of Banking and Finance's website at https://ndbf.nebraska.gov, and the Secretary of State's website www.sos.ne.gov.

A copy of the Fiscal Impact Statement is available at the Office of the Department of Banking and Finance and on the Department's website.

All interested persons are invited to attend and testify at the hearing. Interested persons may also submit written comments to the Department of Banking and Finance prior to the hearing, which comments will be made part of the hearing record at the time of the hearing.

If auxiliary aids or reasonable accommodations are needed for attendance at this hearing, please call the Nebraska Department of Banking and Finance at (402) 471-2171, or, for persons with hearing impairments, please call the Nebraska Relay System, (800) 833-7352 TDD. This contact should be made at least seven (7) days prior to the hearing.

Dated at Lincoln, Nebraska, this 11th day of July, 2019.

Claire McHenry, Deputy Director—Securities
Nebraska Department of Banking and Finance

FISCAL IMPACT STATEMENT

Agency: Banking and Finance
Title: 48
Chapters: 2, 4, 5, 7, 10, 12, 17, 18, 20, 21-34, 36

Prepared by: Michael Cameron, Legal Counsel
Date prepared: June 7, 2019
Telephone: 471-3245

Type of Fiscal Impact: There will be no fiscal impact. The rules do not impose any new fees or change any fee amounts. The rules also do not create or eliminate any exemptions that would impact the number of entities making filings for which a filing fee is required.

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	( )	( )	( )
Decreased Costs	( )	( )	( )
Increased Revenue	( )	( )	( )
Decreased Revenue	( )	( )	( )

Description of Impact:

State Agency: No impact

Political Subdivisions: No Impact

Regulated Public: No Impact

NEBRASKA ADMINISTRATIVE CODE

TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 2 - DEFINITIONS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to definitions be applied to Title 48 of the Nebraska Administrative Code, unless otherwise specified therein. This Rule is consistent with investor protection and is in the public interest.

~~001.03 Federal statutes and rules of the Securities and Exchange Commission ("SEC") and of the Financial Industry Regulatory Authority ("FINRA") referenced herein shall mean those statutes and rules as amended on or before the effective date of this Chapter. A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at http://www.ndbf.ne.gov/legal/title48.shtml.https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations~~

002 DEFINITIONS. The following words and terms ~~shall~~ have the ~~following~~ meanings set forth below~~,~~ unless the context clearly indicates otherwise.

~~002.01 Adjusted net earnings means the issuer's net earnings after charges for interest and dividends, adjusted on a pro forma basis to reflect:~~

~~002.01A The elimination of any required charges for debt, debt securities, or preferred stock that are to be redeemed or retired from the proceeds derived from the public offering of preferred stock;~~

~~002.01B The effect of any acquisitions or capital expenditures that were made by the issuer after its last fiscal year, or that it proposes or is required to make during the current fiscal year, which materially affect the issuer's net earnings;~~

~~002.01C The effect of charges or dividends on debt, debt securities, or preferred stock issued after the issuer's last fiscal year;~~

~~002.01D The effect of any charges or dividends on debt, debt securities, or preferred stock issued during, but outstanding for only a portion of, the issuer's last fiscal year, calculated as if the debt, debt securities, or preferred stock had been outstanding for the entire fiscal year; and~~

~~002.01E The effect of any other material changes to an issuer's future net earnings.~~

002.01~~2~~ Affiliate means a person who, directly or indirectly, controls, is controlled by, or is under common control with ~~the~~ a person ~~specified~~ as defined herein.

~~002.03 Aggregate revenues means the aggregate amount of revenues a promotional or development stage company has received within the last three consecutive fiscal years immediately preceding the public offering plus revenues received during the period covered by any interim period financial information included in the prospectus, excluding revenues from interest and extraordinary items.~~

~~002.04 Associate, when used to indicate a relationship with a person, includes:~~

~~002.04A Corporations or legal entities, other than the issuer or majority-owned subsidiaries of the issuer, of which a person is an officer, director, partner, or a direct or indirect, legal or beneficial owner of five percent or more of any class of equity securities;~~

~~002.04B Trusts or other estates in which a person has a substantial beneficial interest or for which a person serves as a trustee or in a similar capacity; and~~

~~002.04C A person's spouse and relatives, by blood or by marriage, if the person is a promoter of the issuer, its subsidiaries, its affiliates, or its parent.~~

~~002.05 Average promotional price means the average per share price paid for promotional shares and other shares issued prior to the public offering that are of the same class of shares being offered in the public offering as determined by reference to the audited financial statements of the issuer included in the prospectus.~~

~~002.06 Cash analysis means the issuer's "Net Cash Provided By Operating Activities" as reflected in the Statement of Cash Flows and determined in accordance with generally accepted accounting principles. If the issuer will use the proceeds of the public offering to redeem or retire debt securities, the issuer must adjust, on a pro forma basis, for the elimination of the related interest charges, net of applicable income taxes.~~

002.02~~7~~ Control means the power to direct or influence the direction of the management or policies of a person, directly or indirectly, through the ownership of voting securities, by contract or otherwise. A presumption of control exists for any person who

002.07A Is a director, general partner, member, manager, or officer exercising executive responsibility (or has similar status or function);

002.07B Has the right to vote twenty percent or more of a class of voting securities; or

002.07C In the case of a partnership or limited liability company, has contributed or has the right upon dissolution twenty percent or more of the capital.

002.03 Department means the Department of Banking and Finance.

002.048 Director means the Director of Banking and Finance of the State of Nebraska, unless otherwise specified.

002.059 Equity securities include shares of common stock or similar securities, and convertible securities, warrants, and options or rights that may be converted into or exercised to purchase, shares of common stock or similar securities.

002.10 Escrow agent means:

002.10A A financial institution that is domiciled in, and whose principal place of business is located in, the United States and whose deposits are insured by the Federal Deposit Insurance Corporation ("FDIC").

002.10A1 An escrow agent may not be affiliated with the issuer, its promoters, or associates.

002.10A2 A financial institution may not be disallowed to act as an escrow agent merely because the issuer, its promoters or associates are customers thereof.

002.10B An attorney or certified public accountant, provided that the attorney or certified public accountant:

002.10B1 Is not affiliated with the issuer, its promoters, or associates of the issuer or promoters;

002.10B2 Is licensed to do business in the state in which the attorney or certified public accountant practices; and

002.10B3 Can demonstrate adequate insurance or can provide a fidelity bond in an amount satisfactory to the Director.

002.11 Impoundment agent means a financial institution that is domiciled in, and whose principal place of business is located in, the United States and whose deposits are insured by the FDIC.

002.12 Independent director means a member of an issuer's board of directors who:

002.12A Does not receive, other than in his or her capacity as a member of the board of directors or a board committee, any consulting, advisory or other compensatory fee from the issuer, its subsidiaries, or their affiliates or associates;

002.12B Has not received, other than in his or her capacity as a member of the board of directors or a board committee, any consulting, advisory or other compensatory fee from the issuer, its subsidiaries, or their affiliates or associates within the last two years;

~~002.12C Other than serving as a director of the issuer, is not a promoter as defined in Section 002.16 below; and~~

~~002.12D Does not have a material business or professional relationship with the issuer or any of its affiliates or associates. For purposes of determining whether or not a business or professional relationship is material, the gross revenue that the independent director derives from the issuer, its affiliates and associates shall be deemed material per se if it exceeds five percent of the independent director's:~~

~~002.12D1 Annual gross revenue, derived from all sources, during either of the last two years; or~~

~~002.12D2 Net worth, on a fair market value basis.~~

~~002.13 Lock-in agreement means an agreement between an issuer and a person as a condition of registration in which the person agrees not to dispose of or otherwise transfer equity securities the person received from the issuer or that the issuer granted to the person.~~

~~002.14 Net earnings means the issuer's after-tax earnings, excluding extraordinary and nonrecurring items, determined in accordance with generally accepted accounting principles.~~

002.~~6~~15 Person means an individual, a corporation, a limited liability company, a partnership, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

002.~~7~~16 Promoter includes:

002.~~16~~7A A person who, alone or in conjunction with one or more persons, directly or indirectly, took the initiative in founding or organizing the issuer or controls the issuer;

002.~~16~~7B A person who, directly or indirectly, receives, as consideration for property or for services rendered, five percent or more of any class of the issuer's equity securities or five percent or more of the proceeds from the sale of any class of the issuer's equity securities; or

002.~~16~~7C A person who:

002.~~16~~7C1 Is an officer or director of the issuer;

002.~~16~~7C2 Is the legal or beneficial owner, directly or indirectly, of five percent or more of any class of the issuer's equity securities; or

002.~~16~~7C3 Is an affiliate or an associate of a person specified in this subsection.

002.~~167~~D Promoter does not include:

002.~~167~~D1 A person who receives securities or proceeds solely as underwriting compensation unless that person otherwise comes within the definition of Section 002.~~167~~, above; or

002.~~167~~D2 An unaffiliated institutional investor, who purchased the issuer's equity securities more than one year prior to the filing date of the issuer's registration statement. An unaffiliated institutional investor, who purchased the issuer's equity securities on an arm's-length basis within one year prior to the filing date of the issuer's registration statement may, at the Director's discretion, be excluded from the definition of promoter.

~~002.17 Promoters' equity investment means the total of cash and assets contributed by the promoters to the issuer, provided that the Director accepts the value of the tangible or intangible assets.~~

~~002.17A The Director may require the issuer to adjust promoters' equity investment by the issuer's earned surplus immediately prior to the public offering.~~

~~002.18 A promotional or development stage company includes an issuer:~~

~~002.18A That is not listed on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Global Market or a securities exchange that the Securities and Exchange Commission determines under Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. §77r(b)(1)) has substantially similar listing standards;~~

~~002.18B That has had annual net earnings in each of the two fiscal years immediately preceding the public offering which do not exceed five percent of the aggregate public offering; or~~

~~002.18C That has had average, annual net earnings for the five fiscal years immediately preceding the public offering which do not exceed five percent of the aggregate public offering.~~

~~002.19Promotional shares means equity securities that:~~

~~002.19A A promotional or development stage company has issued within five years before filing of the registration statement or will issue to promoters for cash or other consideration, including services rendered, patents, copyrights, and other intangibles; or~~

~~002.19B An issuer which is not a promotional or development stage company has issued within three years before the filing of the registration statement or will issue to promoters for cash or other consideration, including services rendered, patents, copyrights and other intangibles.~~

002.20 Public offering price means the per share price at which a promotional or development stage company proposes to offer equity securities to the public.

002.21 Unaffiliated institutional investor means the following investors if not affiliated with the issuer:

002.21A A depository institution or international banking institution;

002.21B An insurance company;

002.21C A separate account of an insurance company;

002.21D An investment company as defined in the Investment Company Act of 1940;

002.21E A broker-dealer registered under the Securities Exchange Act of 1934;

002.21F An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars ($10,000,000.00) or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the Act, a depository institution, or an insurance company;

002.21G A plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars ($10,000,000.00) or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the Act, a depository institution, or an insurance company;

002.21H A trust, if it has total assets in excess of ten million dollars ($10,000,000.00), its trustee is a depository institution, and its participants are exclusively plans of the types identified in subsections 002.21F and 002.21G, above, regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

002.21I An organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), corporation, Massachusetts trust or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars ($10,000,000.00);

002.21J A small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. § 681(c)) with total assets in excess of ten million dollars ($10,000,000.00);

002.21K A private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. § 80b-2(a)(22)) with total assets in excess of ten million dollars ($10,000,000.00);

002.21L A federal covered investment adviser acting for its own account;

002.21M A "qualified institutional buyer" as defined in Rule 144A(a)(1), other than Rule 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A);

002.21N A "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6);

002.21O Any other person, other than an individual, of institutional character with total assets in excess of ten million dollars ($10,000,000.00) not organized for the specific purpose of evading the Act; and

002.21P A business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. § 80a-2(a)(48)).

002.22 Underwriter means any person who has agreed with the issuer or other person on whose behalf a distribution is to be made:

002.22A To purchase securities for distribution;

002.22B To distribute securities on behalf of the issuer or other person; or

002.22C To manage or supervise a distribution of securities on behalf of the issuer or other person.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 4 - BROKER-DEALERS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120~~(3)~~ of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to broker-dealers is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 ~~shall~~ apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes and rules of the Securities and Exchange Commission ("SEC") or the Financial Industry Regulatory Authority ("FINRA") referenced herein ~~shall~~ means those statutes and rules as amended on or before the effective date of this Rule. A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at http://www.ndbf.ne.gov/legal/title48.shtml.

002 APPLICATION. The application for initial registration as a broker-dealer pursuant to Section 8-1103(1) of the Act shall be filed as directed in Section ~~007~~006, below, and ~~shall~~ contain the following:

002.01 A copy of Uniform Application for Broker-Dealer Registration ("Form BD"), together with all applicable schedules and exhibits specified therein, complete, accurate and current;

002.02 A completed "Affidavit of Broker-Dealer Activity in Nebraska";

002.03 A copy of the firm's most recent audited financial statements, and, if the date of the financial statements is not within ninety days of the date the application is filed, the firm's most recent quarterly Focus Report Part II(A);

002.04 A fee in the amount of two hundred fifty dollars ($250.00); and

002.05 Any other information the Director may require.

002.06 A broker-dealer which is not a member of the Financial Industry Regulatory Authority ("FINRA") shall submit the following additional information for an initial application for registration as a broker-dealer pursuant to the Act:

002.06A A~~n original manual signature on the~~ signed Form BD;

002.06B A current and correct copy of the firm's articles of incorporation, partnership, or organization, and any amendments thereto, if applicable; and

002.06C A corporate resolution, Form U-2A, if applicable.

003 RENEWAL. All broker-dealer registrations automatically expire annually on December 31. All broker-dealer registrations must be renewed on or prior to that date.

004 AMENDMENT AND CORRECTION OF DOCUMENTS. If a material change in operations occurs, or if the information contained in any document filed with the Director is or becomes inaccurate or incomplete in any material respect, the broker-dealer shall file a correcting amendment on Form BD within the time period specified in the instructions to that form relating to filings made with the SEC.

005 WITHDRAWAL. A broker-dealer desiring to withdraw its registration as a broker-dealer pursuant to Section 8-1103(9)(d) of the Act shall file a Notice of Withdrawal from Registration as a Broker-Dealer ("Form BDW"), with the Director or with a registration depository system designated by the Director.

006 FORMS SUBMISSIONS.

006.01 A broker-dealer which is a member of FINRA shall file the forms necessary for registration, renewal or withdrawal of its registration or the registration or termination of its agents in Nebraska with, and ~~shall~~ pay all applicable fees for such registrations through, the Central Registration Depository/Investment Advisor Registration Depository System ("CRD/IARD"). All mail for CRD/IARD processing must be sent to:

FINRA
P.O. Box 9495
Gaithersburg, MD 20898-9495

For purposes of Section 8-1103(4) of the Act, a form submitted through CRD/IARD ~~shall be~~is deemed filed with the Department when the record is transmitted to the Department for review.

006.02 A broker-dealer which is not a member of FINRA shall file the forms necessary for registration, renewal, or withdrawal of its registration or the registration or termination of its agents in Nebraska directly with the Department~~. All applicable fees shall be paid by corporate check or money order, payable to the Nebraska Department of Banking and Finance.~~

006.03 With respect to any document filed electronically through CRD/IARD, when a signature or signatures are required by the particular instructions of any filing to be made through CRD/IARD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to CRD/IARD. Submission of a filing in this manner ~~shall~~ constitutes irrefutable evidence of legal signature by any individual whose name is typed on the filing.

007 SUPERVISORS AND COMPLIANCE PRINCIPALS.

007.01 A broker-dealer, which is not a member of FINRA, shall designate in writing a compliance principal and ~~shall~~ conform with this section during all registration periods.

007.01A The compliance principal will be responsible for supervising the compliance of the broker-dealer and its registered agents and other associated persons with the Act and the rules and regulations promulgated thereunder.

007.01B If the designated compliance principal ceases to act in that capacity, the broker-dealer must designate in writing a qualified replacement principal within sixty days after such change has occurred.

007.01C Failure to designate a compliance principal ~~shall be~~constitutes grounds for denial or suspension of a broker-dealer registration.

007.01D The designated compliance principal for Nebraska shall be registered as an agent of the broker-dealer in Nebraska and ~~shall~~ have taken and passed a qualifying examination, as set forth below:

007.01D1 The Uniform Securities Agent State Law Examination (Series 63) or the Uniform Combined State Law Examination (Series 66); and

007.01D2 One of the following examinations:

007.01D2a The General Securities Principal Examination (Series 24 examination);

007.01D2b The Investment Company Products Principal Examination (Series 26 examination), if the broker-dealer's registration is or will be limited to investment company products;

007.01D2c The Direct Participation Programs Principal Examination (Series 39 examination) if the broker-dealer's registration is or will be limited to direct participation programs; or

007.01D2d The General Securities Representative Examination (Series 7 examination), if the broker-dealer's registration is or will be limited to:

007.01D2d(i) Securities of one issuer or associated issuers (other than mutual funds),

007.01D2d(ii) Interests in mortgages or other receivables, or

007.01D2d(iii) Securities of non-profit organizations, provided that the Director may waive the requirement of this section for principals of a broker-dealer whose registration is limited to securities of non-profit organizations if the Director finds the waiver is consistent with investor protection and is in the public interest.

007.02 Every registered broker-dealer must designate at least one registered agent located at its principal office and one registered agent located at each office of supervisory jurisdiction ("OSJ") that is located in this state to act in a supervisory capacity.

007.02A Such supervisor shall have taken and passed the appropriate supervisory examination administered by FINRA.

007.02B For any office located in this state not designated as an OSJ, the broker-dealer must designate a supervisor for the office. The designated supervisor need not be located in this state, but must be registered in this state as an agent and ~~shall~~ have taken and passed the appropriate supervisory examination administered by FINRA.

007.02.C For purposes of this subsection "office of supervisory jurisdiction" ~~shall~~ means any office of a broker-dealer at which any one or more of the following functions take place:

007.02C1 Order execution or market making;

007.02C2 Structuring of public offerings or private placements;

007.02C3 Maintaining custody of customers' funds or securities;

007.02C4 Final acceptance (approval) of new accounts on behalf of the member;

007.02C5 Review and endorsement of customer orders;

007.02C6 Final approval of retail communications for use by persons associated with the broker-dealer, except for an office that solely conducts final approval of research reports; or

007.02C7 Responsibility for supervising the activities of persons associated with the broker-dealer located at one or more other offices of the broker-dealer.

008 SUPERVISION. A broker-dealer is ultimately responsible for the acts of its agents and other associated persons and must maintain reasonable supervision and control at all times.

009 CLEARING BROKER-DEALER REGISTRATION. If a broker-dealer utilizes a clearing broker-dealer to clear trades with Nebraska customers, the clearing broker-dealer must be registered in Nebraska.

010 BOOKS AND RECORDS. Unless otherwise provided by order of the SEC, all broker-dealers registered or required to be registered under the Act shall make, maintain and preserve books and records in compliance with SEC Rules 17a-3 (17 C.F.R. 240.17a-3), 17a-4 (17 C.F.R. 240.17a-4), and 15c3-3 (17 C.F.R. 240.15c3-3).

011 MINIMUM FINANCIAL REQUIREMENTS AND FINANCIAL REPORTING REQUIREMENTS.

011.01 Each broker-dealer which is a member of FINRA registered or required to be registered under the Act shall:

011.01A Comply with the financial requirements established in SEC Rule 15c3-1 (17 C.F.R. 240.15c3-1), and 15c3-3 (17 C.F.R. 240.15c3-3), and

011.01B Comply with the financial reporting requirements established in SEC Rule 17a-11 (17 C.F.R. 240.17a-11) and ~~shall~~ provide copies of notices and reports required by such SEC Rules to the Director upon request.

011.02 Each broker-dealer which is not a member of ~~the~~ FINRA registered or required to be registered under the Act shall:

011.02A Maintain a net capital of not less than twenty-five thousand dollars ($25,000.00).

011.02A1 A broker-dealer which has a net capital which is less than required by this Section shall submit a surety bond in the amount of twenty-five thousand dollars ($25,000.00) with its application.

011.02A2 Net capital means total assets minus total liabilities.

011.02B File with the Director audited financial statements showing the assets, liabilities and net capital of the broker-dealer within ninety days of the end of the broker-dealer's fiscal year, which shall be:

011.02B1 Examined in accordance with generally accepted auditing standards and prepared in conformity with generally accepted accounting principles;

011.02B2 Audited by an independent public accountant or an independent certified public accountant; and

011.02B3 Accompanied by an opinion of the accountant as to the report of financial position, and by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity.

012 REGISTRATION OF SUCCESSOR TO REGISTERED BROKER-DEALER. In the event that a broker-dealer succeeds to and continues the business of a broker-dealer registered pursuant to Section 8-1103 of the Act, the registration of the predecessor shall be deemed to remain effective as the registration of the successor if the successor, within thirty days after such succession, files an application for registration on Form BD, and the predecessor files a notice of withdrawal from registration on Form BDW.

012.01 The registration of the predecessor broker-dealer will cease to be effective as the registration of the successor broker-dealer forty-five days after the application for registration on Form BD is filed by such successor.

012.02 Notwithstanding any other provision of this Rule, if a broker-dealer succeeds to and continues the business of a registered broker-dealer, and the succession is based solely on a change in the predecessor's date or state of incorporation, form of organization, or composition of a partnership, the successor may, within thirty days after the succession, amend the registration of the predecessor on Form BD to reflect these changes. This amendment ~~shall be~~ is deemed an application for registration filed by the predecessor and adopted by the successor.

013 VERIFICATION OF IMMIGRATION STATUS. Every broker-dealer who registers agents to transact business in Nebraska must verify the citizenship and immigration status of each agent registered to transact business on its behalf in Nebraska and submit such verification to the Department.

013.01 For each agent identified as a qualified legal alien, the broker-dealer must submit a completed United States Citizenship Attestation Form, and a legible, current and unexpired copy of the front and back of one of the currently acceptable forms of documentation required by the Systematic Alien Verification for Entitlements Program and the Department of Homeland Security.

013.02 The broker-dealer shall maintain, as a required record, a copy of the completed United States Citizenship Attestation Form for each agent registered in Nebraska, regardless of citizenship or immigration status.

014 USING THE INTERNET FOR GENERAL DISSEMINATION OF INFORMATION ON PRODUCTS AND SERVICES. Broker-dealers shall not be deemed to be "transacting business" in this state for purposes of Section 8-1103 of the Act based solely on the use of the Internet, world wide web, and similar proprietary or common carrier electronic systems (hereinafter the "Internet'") to distribute information on available products and services through certain communications made on the Internet directed generally to anyone having access to the Internet, and transmitted through postings on bulletin boards, social networking sites, blogs or similar sites, displays on "Home Pages" or similar methods (hereinafter, "Internet Communications") if the following conditions are observed:

014.01 The Internet Communications contain a disclosure statement in which it is clearly stated that:

014.01A The broker-dealer in question may only transact business in this state if first registered, ~~or~~ excluded, or exempted from the broker-dealer registration requirements of the Act; and

014.01B The broker-dealer will not make follow-up, individualized responses to persons in this state, that involve either the effecting or attempting to effect transactions in securities, unless the broker-dealer has complied with, or has qualified for an applicable exemption or exclusion from, the broker-dealer registration requirements of the Act.

014.02 The Internet Communications contain a mechanism, including and without limitation, technical "firewalls" or other implemented policies and procedures, designed reasonably to ensure that prior to any subsequent, direct communication with prospective customers or clients in this state, said broker-dealer is first registered in this state or qualifies for an exemption or exclusion from such requirement.

014.02A Nothing in this paragraph shall be construed to relieve a broker-dealer from any applicable securities registration requirement in this state.

014.03 The Internet Communications do not involve either effecting or attempting to effect transactions in securities in this state over the Internet, but are limited to the dissemination of general information on products and services.

015 DISHONEST AND UNETHICAL BUSINESS PRACTICES.

015.01 The conduct set forth in 48 NAC 12.002 ~~shall~~ constitutes "an act, practice or course of business which operates, or would operate, as a fraud or deceit upon another person" by a broker-dealer for purposes of Section 8-1102(1)(c) of the Act.

015.02 The conduct set forth in 48 NAC 12.003 and 48 NAC 12.004 ~~shall~~ constitutes a "dishonest or unethical business practice" by a broker-dealer for purposes of Section 8-1103(9)(a)(vii) of the Act.

015.03 The delineation of certain acts and practices is not intended to be all inclusive. Acts or practices not enumerated in 48 NAC 12.002 and 48 NAC 12.003 may also be deemed fraudulent and dishonest.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 5 - ISSUER-DEALERS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120~~(3)~~ of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to issuer-dealers is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 ~~shall~~ apply to the provisions of this Rule, unless otherwise specified.

002 ELIGIBILITY. An issuer may be licensed to sell its own securities if the issuer is located in Nebraska, or if the issuer registers its securities by qualification and proposes to sell its securities in this state without the benefit of a registered broker-dealer.

003 APPLICATION. Applications for initial registration as an issuer-dealer shall be filed with the Director and ~~shall~~ consist of the following:

003.01 A signed copy of an Application for Registration as Issuer-Dealer ("Application"), together with all applicable schedules and exhibits specified therein complete, accurate and current., ~~executed with an original manual signature~~;

003.02 A copy of the issuer's most recent financial statements, either audited or signed, under penalty of perjury, by an officer, director, trustee, general partner, or limited liability company managing member attesting that the statements are true and accurate to the best of the signer's knowledge and belief;

003.03 A corporate surety bond in the amount of twenty-five thousand dollars ($25,000.00), if the issuer's net capital is less than twenty-five thousand dollars ($25,000.00).

003.03A An issuer-dealer's net worth ~~shall be~~is computed on the basis of total assets minus total liabilities.

003.03B An issuer-dealer may request a signature bond in lieu of the net worth or surety bond requirement and the Director may allow the issuer-dealer to post the signature bond, if the Director finds that the net worth or the surety bond requirement causes an undue burden upon the issuer-dealer.

003.04 A ~~check or money order in the amount of~~ filing fee of one hundred dollars ($100.00) ~~payable to "Nebraska Department of Banking and Finance";~~ and

003.05 Any other information the Director may require.

004 QUALIFICATIONS.

004.01 The issuer-dealer shall be of good repute, ~~shall be~~ knowledgeable of the Act, and ~~must~~ meet the requirements of the Act and rules adopted thereunder.

004.02 The issuer-dealer shall not conduct a general securities business and shall not normally be engaged in the business of selling securities.

005 POST-REGISTRATION FILINGS. An issuer-dealer shall file quarterly reports with the Director indicating the amount of securities sold during the period.

006 RENEWAL. The issuer-dealer licensing period ~~shall run~~runs concurrently with the registration of said issuer-dealer's securities in this state. An issuer-dealer's registration may be renewed by filing the information specified in Section 003, above, before the expiration of its registration.

007 AMENDMENT. Whenever a material change in operations occurs or is discovered, a registered issuer-dealer shall promptly file an amendment to its Application with the Director. Material changes include, but are not limited to:

007.01 A change in the name or names under which business is conducted in Nebraska and the firm's business address;

007.02 A change in the ownership, management or control of the firm;

007.03 A change in type of entity, general plan or character of its business, or method of operation;

007.04 Insolvency, dissolution, liquidation, receivership, bankruptcy, or a material adverse change or impairment of working capital, or non-compliance with the minimum net capital or bond requirements;

007.05 The termination of business; or

007.06 The filing of any of the following actions against the firm~~,~~; a partner, limited liability company member, officer, or director of the firm, or any person in a similar position; or an agent:

007.06A A criminal charge alleging a misdemeanor involving a security or commodity or any aspect of the securities or commodities business, or any felony;

007.06B Any civil action in which a fraudulent, dishonest, or unethical act is alleged or any violation of a securities law is involved; or

007.06C The entry of an order or proceeding by any court or administrative agency against the firm denying, suspending, or revoking its license, or threatening to do so, or enjoining it from engaging in or continuing any conduct or practice in the securities business.

008 CORRECTION OF DOCUMENTS. If the information contained in any document filed with the Director is, or becomes, inaccurate or incomplete in any material respect, the issuer-dealer shall file a correcting amendment on the Application within thirty days of the date that information becomes inaccurate or incomplete.

009 AGENTS. Any person who is involved directly or indirectly in the sale of securities of the issuer-dealer must be licensed as an agent of the issuer-dealer by the Department.

009.01 An agent must have sufficient training and knowledge of the securities business, and must meet the requirements of the Act and this Rule.

009.02 Partners, officers, directors and managing members of an issuer-dealer may effect sales of securities of the issuer-dealer without registration as agents, provided two partners, officers, directors, or managing members shall have taken and passed either the Nebraska Securities Law Exam, administered by the Department, or a securities examination administered by the Financial Industry Regulatory Authority ("FINRA"), acceptable to the Director.

009.03 An application for initial registration as an agent of an issuer-dealer shall be filed with the Director and ~~shall~~ consists of the following:

009.03A A copy of a~~n~~ signed Application for Registration as Agent of Issuer-Dealer, together with all applicable schedules and exhibits specified therein, complete, accurate and current~~, executed with an original manual signature~~;

009.03B A~~ check in the amount~~ filing fee of forty dollars ($40.00)~~ payable to the "Nebraska Department of Banking and Finance"~~; and

009.03C Any other information the Director may require.

009.04 Agents are required to pass the Nebraska Securities Law Exam, unless the Director determines, in his or her discretion, that the nature of the offering indicates an examination administered by FINRA is appropriate.

009.04A The Nebraska Securities Law Exam will be administered by appointment and upon payment of an examination fee of five dollars ($5.00)~~, payable to the "Nebraska Department of Banking and Finance" by company draft~~.

009.04B The Nebraska Securities Law Exam will be based upon the Act, rules adopted thereunder, and information contained in the prospectus and registration statement for the securities of the issuer-dealer.

009.05 Agent registration must be renewed annually on the anniversary date of the employing issuer-dealer's registration.

009.06 An issuer-dealer shall notify the Director within ten days after the termination of any agent or principal.

010 DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

010.01 An issuer-dealer's license may be denied, suspended, or revoked if it, or any partner, limited liability company member, officer, or director of the issuer-dealer, or any person occupying a similar status or performing similar functions for the issuer-dealer, has engaged in violations of the Act or rules adopted thereunder, or has engaged in dishonest or unethical practices in the securities business.

010.02 An agent's license ~~can~~ may be denied, suspended, or revoked by the Director if the agent has engaged in violations of the Act, or rules adopted thereunder, or otherwise engaged in dishonest or unethical practices in the securities business.

011 ADVERTISING RESTRICTION. No advertising may be used in connection with the sale of securities by the issuer-dealer or agent, unless the advertising material has received the prior approval of the Director.

012 SUITABILITY.

012.01 No issuer-dealer or agent of an issuer-dealer may sell securities of the issuer-dealer unless he or she has reasonable grounds to believe that the investment is suitable for the investor, based upon the investor's other securities holdings, and the investor's financial situation and needs.

012.02 The issuer-dealer must keep written records which establish the basis for the issuer-dealer or agent's determination that the securities of the issuer-dealer are suitable for each investor.

013 REGISTRATION REPRESENTATIONS. No issuer-dealer or agent shall make material representations to a prospective investor in connection with the sale of securities of the issuer-dealer that are not contained in the prospectus or registration statement which has been registered or filed as an exemption with the Department.

014 SALES LITERATURE. No sales literature, other than the prospectus which has been registered or filed as an exemption with the Department, may be used by the issuer-dealer or agent in connection with the sale of securities of the issuer-dealer.

015 SUPERVISION. An issuer-dealer is responsible for the acts of its agents and must maintain reasonable supervision and control over its employees.

016 DISHONEST AND UNETHICAL BUSINESS PRACTICES.

016.01 The conduct set forth in 48 NAC 12.002 ~~shal~~l constitute~~s~~ "an act, practice or course of business which operates, or would operate, as a fraud or deceit upon another person" by an issuer-dealer or its agent for purposes of Section 8-1102(1)(c) of the Act.

016.02 The conduct set forth in 48 NAC 12.003 ~~shall~~ constitutes "dishonest or unethical business practices" by an issuer-dealer or its agent for purposes of Section 8-1103(9)(a)(vii) of the Act.

016.03 The delineation of certain acts and practices is not intended to be all inclusive. Acts or practices not enumerated in 48 NAC 12.002 may also be deemed fraudulent and dishonest.

017 VERIFICATION OF IMMIGRATION STATUS. Every issuer-dealer who registers issuer-dealer agents to transact business in Nebraska must verify the citizenship or immigration status of each issuer-dealer agent registered to transact business on its behalf in Nebraska and submit such verification to the Department.

017.01 For each issuer-dealer agent identified as a qualified legal alien, the issuer-dealer must submit a completed United States Citizenship Attestation Form, and one of the currently acceptable forms of documentation required by the Systematic Alien Verification for Entitlements Program and the Department of Homeland Security.

017.02 The issuer-dealer shall maintain, as a required record, a copy of the completed United States Citizenship Attestation Form for each issuer-dealer agent registered in Nebraska, regardless of citizenship or immigration status. Such records shall be maintained for a period of five years.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 7 - INVESTMENT ADVISERS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120~~(3)~~ of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to investment advisers is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards and policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 ~~shall~~ apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes and rules of the Securities and Exchange Commission ("SEC"), the Financial Industry Regulatory Authority ("FINRA"), or the Financial Accounting Standards Board ("FASB") referenced herein ~~shall~~ means those statutes and rules as amended on or before the effective date of this Rule. A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at http://www.ndbf.ne.gov/legal/title48.shtml. ~~A copy of the applicable statutes or rules referenced in this Rule is attached hereto.~~

002 APPLICATION. The application for initial registration as an investment adviser pursuant to Section 8-1103~~(3)~~ of the Act shall be filed as directed in Section 005, below, and ~~shall~~ contain the following information:

002.01 Uniform Application for Investment Adviser Registration, ("Form ADV"), together with all applicable schedules and exhibits specified therein, complete, accurate and current;

002.02 A current and correct copy of the firm's articles of incorporation, partnership or organization, and any amendments thereto, if applicable;

002.03 A corporate resolution if applicable;

002.04 A completed "Affidavit of Investment Advisory Activity in Nebraska";

002.05 Financial statements as required by Section 009, below;

002.06 Specimen contracts or agreements relating to Nebraska clients;

002.07 Form ADV, Part 2 for the firm, the brochure supplement for each investment adviser representative, and any other promotional or disclosure literature to be furnished or disseminated to any client or prospective client in Nebraska;

002.08 A fee in the amount of two hundred dollars ($200.00); and

002.09 Any other information the Director may require.

003 RENEWAL AND UPDATES.

003.01 An investment adviser's registration automatically expires annually on December 31. An investment adviser's registration must be renewed on or prior to that date.

003.02 An application for renewal of registration as an investment adviser pursuant to Section 8-1103~~(5)~~ of the Act shall be filed annually as directed in Section 005, below, and ~~shall~~ contain the following information:

003.02A Financial statements as required by Section 009, below;

003.02B Specimen contracts or agreements relating to Nebraska clients;

003.02C A fee in the amount of two hundred dollars ($200.00); and

003.02D Any other information the Director may require.

003.03 An investment adviser shall amend Form ADV, Parts 1 and 2, including all applicable schedules and exhibits:

003.03A Annually within ninety days of the end of its fiscal year; and

003.03B Any time required by the instructions to Form ADV.

004 WITHDRAWAL. An application for withdrawal of registration as an investment adviser pursuant to Section 8-1103~~(9)(d)~~ of the Act shall be filed on Notice of Withdrawal from Registration as Investment Adviser, ("Form ADV-W"), as directed in Section 005, below.

005 FORMS SUBMISSION.

005.01 All investment adviser applications, amendments, and fees required to be filed with the Director pursuant to the rules promulgated under the Act, shall be filed electronically with, and transmitted to, the Central Registration Depository/Investment Adviser Registration Depository ("CRD/IARD"). All other documents required by this Rule shall be filed directly with the Director.

~~005.02 When a signature or signatures are required by the particular instructions of any filing, forms filed directly with the Director shall contain a manual signature.~~

005.0~~3~~2 With respect to any document filed electronically through CRD/IARD, when a signature or signatures are required by the particular instructions of any filing to be made through CRD/IARD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to

CRD/IARD. Submission of a filing in this manner ~~shall~~ constitutes irrefutable evidence of legal signature by any individual whose name is typed on the filing.

005.0~~4~~3 A form submitted through CRD/IARD ~~shall be~~is deemed filed with the Department when the record is transmitted to the Department for review.

006 SUPERVISION. An investment adviser is ultimately responsible for the acts of its investment adviser representatives and other associated persons and must maintain reasonable supervision and control over such persons at all times.

007 AMENDMENT AND CORRECTION OF DOCUMENTS. If a material change in operations occurs, or if the information contained in any document filed with the Director is or becomes inaccurate or incomplete in any material respect, the investment adviser shall promptly file a correcting amendment on the appropriate form within the time period specified in the instructions to that form. Such amendments and corrections shall be filed as directed in Section 005, above.

008 FINANCIAL REQUIREMENTS.

008.01 An investment adviser registered or required to be registered under the Act shall:

008.01A Maintain at all times a minimum net capital of twenty-five thousand dollars ($25,000.00); or

008.01B Post a surety bond on a form acceptable to the Director in the amount of twenty-five thousand dollars ($25,000.00).

008.02 Unless otherwise exempted, as a condition of the right to continue to transact business in this state, every investment adviser registered or required to be registered under the Act shall notify the Director if such investment adviser's net capital is less than the minimum required by the close of business on the next business day. After transmitting such notice, the investment adviser shall file a report with the Director of its financial condition by the close of business on the next business day. The report shall include:

008.02A A trial balance of all ledger accounts;

008.02B A statement of all client funds or securities which are not segregated;

008.02C A computation of the aggregate amount of debit balances in the client ledger;

008.02D A statement as to the number of client accounts; and

008.02E Any other information the Director may require.

008.03 For purposes of this Section, net capital ~~shall~~ means total assets less total liabilities.

008.03A In determining net capital, the following items ~~shall not be~~are not included as assets:

008.03A1 Prepaid expenses, except items properly classified as current assets under generally accepted accounting principles, deferred charges, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, and all other assets of intangible nature;

008.03A2 Home, home furnishings, automobile(s), and any other personal items not readily marketable in the case of an individual;

008.03A3 Advances or loans to stockholders or officers in the case of a corporation;

008.03A4 Advances or loans to partners in the case of a partnership; and

008.03A5 Advances or loans to members in the case of a limited liability company.

008.03B The Director may require that a current appraisal be submitted in order to establish the worth of any asset.

008.04 This Section ~~shall~~ does not apply to an investment adviser whose principal place of business is not located in this state, provided:

008.04A Such investment adviser is registered in the state in which its principal place of business is located; and

008.04B Such investment adviser is in compliance with the minimum financial requirements established by the state in which its principal place of business is located.

008.04C For purposes of this Section, principal place of business means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

009 FINANCIAL REPORTING REQUIREMENTS.

009.01 Every registered investment adviser who has custody of client funds or securities or who requires payment of advisory fees six months or more in advance and in excess of twelve hundred dollars ($1,200.00) per client, shall file with the Director audited financial statements showing at a minimum the assets, liabilities and net capital of the investment adviser as of the end of the investment adviser's fiscal year. This requirement ~~shall~~does not apply to an investment adviser having custody solely as a consequence of its authority to make withdrawals from client accounts to

pay its advisory fee and who complies with the safekeeping requirements in subsections 012.02C2 through 012.02C4, below.

009.01A The financial statements must be:

009.01A1 Examined in accordance with generally accepted auditing standards and prepared in conformity with generally accepted accounting principles;

009.01A2 Audited by an independent public accountant or an independent certified public accountant; and

009.01A3 Accompanied by an opinion of the accountant as to the report of financial position, and by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity.

009.01B If the date of the audited financial statements is not within ninety days of the date of the initial application or the expiration of the current registration, the investment adviser must also submit a financial statement showing at a minimum the assets, liabilities and net capital of the investment adviser as of a date within ninety days of the date of the initial application or within ninety days of the expiration of the current registration, as the case may be, and signed by an officer, director, partner or member, of the investment adviser, or by the person who prepared the statement, attesting that the statement is true and accurate.

009.02 All other investment advisers registered or required to be registered shall file with the Director financial statements showing at a minimum the assets, liabilities and net capital of the investment adviser, prepared in accordance with generally accepted accounting principles. The financial statements need not be audited but must be signed by the investment adviser, by an officer, director, partner, or member of the investment adviser, or by the person who prepared the statement attesting that the statement is true and accurate, as of a date within ninety days of the date of initial application, or within ninety days of the expiration of a current registration, as the case may be.

009.03 The financial statements required by this Section shall be filed as part of the investment adviser's initial or renewal application.

009.04 This Section ~~shall~~does not apply to an investment adviser whose principal place of business is not located in this state, provided:

009.04A Such investment adviser is registered in the state in which its principal place of business is located; and

009.04B Such investment adviser is in compliance with the minimum financial requirements established by the state in which its principal place of business is located, if any.

009.04C For purposes of this Section, principal place of business means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

010 INVESTMENT ADVISER BROCHURE.

010.01 Unless otherwise provided in this Rule, an investment adviser registered or required to be registered pursuant to Section 8-1103 of the Act shall, in accordance with the provisions of this subsection, furnish each advisory client and prospective advisory client with:

010.01A A brochure which may be a copy of Part 2A of its Form ADV or written documents containing the information required by Part 2A of Form ADV;

010.01B A copy of the Form ADV Part 2B brochure supplement for each individual that:

010.01B1 Provides investment advice and has direct contact with clients in this state; or

010.01B2 Exercises discretion over assets of clients in this state, even if no direct contact is involved;

010.01C A copy of the Form ADV Part 2A Appendix 1 wrap fee brochure if the investment adviser sponsors or participates in a wrap fee account;

010.01D A summary of material changes, which may be included in Form ADV Part 2 or given as a separate document; and

010.01E Such other information as the Director may require.

010.01F The brochure must comply with the language, organizational format and filing requirements specified in the instructions to Form ADV Part 2.

010.02 Delivery.

010.02A Initial Delivery. Except as provided in subsection 010.02C, below, an investment adviser shall deliver the Form ADV Part 2A brochure and any related brochure supplements to a prospective advisory client:

010.02A1 Not less than forty-eight hours prior to entering into any advisory contract with such client or prospective client; or

010.02A2 At the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract.

010.02B Annual Delivery. Except as provided in subsection 010.02C, below, within one hundred twenty days of the end of its fiscal year, an investment adviser must deliver:

010.02B1 A free, updated brochure and related brochure supplements which include or are accompanied by a summary of material changes; or

010.02B2 A summary of material changes that includes an offer to provide a copy of the updated brochure and supplements and information on how the client may obtain a copy of the brochures and supplements.

010.02C Delivery of the brochure and related brochure supplements required by subsections 010.02A and 010.02B need not be made to:

010.02C1 Clients who receive only impersonal advice and who pay less than five hundred dollars ($500.00) in fees per year;

010.02C2 An investment company registered under the Investment Company Act of 1940; or

010.02C3 A business development company as defined in the Investment Company Act of 1940 and whose advisory contract meets the requirements of Section 15c of that Act.

010.02D Delivery of the brochure and related supplements may be made electronically if the investment adviser:

010.02D1 In the case of an initial delivery to a potential client, obtains a verification that a readable copy of the brochure and supplements were received by the client;

010.02D2 In the case of other than initial deliveries, obtains each client's prior consent to provide the brochure and supplements electronically;

010.02D3 Prepares the electronically delivered brochure and supplements in the format prescribed in Section 010.01 and the Instructions to Form ADV Part 2;

010.02D4 Delivers the brochure and supplements in a format that can be retained by the client in either electronic or paper form; and

010.02D5 Establishes written procedures to supervise personnel transmitting the brochure and supplements and to prevent violations of this Rule.

010.03 Other Disclosures. Nothing in this Rule ~~shall~~ relieves any investment adviser from any obligation pursuant to any provision of the Act or the rules and regulations thereunder or other federal or state law, rule, or regulation, to disclose any information to its advisory clients or prospective advisory clients not specifically required by this Rule.

010.04 Definitions. For the purpose of this Rule:

010.04A "Contract for impersonal advisory services" means any contract relating solely to the provision of investment advisory services:

010.04A1 By means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

010.04A2 Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

010.04A3 Any combination of the foregoing services.

010.04B "Entering into," in reference to an advisory contract, does not include an extension or renewal without material change of any such contract which is in effect immediately prior to such extension or renewal.

011 ASSIGNMENTS. For purposes of Section 8-1102(3)(b) of the Act, a transaction which does not result in a change of actual control or management of an investment adviser is not an assignment.

012 CUSTODY OF CLIENT FUNDS OR SECURITIES.

012.01 Safekeeping required. It is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice, or course of business for an investment adviser, registered or required to be registered, to have custody of client funds or securities unless:

012.01A Notice to Director. The investment adviser notifies the Director promptly in writing that the investment adviser has or may have custody. Such notification is required to be given on Form ADV.

012.01B Qualified Custodian. A qualified custodian maintains those funds and securities:

012.01B1 In a separate account for each client under that client's name; or

012.01B2 In accounts that contain only the investment adviser's clients' funds and securities, under the investment adviser's name as agent or trustee for the clients, or, in the case of a pooled investment vehicle that the investment adviser manages, in the name of the pooled investment vehicle.

012.01C Notice to Clients. If an investment adviser opens an account with a qualified custodian on its client's behalf, under the client's name, under the name of the investment adviser as agent, or under the name of a pooled investment vehicle, the investment adviser must notify the client in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information. If the investment adviser sends account statements to a client to which the investment adviser is required to provide this notice, the investment adviser must include in the notification provided to that client and in any subsequent account statement the investment adviser sends that client a statement urging the client to compare the account statements from the custodian with those from the investment adviser.

012.01D Account Statements. The investment adviser has a reasonable basis, after due inquiry, for believing that the qualified custodian sends an account statement, at least quarterly, to each client for which it maintains funds or securities, identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period.

012.01E Special Rule for Limited Partnerships and Limited Liability Companies. If the investment adviser or a related person is a general partner of a limited partnership, managing member of a limited liability company, or holds a comparable position for another type of pooled investment vehicle, the account statements required under Section 012.01D, above, must be sent to each limited partner, member or other beneficial owner.

012.01F Independent Verification. The client funds and securities of which the investment adviser has custody are verified by actual examination at least once during each calendar year, by an independent certified public accountant, pursuant to a written agreement between the investment adviser and the independent certified public accountant, at a time that is chosen by the independent certified public accountant without prior notice or announcement to the investment adviser and that is irregular from year to year. The written agreement must provide for the first examination to occur within six months of becoming subject to this paragraph, except that, if the investment adviser maintains client funds or securities pursuant to this Rule as a qualified custodian, the agreement must provide for the first examination to occur no later than six months after obtaining the internal control report. The written agreement must require the independent certified public accountant to:

> 012.01F1 File a certificate on Form ADV-E with the Director within one hundred twenty days of the time chosen by the independent certified public accountant to verify client funds and securities, stating that it has examined the funds and securities and describing the nature and extent of the examination.

012.01F2 Notify the Director within one business day of the finding of any material discrepancies during the course of the examination, by means of a facsimile transmission or electronic mail, followed by first class mail or overnight delivery, directed to the attention of the Director; and

012.01F3 File within four business days of the resignation or dismissal from, or other termination of, the engagement, or removing itself or being removed from consideration for being reappointed, Form ADV-E accompanied by a statement that includes:

012.01F3a The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and

012.01F3b An explanation of any problems relating to examination scope or procedure that contributed to such resignation, dismissal, removal, or other termination.

012.01G Investment Advisers Acting as Qualified Custodians. If the investment adviser maintains, or if the investment adviser has custody because a related person maintains, client funds or securities pursuant to this Rule as a qualified custodian in connection with advisory services the investment adviser provides to clients:

012.01G1 The independent certified public accountant that the investment adviser retains to perform the independent verification required by Section 012.01F, above, must be subject to regulation by the Public Company Accounting Oversight Board ("PCAOB") or the Nebraska Board of Public Accountancy ("NBPA"), in accordance with applicable rules; and

012.01G2 The investment adviser must obtain, or receive from its related person, within six months of becoming subject to this paragraph and thereafter no less frequently than once each calendar year, a written internal control report prepared by an independent certified public accountant.

012.01G2a The internal control report must include an opinion of an independent certified public accountant as to whether controls have been placed in operation as of a specific date, and are suitably designed and are operating effectively to meet control objectives relating to custodial services, including the safeguarding of funds and securities held by either the investment adviser or a related person on behalf of the investment adviser's clients, during the year;

012.01G2b The independent certified public accountant must verify that the funds and securities are reconciled to a custodian other than the investment adviser or the investment adviser's related person; and

012.01G2c The independent certified public accountant must be subject to regulation by PCAOB or NBPA in accordance with applicable rules.

012.01H Independent Representatives. A client may designate an independent representative to receive, on his or her behalf, notices and account statements as required under Sections 012.01C and 012.01D, above.

012.02 Exceptions.

012.02A Shares of Mutual Funds. With respect to shares of an open-end company as defined in Section 5(a)(1) of the Investment Company Act of 1940 ("mutual fund"), the investment adviser may use the transfer agent for the mutual fund in lieu of a qualified custodian for purposes of complying with Section 012.01, above;

012.02B Certain Privately Offered Securities.

012.02B1 The investment adviser is not required to comply with Section 012.01B, above, with respect to securities that are:

012.02B1a Acquired from the issuer in a transaction or chain of transactions not involving any public offering;

012.02B1b Uncertificated and ownership thereof is recorded only on the books of the issuer or its transfer agent in the name of the client; and

012.02B1c Transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

012.02B2 Notwithstanding Section 012.02B1, above, the provisions of this Section are available with respect to securities held for the account of a limited partnership, limited liability company, or other type of pooled investment vehicle only if the limited partnership, limited liability company, or other pooled investment vehicle is audited, and the audited financial statements are distributed, as described in Section 012.02D, below, and the investment adviser notifies the Director in writing that the investment adviser intends to provide audited financial

statements, as described above. Such notification is required to be provided on Form ADV.

012.02C Fee Deduction. Notwithstanding Section 012.01F, above, an investment adviser is not required to obtain an independent verification of client funds and securities maintained by a qualified custodian if all of the following are met:

012.02C1 The investment adviser has custody of the funds and securities solely as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee;

012.02C2 The investment adviser has written authorization from the client to deduct advisory fees from the account held with the qualified custodian;

012.02C3 Each time a fee is directly deducted from a client account, the investment adviser concurrently sends:

012.02C3a The qualified custodian an invoice or statement of the amount of the fee to be deducted from the client's account; and

012.02C3b The client an invoice or statement itemizing the fee. Itemization includes the formula used to calculate the fee, the amount of assets under management the fee is based on, and the time period covered by the fee.

012.02C4 The investment adviser notifies the Director in writing that the investment adviser intends to use the safeguards provided above. Such notification is required to be given on Form ADV.

012.02D Limited Partnerships, Limited Liability Companies, and other Pooled Investment Vehicles Subject to Annual Audit. An investment adviser is not required to comply with Sections 012.01C and 012.01D, above, and shall be deemed to have complied with Section 012.0.1F, above, with respect to the account of a limited partnership, limited liability company, or another type of pooled investment vehicle if the following conditions are met:

012.02D1 The investment adviser sends to all limited partners, members or other beneficial owners at least quarterly, a statement showing:

012.02D1a The total amount of all additions to and withdrawals from the fund as a whole as well as the opening and closing value of the fund at the end of the quarter based on the custodian's records;

012.02D1b A listing of all long and short positions on the closing date of the statement in accordance with FASB Rule ASC 946-210-50; and

012.02D1c The total amount of additions to and withdrawals from the fund by the investor as well as the total value of the investor's interest in the fund at the end of the quarter.

012.02D2 At least annually, the fund is subject to an audit and distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners, members or other beneficial owners within one hundred twenty days of the end of its fiscal year;

012.02D3 The audit is performed by an independent certified public accountant that, at the time of the audit, is subject to regulation by PCAOB or NBPA in accordance with applicable rules;

012.02D4 Upon liquidation, the investment adviser distributes the fund's final audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners, members or other beneficial owners, and the Director promptly after the completion of such audit;

012.02D5 The written agreement with the independent certified public accountant must require the independent certified public accountant, upon resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed, to notify the Director within four business days accompanied by a statement that includes:

012.02D5a The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and

012.02D5b An explanation of any problems relating to audit scope or procedure that contributed to such resignation, dismissal, removal, or other termination.

012.02D6 The investment adviser must also notify the Director in writing that the investment adviser intends to employ the use of the statement delivery and audit safeguards described above. Such notification is required to be given on Form ADV.

012.02E Registered Investment Companies. The investment adviser is not required to comply with this Rule with respect to the account of an investment company registered under the Investment Company Act of 1940.

012.03 Delivery to Related Persons. Sending an account statement under Section 012.01E, above, or distributing audited financial statements under Section 012.02D, above, ~~shall~~ does not satisfy the requirements of this Rule if such account statements or financial statements are sent solely to limited partners, members or other beneficial owners that themselves are limited partnerships, limited liability companies, or another type of pooled investment vehicle and are related persons of the investment adviser.

012.04 Definitions. For purposes of this Rule:

012.04A Control means the power, directly or indirectly, to direct the management or policies of a person whether through ownership of securities, by contract, or otherwise. For purposes of determining control:

012.04A1 Each of the investment adviser's officers, partners, or directors exercising executive responsibility, or persons having similar status or functions, is presumed to control the investment adviser;

012.04A2 A person is presumed to control a corporation if the person:

012.04A2a Directly or indirectly has the right to vote twenty five percent or more of a class of the corporation's voting securities; or

012.04A2b Has the power to sell or direct the sale of twenty five percent or more of a class of the corporation's voting securities;

012.04A3 A person is presumed to control a partnership if the person has the right to receive upon dissolution, or has contributed, twenty five percent or more of the capital of the partnership;

012.04A4 A person is presumed to control a limited liability company if the person:

012.04A4a Directly or indirectly has the right to vote twenty five percent or more of a class of the interests of the limited liability company;

012.04A4b Has the right to receive upon dissolution, or has contributed, twenty five percent or more of the capital of the limited liability company;

012.04A4c Is an elected manager of the limited liability company; or

012.04A5 A person is presumed to control a trust if the person is a trustee or managing agent of the trust.

012.04B Custody means holding directly or indirectly, client funds or securities, or having any authority to obtain possession of or the ability to appropriate client funds or securities. The investment adviser has custody if a related person holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, in connection with advisory services the investment adviser provides to clients.

012.04B1 Custody includes:

012.04B1a Possession of client funds or securities unless the investment adviser receives them inadvertently and returns them to the sender within three business days of receiving them;

012.04B1b Any arrangement, including a general power of attorney, under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and

012.04B1c Any capacity, such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust, that gives the investment adviser, its supervised person, or investment adviser representative, legal ownership of or access to client funds or securities.

012.04B2 Receipt of checks drawn by clients and made payable to third parties will not meet the definition of custody if forwarded to the third party within three business days of receipt and the investment adviser maintains the records required under 48 NAC 10.002.22.

012.04C Independent certified public accountant means a certified public accountant that meets the standards of independence described in Rule 2-01(b) and (c) of Regulation S-X (17 CFR 210.2-01(b) and (c)).

012.04D Independent representative means a person who:

012.04D1 Acts as agent for an advisory client, including in the case of a pooled investment vehicle, for limited partners or a limited partnership, members of a limited liability company, or other beneficial owners of another type of pooled investment vehicle and by law or contract is obliged to act in the best interest of the advisory client or the limited partners, members, or other beneficial owners;

012.04D2 Does not control, is not controlled by, and is not under common control with the investment adviser; and

012.04D3 Does not have, and has not had within the past two years, a material business relationship with the investment adviser.

012.04E Qualified custodian means the following:

012.04E1 A bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;

012.04E2 A broker-dealer registered in this jurisdiction and with the Securities and Exchange Commission holding the client assets in customer accounts;

012.04E3 A registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act, holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and

012.04E4 A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

012.04E5 An investment adviser who has custody of the funds and securities solely as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee is not a qualified custodian.

012.04F Related person means any person, directly or indirectly, controlling or controlled by the investment adviser, and any person that is under common control with the investment adviser.

013 BUSINESS CONTINUITY AND SUCCESSION PLANNING. Every investment adviser registered or required to be registered under the Act shall establish, implement, and maintain written procedures relating to a business continuity and succession plan. The plan shall be based upon the facts and circumstances of the investment adviser's business

model including the size of the firm, type(s) of services provided, and the number of locations of the investment adviser. The plan shall provide for at least the following:

013.01 The protection, backup, and recovery of books and records.

013.02 Alternate means of communication with customers, regulators, key personnel, employees, vendors, and service providers, including third party custodians. Such communications shall include, but not be limited to, providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities.

013.03 Office relocation in the event of temporary or permanent loss of a principal place of business.

013.04 Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel.

013.05 Otherwise minimizing service disruptions and client harm that could result from a sudden significant business interruption.

014 REGISTRATION OF SUCCESSOR TO REGISTERED INVESTMENT ADVISER. In the event that an investment adviser succeeds to and continues the business of an investment adviser registered pursuant to Section 8-1103 of the Act, the registration of the predecessor shall be deemed to remain effective as the registration of the successor if the successor, within thirty (days after such succession, files an application for registration on Form ADV, and the predecessor files a notice of withdrawal from registration on Form ADV-W.

014.01 The registration of the predecessor investment adviser will cease to be effective as the registration of the successor investment adviser forty-five days after the application for registration on Form ADV is filed by such successor.

014.02 Notwithstanding any other provision of this Section:

014.02A A Form ADV filed by an investment adviser partnership which is not registered when such form is filed and which succeeds to and continues the business of a predecessor partnership registered as an investment adviser shall be deemed to be an application for registration even though designated as an amendment if it is filed to reflect the changes in the partnership and to furnish required information concerning any new partners.

014.02B A Form ADV filed by an investment adviser corporation which is not registered when such form is filed and which succeeds to and continues the business of a predecessor corporation registered as an investment adviser shall be deemed to be an application for registration even though designated as an amendment if the succession is based solely on a change in the predecessor's state of incorporation and the amendment is filed to reflect that change.

014.02C A Form ADV filed by an investment adviser corporation, partnership, sole proprietorship or other entity which is not registered when such form is filed and which succeeds to and continues the business of a predecessor corporation, partnership, sole proprietorship or other entity registered as an investment adviser shall be deemed to be an application for registration even though designated as an amendment if the succession is based solely on a change in the predecessor's form of organization and the amendment is filed to reflect that change.

015 VERIFICATION OF IMMIGRATION STATUS. Every investment adviser who registers investment adviser representatives to transact business in Nebraska must verify the citizenship or immigration status of each investment adviser representative registered to transact business on its behalf in Nebraska and submit such verification to the Department.

015.01 For each investment adviser representative identified as a qualified legal alien, the investment adviser must submit a completed United States Citizenship Attestation Form, and one of the currently acceptable forms of documentation required by the Systematic Alien Verification for Entitlements Program and the Department of Homeland Security.

015.02 The investment adviser shall maintain, as a required book or record under 48 NAC 10.002.21, a copy of the completed United States Citizenship Attestation Form for each investment adviser representative registered in Nebraska, regardless of citizenship or immigration status.

016 COMPLIANCE PROCEDURES AND PRACTICES.

016.01 An investment adviser registered or required to be registered pursuant to Section 8-1103 of the Act shall adopt and implement written policies and procedures reasonably designed to prevent violation of the Act and the rules adopted under the Act by the investment adviser and any investment adviser representative or other employee or agent.

016.02 An investment adviser shall review the adequacy of the policies and procedures established pursuant to this Section and the effectiveness of their implementation on an annual basis and document such review.

016.03 An investment adviser shall designate an investment adviser representative registered with the Department who is responsible for administering the policies and procedures adopted under this Section.

017 USING THE INTERNET FOR GENERAL DISSEMINATION OF INFORMATION ON PRODUCTS AND SERVICES. Investment advisers shall not be deemed to be "transacting business" in this state for purposes of Section 8-1103 of the Act based solely on the use of the Internet, world wide web, and similar proprietary or common carrier electronic systems (hereinafter the "Internet") to distribute information on available products and services through certain communications made on the Internet directed generally to anyone having access to the Internet, and transmitted through postings on bulletin boards, social networking sites, blogs or similar sites, displays on "Home Pages" or similar methods (hereinafter, "Internet Communications") if the following conditions are observed:

017.01 The Internet Communication contains a disclosure statement in which it is clearly stated that:

017.01A The investment adviser in question may only transact business in this state if first registered, excluded or exempted from the investment adviser registration requirements of the Act; and

017.01B The investment adviser will not make follow-up, individualized responses to persons in this state that involve the rendering of personalized investment advice for compensation, unless the investment adviser has complied with, or has qualified for an applicable exemption or exclusion from, the investment adviser registration requirements of the Act.

017.02 The Internet Communication contains a mechanism, including and without limitation, technical “firewalls” or other implemented policies and procedures, designed reasonably to ensure that prior to any subsequent, direct communication with prospective customers or clients in this state, said investment adviser is first registered in this state or qualifies for an exemption or exclusion from such requirement.

017.02A Nothing in this paragraph shall be construed to relieve an investment adviser from any applicable securities registration requirement in this state;

017.03 The Internet Communication does not involve the rendering of personalized investment advice for compensation in this state over the Internet, but is limited to the dissemination of general information on products and services.

018 INVESTMENT ADVISER INFORMATION SECURITY AND PRIVACY POLICIES

018.01 Physical Security and Cybersecurity Policies and Procedures. Every investment adviser registered or required to be registered shall establish, implement, update, and enforce written physical security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information. The policies and procedures must be tailored to the investment adviser’s business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser. The physical security and cybersecurity policies and procedures must:

018.01A Protect against reasonably anticipated threats or hazards to the security or integrity of client records and information;

018.01B Ensure that the investment adviser safeguards confidential client records and information;

018.01C Protect any records and information the release of which could result in harm or inconvenience to any client; and

018.01D Cover at least the following five functions:

018.01D1 Identify. Develop the organizational understanding to manage information
security risk to systems, assets, data, and capabilities;

018.01D2 Protect. Develop and implement the appropriate safeguards to ensure delivery of critical infrastructure services;

018.01D3 Detect. Develop and implement the appropriate activities to identify the occurrence of an information security event;

018.01D4 Respond. Develop and implement the appropriate activities to take action regarding a detected information security event; and

018.01D5 Recover. Develop and implement the appropriate activities to maintain plans for resilience and to restore any capabilities or services that were impaired due to an information security event.

018.02 Maintenance. The investment adviser must review, no less frequently than annually, and modify, as needed, these policies and procedures to ensure the adequacy of the security measures and the effectiveness of their implementation.

018.03 Privacy Policy. The investment adviser must deliver upon the investment adviser's engagement by a client, and on an annual basis thereafter, a privacy policy to each client that is reasonably designed to aid in the client's understanding of how the investment adviser collects and shares, to the extent permitted by state and federal law, non-public personal information. The investment adviser must promptly update and deliver to each client an amended privacy policy if any of the information in the policy becomes inaccurate.

0198 DISHONEST OR UNETHICAL BUSINESS PRACTICES.

0198.01 The conduct set forth in 48 NAC 12.006 ~~shal~~l constitutes "an act, practice or course of business which operates, or would operate, as a fraud or deceit upon another person" by an investment adviser for purposes of Section 8-1102~~(2)(b)~~ of the Act and "dishonest or unethical business practices" by an investment adviser for purposes of Section 8-1102~~(2)(d)~~ and Section 8-1103~~(9)(a)(vii)~~ of the Act.

0198.02 The delineation of certain acts and practices is not intended to be all inclusive. Acts or practices not enumerated in 48 NAC 12.006 may also be deemed fraudulent and dishonest.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 10 - RECORDKEEPING BY INVESTMENT ADVISERS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to recordkeeping by investment advisers is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 ~~shall~~ apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes and rules of the Securities and Exchange Commission ("SEC") or the Financial Industry Regulatory Authority ("FINRA") referenced herein shall mean those statutes and rules as amended on or before the effective date of this Rule A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at http://www.ndbf.ne.gov/legal/title48.shtml. ~~A copy of the applicable statutes or rules referenced in this Rule is attached hereto.~~

002 GENERAL RECORD-KEEPING REQUIREMENTS. Every investment adviser registered or required to be registered under the Act shall make and keep true, accurate and current the following books, ledgers and records:

002.01 A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger.

002.02 General and auxiliary ledgers, or other comparable records, reflecting asset, liability, reserve, capital, income and expense accounts.

002.03 A memorandum of each order given by the investment adviser for the purchase or sale of any security; of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt, or delivery of a particular security; and of any modification or cancellation of any such order or instruction.

002.03A Such memorandum shall identify:

002.03A1 The terms and conditions of the order, instruction, modification or cancellation;

002.03A2 The person connected with the investment adviser who recommended the transaction to the client and the person who placed such order; and

002.03A3 The account for which entered, the date of entry, and the broker-dealer or other entity by or through whom executed, where appropriate.

002.03B The memorandum shall designate whether the orders were entered pursuant to the exercise of discretionary power.

002.04 All checkbooks, bank statements, canceled checks and cash reconciliations of the investment adviser.

002.05 All bills or statements, or copies thereof, paid or unpaid, relating to the business of the investment adviser as such.

002.06 All trial balances, financial statements prepared in accordance with generally accepted accounting principles, and internal audit working papers relating to the investment adviser's business.

002.06A For purposes of this subsection, "financial statements" shall mean a balance sheet prepared in accordance with generally accepted accounting principles, an income statement, a cash flow statement and a net capital computation, as required by 48 NAC 7.008 and 48 NAC 7.009.

002.07 Originals of all written communications received and copies of all written communications sent by the investment adviser relating to:

002.07A The recommendation made or proposed to be made and the advice given or proposed to be given;

002.07B The receipt, disbursement or delivery of funds or securities; or

002.07C The placement or execution of any order to purchase or sell any security.

002.07D The investment adviser shall not be required to keep the following written communications:

002.07D1 Unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser; and

002.07D2 A record of the names and addresses of the persons to whom the investment adviser sent any notice, circular or other advertisement offering any report, analysis, publication or other investment adviser service, which was sent to more than ten persons, except if such notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain a memorandum describing the

list and the source thereof with the copy of such notice, circular or advertisement.

002.08 A list or other record which identifies the accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client.

002.09A copy of all powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser.

002.10 A copy of each written agreement entered into by the investment adviser with any client, and all other written agreements otherwise relating to the investment adviser's business as an investment adviser.

002.11 A file containing a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication, that the investment adviser circulates or distributes, directly or indirectly, including by electronic media, to two or more persons, other than persons connected with such investment adviser and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication, including by electronic media, recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum of the investment adviser indicating the reasons for the recommendation shall be retained.

002.12 A record of every transaction in a security in which the investment adviser or any advisory representative of such investment adviser has, or by reason of such transaction acquires, any direct or indirect beneficial ownership.

002.12A Such record shall include:

002.12A1 The title and amount of the security involved;

002.12A2 The date and nature of the transaction, such as purchase, sale or other acquisition or disposition;

002.12A3 The price at which it was effected; and

002.12A4 The name of the broker-dealer or other entity with or through whom the transaction was effected.

002.12B Such record may contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security.

002.12C A transaction shall be recorded within ten days after the end of the calendar quarter in which the transaction was effected.

002.12D The investment adviser need not keep records required by this subsection for the following transactions:

002.12D1 Transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

002.12D2 Transactions in securities which are direct obligations of the United States.

002.12E For purposes of this subsection, "advisory representative" shall mean:

002.12E1 An investment adviser as defined in the Act;

0012.12E2 Any partner, officer, director or limited liability company member of the investment adviser;

002.12E3 Any employee who participates in any way in the determination of which recommendations shall be made;

002.12E4 Any employee who, in connection with his or her duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of such recommendations; and

002.12E5 Any person in a control relationship to the investment adviser, any affiliated person of such controlling person, and any affiliated person of such affiliated person who obtains information concerning securities recommendations being made by such investment adviser prior to the effective dissemination of such recommendations or of the information concerning such recommendations.

002.12F For purposes of this subsection and subsection 002.13, "Control" shall mean the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through one or more controlled companies, more than twenty-five percent of the voting securities of a company shall be presumed to control such company.

002.12G An investment adviser shall not be deemed to have violated the provisions of this subsection because of its failure to record securities transactions of any advisory representative if the investment adviser establishes that adequate procedures were instituted and reasonable diligence was used to promptly obtain reports of all transactions required to be recorded.

002.13 Notwithstanding the provisions of Section 002.12, above, if the investment adviser is primarily engaged in a business or businesses other than advising investment advisory clients, a record must be maintained of every transaction in a security in which the investment adviser or any advisory representative of such

investment adviser has, or by reason of such transaction acquires, any direct or indirect beneficial ownership.

002.13A Such record shall include:

002.13A1 The title and amount of the security involved;

002.13A2 The date and nature of the transaction, such as purchase, sale or other acquisition or disposition;

002.13A3 The price at which it was effected; and

002.13A4 The name of the broker-dealer or other entity with or through whom the transaction was effected.

002.13B Such record may contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment adviser or investment adviser representative has any direct or indirect beneficial ownership in the security.

002.13C A transaction shall be recorded within ten days after the end of the calendar quarter in which the transaction was effected.

002.13D The investment adviser is not required to keep records for the following transactions:

002.13D1 Transactions effected in any account over which neither the investment adviser nor advisory representative of the investment adviser has any direct or indirect influence or control; and

002.13D2 Transactions in securities which are direct obligations of the United States.

002.13E An investment adviser is “primarily engaged in a business or businesses other than advising investment advisory clients” when, for each of its most recent three fiscal years or for the period of time since organization, whichever is less, the investment adviser derived, on an unconsolidated basis, more than fifty percent of its total sales and revenues, and its income or loss before income taxes and extraordinary items, from such other business or businesses.

002.13F For purposes of this subsection, “advisory representative,” when used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, means:

002.13F1 Any partner, officer, director, member or employee of the investment adviser:

002.13F1a Who participates in any way in the determination of which recommendation shall be made; or

002.13F1b Whose functions or duties relate to the determination of which securities are being recommended prior to the effective dissemination of such recommendations; and

002.13F2 Any person in a control relationship to the investment adviser, any affiliated person of such controlling person and any affiliated person of such affiliated person who obtains information concerning securities recommendations being made by such investment adviser prior to the effective dissemination of such recommendations or of the information concerning such recommendations.

002.13F3 An investment adviser representative.

002.13G An investment adviser shall not be deemed to have violated the provisions of this subsection because of its failure to record securities transactions of any investment adviser representative if the investment adviser establishes that it instituted adequate procedures and used reasonable diligence to obtain reports of all transactions required to be recorded.

002.14 A copy of each written statement, including supplements for each investment adviser representative, and each amendment or revision, given or sent to any client or prospective client of the investment adviser in accordance with the provisions of 48 NAC 7.010, and a record of the dates that each written statement, and each amendment or revision, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

002.15 For each client that was obtained by the investment adviser by means of a solicitor to whom a cash fee was paid by the investment adviser:

002.15A Evidence of a written agreement to which the investment adviser is a party related to the payment of such fee;

002.15B A signed and dated acknowledgment of receipt from the client evidencing the client's receipt of the investment adviser's disclosure statement and a written disclosure statement of the solicitor; and,

002.15C A copy of the solicitor's written disclosure statement.

002.15D The written agreement, acknowledgment and solicitor disclosure statement will be considered to be in compliance if such documents are in compliance with Rule 275.206(4)-3 of the Investment Advisers Act of 1940.

002.15E For purposes of this subsection, the term "solicitor" shall mean any person or entity who, for compensation, acts as an agent of an investment adviser in referring potential clients.

002.16 All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for, or demonstrate the calculation of, the performance or rate of return of all managed accounts or of securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including, but not limited to, electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons, other than persons affiliated with such investment adviser.

002.16A With respect to the performance of managed accounts, the retention of all account statements, which reflect all debits, credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts shall be deemed to satisfy the requirements of this subsection.

002.16B For purposes of this subsection, persons affiliated with an investment adviser include any officer, director, managing member, general partner, or employee of the investment adviser, and individuals registered as its investment adviser representatives.

002.17 A file containing a copy of all written communications received or sent regarding any litigation involving the investment adviser or any investment adviser representative or employee, and regarding any written customer or client complaint.

002.18 Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client.

002.19 Written procedures to supervise the activities of employees and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.

002.20 A file containing a copy of each document, other than any notices of general dissemination, that was filed with or received from any state or federal agency or self-regulatory organization and that pertains to the registrant or its advisory representatives as that term is defined in Section 002.12E of this Rule, which file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

002.21 Copies, with original signatures of the investment adviser's appropriate signatory and the investment adviser representative, of each initial Uniform Application for Securities Industry Registration or Transfer (Form U4) and each amendment to Disclosure Reporting Pages must be retained by the investment adviser, filing on behalf of the investment adviser representative, and must be made available for inspection upon regulatory request.

002.22 An investment adviser who inadvertently holds or obtains securities or funds of a client, and who returns such securities or funds to the client within three business days of receiving them or forwards checks drawn by clients and made payable to third parties within three business days of receipt, will not be considered as having custody but shall keep a ledger or other listing of all securities or funds held or obtained, relating to the inadvertent custody, which ledger shall include the name of the issuer of the securities; the type of security and series; the date of issue of the securities; the denomination, interest rate and maturity date of any debt instruments; the certificate number, including alphabetical prefix or suffix; the name in which the security is registered; the date given to the adviser; the date sent to client or sender; the form of delivery to client or sender, or copy of the form of delivery to client or sender; the mail confirmation number, if applicable, or confirmation by client or sender of the fund's or security's return; and the date that each check was received by the adviser.

002.23 If an investment adviser obtains possession of securities that are acquired from the issuer in a transaction or chain of transactions not involving any public offering that comply with the exception from custody under 48 NAC 7.012.02B, the adviser shall keep the following records;

002.23A A record showing the issuer or current transfer agent's name, address, telephone number and other applicable contract information pertaining to the party responsible for recording client interests in the securities; and

002.23B A copy of any legend, shareholder agreement or other agreement showing that those securities that are transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

002.24 A copy of the following:

002.24A The investment adviser's Physical Security and Cybersecurity Policies and Procedures and Privacy Policy pursuant to 48 NAC 17.018. In addition to the investment adviser's recordkeeping requirements pursuant to sections (e) and (g) of this rule, the investment adviser must maintain a current copy of these policies and procedures either in hard copy in a separate location or stored on electronic storage media that is separate from and not dependent upon access to the investment adviser's computers or a network;

002.24B All records documenting the investment adviser's compliance with 48 NAC 17.018, including, but not limited to, evidence of the annual review of the policies and procedures;

002.24C A record of any violation of 48 NAC 17.018, and of any action taken as a result of the violation.

003 RECORDKEEPING BY INVESTMENT ADVISERS WITH CUSTODY OF CLIENT SECURITIES OR FUNDS. In addition to the records required by Section 002, above, an investment adviser which has custody or possession of securities or funds of any client as

that term is defined in 48 NAC 7.012.04B shall be required to make and keep the following records:

003.01 A copy of any and all documents executed by the client, including a limited power of attorney, under which the adviser is authorized or permitted to withdraw a client's funds or securities maintained with a custodian upon the adviser's instruction to the custodian.

003.02 A journal or other record showing all purchases, sales, receipts and deliveries of securities, including certificate numbers, for all accounts and all other debits and credits to the accounts.

003.03 A separate ledger account for each client showing all purchases, sales, receipts, and deliveries of securities, the date and price of each such purchase and sale, and all debits and credits.

003.04 Copies of confirmations of all transactions effected by or for the account of any such client.

003.05 A record for each security in which any client has an interest, showing the name of each client having any interest in that security, the amount or interest of each client, and the location of that security.

003.06 A copy of each of the client's quarterly account statements, as generated and delivered by the qualified custodian. If the investment adviser also generates a statement that is delivered to the client, the investment adviser shall also maintain copies of such statements along with the date such statements were sent to the clients.

003.07 If applicable to the investment adviser's situation, a copy of the special examination report verifying the completion of the examination by an independent certified public accountant and describing the nature and extent of the examination.

003.08 A record of any finding by the independent certified public accountant of any material discrepancies found during the examination.

003.09 If applicable, evidence of the client's designation of an independent representative.

003.10 If an investment adviser has custody because it advises a pooled investment vehicle, as defined in 48 NAC 7.012.04B1c, the investment adviser shall also keep the following records:

003.10A True, accurate and current account statements;

003.10B Where the adviser complies with 48 NAC 7.012.02D the records required to be made and kept shall include:

003.10B1 The date(s) of the audit;

003.10B2 A copy of the audited financial statements; and

003.10B3 Evidence of the mailing of the audited financial statements to all limited partners, members or other beneficial owners within one hundred twenty days of the end of its fiscal year.

004 RECORDKEEPING BY INVESTMENT ADVISERS WHICH RENDER INVESTMENT SUPERVISORY OR MANAGEMENT SERVICES. In addition to the records required by Section 002, above, an investment adviser which renders any investment supervisory or management service to any client shall, to the extent the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate and current the following records with respect to each portfolio being supervised or managed:

004.01 Separate records for each client showing the securities purchased and sold, and the date, amount and price of each such purchase and sale; and

004.02 For each security in which any client has a current position, records from which the investment adviser can promptly furnish the name of the client, and the current amount or interest of the client.

004.03 For purposes of this subsection, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client; and "discretionary power" shall not include discretion as to the price at which or the time when a transaction is or is to be effected, if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

005 CLIENT IDENTITY. Any books or records required by this Rule may be maintained by the investment adviser in such manner that the identity of any client to whom the investment adviser renders investment supervisory services is indicated by numerical or alphabetical code or some similar designation.

006 RETENTION.

006.01 All books and records required by this Rule, except for books and records required by the provisions of subsections 002.11 and 002.16, above, shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years in the principal office of the investment adviser.

006.02 Partnership articles and any amendments, articles of incorporation, and charters, minute books, and stock certificate books of the investment adviser, and of any predecessor, shall be maintained in the principal office of the investment adviser and preserved until at least three years after termination of the enterprise.

006.03 Books and records required by subsections 002.11 and 002.16, above, shall be maintained and preserved in an easily accessible location for a period of not less than five years, the first two years in the principal office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular,

advertisement, newspaper article, investment letter, bulletin, or other communication, including by electronic media.

006.04 Books and records required to be made under the provisions of subsections 002.17 to 002.22, above, inclusive, shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years in the principal office of the investment adviser, or for the time period during which the investment adviser was registered or required to be registered in the state, if less.

006.05 Notwithstanding other record preservation requirements of this Rule, the following records or copies shall be required to be maintained at the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services: (A) the records required to be preserved under Sections 002.03, 002.07 through 002.10, 002.14, 002.15, and 002.17 through 002.19. and Sections 003 and 004 inclusive, above, and (B) the records or copies required under the provision of Sections 002.11 and 002.16, above, which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business location's physical address, mailing address, electronic mailing address, or telephone number. The records shall be maintained for the period described in this subsection.

007 PERSERVATION OF BOOKS AND RECORDS. Before ceasing to conduct business as an investment adviser, an investment adviser shall arrange for and be responsible for preserving the books and records required to be maintained and preserved under this Rule for the remainder of the period specified therein and shall notify the Director in writing of the exact address where such books and records will be maintained during such period.

008 PRODUCTION OF BOOKS AND RECORDS. The records required to be maintained and preserved pursuant to this Rule shall be immediately produced or reproduced by an investment adviser.

008.01 Such records may be maintained and preserved for the required time by an investment adviser on:

008.01A Paper or hard copy form, as those records are kept in their original form; or

008.01B Micrographic media, including microfilm, microfiche, or any similar medium; or

008.01C Electronic storage media, including any digital storage medium or system that meets the terms of this section.

008.02 The investment adviser must:

008.02A Arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;

008.02B Provide promptly any of the following that the Director, including his or her examiners or other representatives, may request:

008.02B1 A legible, true, and complete copy of the record in the medium and format in which it is stored;

008.02B2 A legible, true, and complete printout of the record; and

008.02B3 Means to access, view, and print the records; and

008.02C Separately store, for the time required for preservation of the original record, a duplicate copy of the record on any medium allowed by this section.

008.03 In the case of records created or maintained on electronic storage media, the investment adviser must establish and maintain procedures:

008.03A To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction;

008.03B To limit access to the records to properly authorized personnel and the Director, including his or her examiners and other representatives; and

008.03C To reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete, true, and legible when retrieved.

008.04 Any book or other record made, kept, maintained and preserved in compliance with Rules 17a-3 [17 C.F.R. 240.17a-3] and 17a-4 [17 C.F.R. 240.17a-4] under the Securities Exchange Act of 1934, which is substantially the same as the book or other record required to be made, kept, maintained and preserved under this Rule, shall be deemed to be made, kept, maintained and preserved in compliance with this Rule.

009 EXCEPTIONS. The provisions of this Rule shall not apply to any investment adviser whose principal place of business is not located in this state provided:

009.01 Such investment adviser is registered in the state in which its principal place of business is located; and

009.02 Such investment adviser is in compliance with the recordkeeping requirements established by the state in which its principal place of business is located.

009.03 For purposes of this Section, principal place of business shall mean the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 12 - FRAUDULENT, DISHONEST AND UNETHICAL BUSINESS PRACTICES

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120~~(3)~~ of the Securities Act of Nebraska ("Act").

001.02 The Director has determined that this Rule relating to unethical and fraudulent business practices by broker-dealers, agents, investment advisers, federal covered advisers, and investment adviser representatives is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 ~~shal~~l apply to the provisions of this Rule, unless otherwise specified.

001.05 The delineation in this Rule of certain acts and practices is not intended to be all inclusive. Acts or practices not enumerated herein may also be deemed fraudulent or dishonest.

001.06 Federal statutes and rules of the Securities and Exchange Commission ("SEC") or the Financial Industry Regulatory Authority ("FINRA") referenced herein ~~shall~~ means those statutes and rules as amended on or before the effective date of this Rule. A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at ~~http://www.ndbf.ne.gov/legal/title48.shtml.~~ https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations.

002 FRAUDULENT PRACTICES OF BROKER-DEALERS AND AGENTS. A broker-dealer or agent who engages in one or more of the following practices shall be deemed to have engaged in an "act, practice, or course of business which operates or would operate as a fraud" as used in Section 8-1102(1)(c) of the Act:

002.01 Entering into a transaction with a customer in any security at an unreasonable price, or at a price not reasonably related to the current market price of the security, or receiving an unreasonable commission or profit.

002.02 Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead, or using any advertising or sales presentation in a deceptive or misleading manner.

002.03 In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or agent is in possession of material, non-public information which would impact on the value of the security.

002.04 In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objectives for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstance of each investor.

002.05 Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other things, (1) transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees, or (2) "parking" or withholding securities.

002.06 Failing to disclose the firm's present bid and ask price of a particular security at the time of solicitation, and the firm's bid and ask price at the time of execution of the written confirmation.

002.07 In connection with the solicitation of a purchase or sale of over the counter ("OTC") unlisted non-NASDAQ equity securities, failing to advise the customer, both at the time of solicitation and on the written confirmation, of any and all compensation related to the specific securities transaction which is to be paid to the agent, including commissions, sales charges, or concessions.

002.08 In connection with a principal transaction, failing to disclose, both at the time of solicitation and on the written confirmation, a short inventory position in the firm's account of more than five percent of the issued and outstanding shares of that class of securities of the issuer, provided that this subsection ~~shall apply~~applies only if the firm is a market maker at the time of the solicitation.

002.09 Conducting sales contests in a particular security.

002.10 After a solicited purchase by a customer, failing or refusing, in connection with a principal transaction, to promptly execute sell orders.

002.11 Soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market.

002.12 Engaging in a pattern of compensating an agent in different amounts for effecting contemporaneous sales and purchases in the same security.

002.13 Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include, but not be limited to;

> 002.13A Effecting any transaction in a security which involves no change in the beneficial ownership thereof.
>
> 002.13B Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been, or will be, entered by or for the same or different parties for the purpose of creating a false or misleading

appearance of active trading in the security or a false or misleading appearance with respect to the market for the security. Nothing in this subsection ~~shall~~ prohibits a broker-dealer from entering bona fide agency cross transactions for its customers.

002.13C Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.

002.14 Failing to furnish to a customer purchasing securities in an offering, no later than the due date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and any additional document, which together include all information set forth in the final prospectus.

002.15 Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer.

002.16 Representing that a market will be established, or that securities will be subject to an increase in value.

002.17 Engaging in unreasonable and/or unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers.

002.18 In connection with the solicitation of a purchase of a designated security:

002.18A Failing to disclose to the customer the bid and ask price, at which the broker-dealer effects transactions with individual, retail customers, of the designated security as well as its spread in both percentage and dollar amounts at the time of solicitation and on the trade confirmation documents; or

002.18B Failing to include with the confirmation a written explanation of the bid and ask price.

002.18C The following transactions shall be exempt from the requirements of this subsection:

002.18C1 Transactions in which the price of the designated security is five dollars ($5.00) or more, exclusive of costs or charges; provided, however, that if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities must be five dollars ($5.00) or more, and any component of the unit that is a warrant, option, right, or similar security, or a convertible security must have an exercise price or conversion price of five dollars ($5.00) or more;

002.18C2 Transactions that are not recommended by the broker-dealer or agent;

002.18C3 Transactions by a broker-dealer:

002.18C3a Whose commissions, commission equivalents, and mark-ups from transactions in designated securities during each of the immediately preceding three months, and during eleven or more of the preceding twelve months, did not exceed five percent of its total commissions, commission-equivalents, and mark-ups from transactions in securities during those months; and

002.18C3b Who has not executed principal transactions in connection with the solicitation to purchase the designated security that is the subject of the transaction in the immediately preceding twelve months.

002.18C4 Any transaction or transactions that, upon prior written request or upon his or her own motion, the Director conditionally or unconditionally exempts as not encompassed within the purposes of this Section.

002.18D For purposes of this Section, the term “designated security” means any equity security other than a security:

002.18D1 Registered, or approved for registration upon notice of issuance, on a national securities exchange, and the issuer of which makes transaction reports available pursuant to 17 CFR 242.601;

002.18D2 Authorized, or approved for authorization upon notice of issuance, for quotation in the Nasdaq Stock Market;

002.18D3 Issued by an investment company registered under the Investment Company Act of 1940;

002.18D4 That is a put option or call option issued by The Options Clearing Corporation; or

002.18D5 Issued by a company which has net tangible assets in excess of four million dollars ($4,000,000.00) as demonstrated by financial statements dated less than fifteen months previously that the broker-dealer has reviewed and has a reasonable basis to believe are true and complete in relation to the date of the transaction with the person, and are:

002.18D5a The most recent financial statements of the issuer, other than a foreign private issuer, that have been audited and reported on by an independent public accountant in accordance with the provisions of 17 CFR 210.2-02; or

002.18D5b The most recent financial statements of the foreign private issuer that have been filed with the SEC; furnished to the SEC pursuant to 17 CFR 240.12g3-2(b); or prepared in accordance with generally accepted accounting principles in the country of incorporation, audited in compliance with the requirements of that jurisdiction, and reported on by an accountant duly registered and in good standing in accordance with the regulations of that jurisdiction.

002.19 Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account.

002.20 Executing a transaction on behalf of a customer without authorization to do so.

002.21 Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the executing of orders.

002.22 Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account.

002.23 Failing to segregate customers' free securities or securities held in safekeeping.

002.24 Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business.

002.25 Offering to buy from, or to sell to, any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell.

002.26 Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless the broker-dealer knows or has reasonable grounds to believe that a market for the security exists other than that made, created or controlled by the broker-dealer, or by a person the broker-dealer is acting or with whom the broker-dealer is associated in such distribution, or any person controlled by, controlling or under common control with, the broker-dealer.

002.27 Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer.

002.28 Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale or such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security.

002.29 Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with, the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction.

002.30 Failing or refusing to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint.

003 UNETHICAL PRACTICES FOR BROKER-DEALERS, ISSUER-DEALERS, AND AGENTS. A broker-dealer, issuer-dealer or agent who engages in one or more of the following practices shall be deemed to have engaged in a "dishonest or unethical practice" as used in Section 8-1103(9)(a)(vii) of the Act:

003.01 Any acts or practices enumerated in Section 002, above.

003.02 In connection with the solicitation of a sale or purchase of an Over the Counter ("OTC"), unlisted, non-Nasdaq security, failing to promptly provide the most current prospectus or the most recent periodic report filed under Section 13 of the Securities Exchange Act of 1934, 15 U.S.C. 78m, when requested to do so by a customer.

003.03 Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited.

003.04 Failing to provide documentation of unsolicited sales to the Department upon request, pursuant to 48 NAC 14.

003.05 Failing to provide each customer with a statement of account which, with respect to all OTC non-Nasdaq equity securities in the account, contains a value for each such security based on the closing market bid on a date certain.

003.05A This statement must cover any month in which activity has occurred in a customer's account, but in no event shall be provided less than every three months.

003.05B This subsection ~~shall apply~~applies only if the firm has been a market maker in such security at any time during the month in which the monthly or quarterly statement is issued.

003.06 Failing to comply with any applicable provision of fair practice or ethical rules and/or standards promulgated by the SEC, FINRA or by a self-regulatory organization approved by the SEC.

003.07 Failing to cooperate with, or providing false or incomplete information to, the Director in connection with an investigation or inquiry.

004 DISHONEST AND UNETHICAL PRACTICES FOR BROKER-DEALERS AND AGENTS IN CONNECTION WITH THE SALE OF INVESTMENT COMPANY SECURITIES. A broker-dealer or agent who engages in one or more of the following practices shall be deemed to have engaged in "dishonest or unethical practices in the securities business" as used in Section 8-1103(9)(a)(vii) of the Act:

004.01 Sales Load Communications.

004.01A In connection with the offer or sale of investment company shares, failing to adequately disclose to a customer all sales charges, including asset based and contingent deferred sales charges, which may be imposed with respect to the purchase, retention or redemption of such shares.

004.01B In connection with the solicitation of investment company shares, stating or implying to a customer that the shares are sold without a commission, are "no load" or have "no sales charge" if there is associated with the purchase of the shares a front-end load, a contingent deferred sales load, a SEC Rule 12b-1 fee, 17 CFR 270.12b-1, or a service fee which exceeds one-quarter of one percent of average net fund assets per year, or in the case of closed-end investment company shares, underwriting fees, commissions or other offering expenses.

004.01C In connection with the solicitation of investment company shares, failing to disclose to a customer any relevant:

004.01C1 Sales charge discount on the purchase of shares in dollar amounts at or above a breakpoint; or

004.01C2 Letter of intent feature, if available, which will reduce the sales charges to the customer.

004.01D In connection with the solicitation of investment company shares, recommending to a customer the purchase of a specific class of investment company shares in connection with a multi-class sales charge or fee arrangement without reasonable grounds to believe that the sales charge or fee arrangement associated with such class of shares is suitable and appropriate based on the customer's investment objectives, financial

situation and other securities holdings, and the associated transaction or other fees.

004.02 Recommendations.

004.02A In connection with the solicitation of investment company shares, recommending to a customer the purchase of investment company shares which results in the customer simultaneously holding shares in different investment company portfolios having similar investment objectives and policies without reasonable grounds to believe that such recommendation is suitable and appropriate based on the customer's investment objectives, financial situation and other securities holdings, and any associated transaction charges or other fees.

004.02B In connection with the solicitation of investment company shares, recommending to a customer the liquidation or redemption of investment company shares for the purpose of purchasing shares in a different investment company portfolio having similar investment objectives and policies without reasonable grounds to believe that such recommendation is suitable and appropriate based on the customer's investment objectives, financial situation and other securities holdings and any associated transaction charges or other fees.

004.03 Disclosure Statements.

004.03A In connection with the solicitation of investment company shares, stating or implying to a customer the fund's current yield or income without disclosing the fund's most recent average annual total return, calculated in a manner prescribed in SEC Form N-1A,17 CFR 239.15A, for one, five, and ten year periods and fully explaining the difference between current yield and total return; provided, however, that if the fund's registration statement under the Securities Act of 1933 has been in effect for less than one, five or ten years, the time during which the registration statement was in effect shall be substituted for the periods otherwise prescribed.

004.03B In connection with the solicitation of investment company shares, stating or implying to a customer that the investment performance of an investment company portfolio is comparable to that of a savings account, certificate of deposit or other financial institution deposit account without disclosing to the customer that the shares are not insured or otherwise guaranteed by the Federal Deposit Insurance Corporation ("FDIC") or any other government agency and the relevant differences regarding risk, guarantees, fluctuation of principal and/or return, and any other factors which are necessary to ensure that such comparisons are fair, complete and not misleading.

004.03C In connection with the solicitation of investment company shares, stating or implying to a customer, the existence of insurance, credit quality, guarantees or similar features regarding securities held, or proposed to be held, in the investment company's portfolio without

disclosing to the customer other kinds of relevant investment risks, including but not limited to, interest rate, market, political, liquidity, or currency exchange risks, which may adversely affect investment performance and result in loss and/or fluctuation of principal notwithstanding the creditworthiness of such portfolio securities.

004.03D In connection with the offer or sale of investment company shares, stating or implying to a customer that:

004.03D1 The purchase of such shares shortly before an ex-dividend date is advantageous to such customer unless there are specific, clearly described tax or other advantages to the customer, or

004.03D2 A distribution of long-term capital gains by an investment company is part of the income yield from an investment in such shares.

004.03E In connection with the offer or sale of investment company shares, making:

004.03E1 Projections of future performance;

004.03E2 Statements not warranted under existing circumstances; or

004.03E3 Statements based upon non-public information.

004.04 Prospectus. In connection with the solicitation of investment company shares, the delivery of a prospectus ~~shall not be~~ is not dispositive that the broker-dealer or agent has fulfilled the duties set forth in this Rule.

004.05 Definitions. For purposes of this Rule, the following definitions ~~shall~~ apply:

004.05A Recommend means any affirmative act or statement that endorses, solicits, requests, or commends a securities transaction to a customer or any affirmative act or statement that solicits, requests, commends, importunes or intentionally aids such person to engage in such conduct.

004.05B Solicitation means any oral, written or other communications used to offer or sell investment company shares excluding any proxy statement, report to shareholders, or other disclosure document relating to a security covered under Section 18(b)(2) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(2) that is required to be and is filed with the SEC or any national securities organization registered under Section 15A of the Securities Exchange Act of 1934, 15 U.S.C. § 78o-3.

005 UNETHICAL PRACTICES FOR AGENTS. An agent of a broker-dealer or issuer-dealer who engages in one or more of the following practices shall be deemed to have

engaged in a “dishonest or unethical practice” as used in Section 8-1103(9)(a)(vii) of the Act:

005.01 Engaging in the practice of lending or borrowing money or securities from a customer, or acting as a custodian of money, securities or an executed stock power of a customer, unless such customer is a member of the agent’s immediate family.

005.01A For purposes of this subsection, “immediate family” means a spouse, child, sibling, parent, grandparent, or grandchild, including stepparents, stepchildren, stepsiblings, and adoptive relationships.

005.02 Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction.

005.03 Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited.

005.04 Sharing directly or indirectly in profits or losses in the account of any customer unless the agent obtains the written authorization of the customer and the broker-dealer which the agent represents and the agent’s share of profits or losses is in direct proportion to the financial contributions made to such account by either the member or person associated with a broker-dealer.

005.05 Dividing or otherwise splitting an agent’s commissions, profits or other compensation from the purchase or sale of securities with any person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control.

005.06 Using advertising describing or relating to the agent’s securities business unless the advertising clearly identifies the name of the agent’s employing broker-dealer or issuer-dealer.

005.07 Misrepresenting the services of a registered broker-dealer or issuer-dealer on whose behalf the agent is soliciting business or accounts.

005.08 Conducting a seminar, or advertising for a seminar, unless all advertisements, including, but not limited to, flyers, invitations, postcards, letters, e-mails, sales material, newspaper, television radio, and social media posts related to the seminar, and handouts given to attendees at the seminar, identify the name of the agent offering the seminar and any broker-dealer with which the agent is affiliated

005.08A For purposes of this subsection, “seminar” ~~shall~~ includes any educational or financial workshop targeted to members of the public at which at least one of the following occur:

005.08A1 Securities products are discussed;

005.08A2 The advertising for the seminar states or implies that securities products are going to be discussed; or

005.08A3 The presenter is collecting contact information to make future solicitations concerning securities products.

006 FRAUDULENT AND DISHONEST OR UNETHICAL PRACTICES FOR INVESTMENT ADVISERS, FEDERAL COVERED ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES. An investment adviser, federal covered adviser, or investment adviser representative, or any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale (collectively "adviser") who engages in one or more of the following practices shall be deemed to have engaged in an "act, practice, or course of business which operates or would operate as a fraud" for purposes of Section 8-1102(2)(b) or a "dishonest or unethical practice" as used in Section 8-1102(2)(d) and Section 8-1103(9)(a)(vii) of the Act:

006.01 Recommending the purchase, sale or exchange of any security to a client without reasonable grounds to believe the recommendation is suitable for the client based on:

006.01A Information furnished by the client;

006.01B Reasonable inquiry concerning the client's investment objectives, financial situation and needs by the adviser or its registered representative; and

006.01C Any other information known or acquired by the adviser after reasonable examination of any records provided to the adviser by the client.

006.02 Placing an order to purchase or sell a security for the account of a client without authority to do so.

006.03 Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first obtaining a written authorization from the client.

006.04 Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of specified securities shall be executed, or both.

006.05 Inducing trading in a client's account that is excessive in size and frequency in view of the client's financial resources and investment objectives, and character of the account.

006.06 Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the adviser, a financial institution engaged in the business of loaning funds or securities, or a member of the investment adviser representative's immediate family.

006.06A For purposes of this subsection, “immediate family” means a spouse, child, sibling, parent, grandparent, or grandchild, including stepparents, stepchildren, stepsiblings, and adoptive relationships.

006.07 Loaning money to a client unless the adviser is a financial institution engaged in the business of loaning funds, the client is an affiliate of the adviser, or the client is a member of the investment adviser representative’s immediate family.

006.08 Misrepresenting to any client or prospective client, the qualifications of the adviser, any representative or any employee of the investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees not misleading, in light of the circumstances under which they are made.

006.09 Providing a report or recommendation to any advisory client prepared by someone other than the adviser to any client, without disclosing that fact, except where the adviser uses published research reports or statistical analyses to render advice or where an adviser orders such a report in the normal course of providing service.

006.10 Charging a client an excessive advisory fee.

006.11 Failing to disclose any material conflict of interest relating to the adviser, any representative or any employee, which could reasonably be expected to impair the rendering of unbiased and objective advice, to a client in writing before entering into or renewing an advisory agreement with that client. Such conflicts include, but are not limited to:

006.11A Receiving compensation relating to advisory services provided to clients which is in addition to compensation received from such clients for such services; and

006.11B Charging a client a fee for rendering advice without disclosing that a commission for executing transactions pursuant to such advice will be received by the adviser, its representatives or its employees, or that the advisory fee will be reduced by the amount of the commission.

006.12 Guaranteeing a client that a specific result, either gain or loss, will be achieved as a result of the advice.

006.13 Disclosing the identity, affairs, or investments of any client to any third party without the client’s consent, unless required by law to do so.

006.14 Failing to comply with the requirements for investment advisers with custody found set forth in 48 NAC 7.012 or for federal covered advisers with custody found in Rule 206(4)-2 under the Investment Advisers Act of 1940, 17 CFR § 275.206(4)-2.

006.15 Entering into, extending or renewing any investment advisory contract, other than a contract for impersonal advisory services as defined in 48 NAC 7.010.06A, unless:

006.15A The contract is in writing; and

006.15B The contract discloses, in substance:

006.15B1 The services to be provided,

006.15B2 The term of the contract,

006.15B3 The advisory fee or the formula for computing the fee,

006.15B4 The amount or the manner of calculation of the amount of the prepaid fee to be returned in the event of contract termination or non-performance,

006.15B5 The discretionary power granted to the adviser or its representatives, if any, and

006.15B6 The contract shall not be assigned by the adviser without the client's consent.

006.16 Employing any device, scheme, or artifice to defraud or engage in any act, practice or course of business which operates or would operate as a fraud or deceit.

006.17 Failing to disclose to any client or prospective client all material facts with respect to:

006.17A A financial condition of the adviser that is reasonably likely to impair the ability of the adviser to meet contractual commitments to clients, if the adviser has discretionary authority, express or implied, or custody over such client's funds or securities, or requires prepayment of advisory fees of more than twelve hundred dollars ($1,200.00) from such client, six months or more in advance; or

006.17B A legal or disciplinary event that is material to an evaluation of the adviser's integrity or ability to meet contractual commitments to clients. There ~~shall be~~ is a rebuttable presumption that the following legal or disciplinary events involving the adviser or a management person of the adviser ("person") that were not resolved in the person's favor or subsequently reversed, suspended, or vacated are material within the meaning of this paragraph for a period of ten years from the time of the event:

006.17B1 A criminal action in a court of competent jurisdiction in which the person was convicted or pleaded guilty or nolo contendere ("no contest") to a felony or misdemeanor, or is the named subject of a pending criminal proceeding, involving an

investment-related business; fraud, false statements, or omissions; wrongful taking of property; or bribery, forgery, counterfeiting, or extortion.

006.17B2 A criminal or civil action in a court of competent jurisdiction in which the person:

006.17B2a Was found to have been involved in a violation of an investment-related statute or regulation; or

006.17B2b Was the subject of any order, judgment, or decree permanently or temporarily enjoining the person from, or otherwise limiting the person from, engaging in any investment-related activity.

006.17B3 Administrative proceedings before the Director, SEC, any other federal regulatory agency, or any other state agency (collectively "agency") in which the person:

006.17B3a Was found to have caused an investment-related business to lose its authorization to do business; or

006.17B3b Was found to have been involved in a violation of an investment-related statute or regulation and was the subject of an order by the agency denying, suspending, or revoking the authorization of the person to act in, or barring or suspending the person's association with, an investment-related business; or otherwise significantly limiting the person's investment-related activities.

006.17B4 Self-Regulatory Organization ("SRO") proceedings in which the person:

006.17B4a Was found to have caused an investment-related business to lose its authorization to do business; or

006.17B4b Was found to have been involved in a violation of the SRO's rules and was the subject of an order by the SRO barring or suspending the person from association with other members, or expelling the person from membership; or fining the person more than two thousand five hundred dollars ($2,500.00), or otherwise significantly limiting the person's investment-related activities.

006.17B5 For purposes of calculating the ten year period during which events are presumed to be material under this subsection, the date of a reportable event shall be the date on which the final order, judgment, or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments, or decrees lapsed.

006.17C The information required to be disclosed by this subsection shall be disclosed to clients within thirty days, and to prospective clients not less than forty-eight hours prior to entering into any written investment advisory contract, or no later than the time of entering into such contract if the client has the right to terminate the contract without penalty within five business days after entering into the contract.

006.17D For purposes of this subsection:

006.17D1 "Management person" means a person with power to exercise, directly or indirectly, a controlling influence over the management or policies of an adviser which is a company or to determine the general investment advice given to clients.

006.17D2 "Found" means determined or ascertained by adjudication or consent in a final SRO proceeding, agency administrative proceeding, or court action.

006.17D3 "Investment-related" means pertaining to securities, commodities, banking, insurance, or real estate, including, but not limited to, acting as or being associated with a broker-dealer, investment company, investment adviser, government securities broker or dealer, municipal securities dealer, bank, savings and loan association, entity or person required to be registered under the Commodity Exchange Act, 7 U.S.C. § 1 et seq., or fiduciary.

006.17D4 "Involved" means acting or aiding, abetting, causing, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

006.17D5 "Self-Regulatory Organization" means any national securities or commodities exchange, registered association, or registered clearing agency, rule, or regulation.

006.17E Disclosure pursuant to this subsection ~~shall~~ does not relieve any investment adviser from the obligations of any other disclosure requirement under the Act, the rules and regulations thereunder, or under any other federal or state law.

006.18 Entering into, extending or renewing any investment advisory contract, if such contract contains any provision which limits or purports to limit:

006.18A Liability of the adviser for conduct or omission arising from the advisory relationship which does not conform to the Act, applicable federal statutes, and common law fiduciary standards of care; or

006.18B Applicability of the laws of Nebraska with respect to the construction or interpretation of the contract provisions.

006.19 Failing to cooperate with, or providing false or incomplete information to, the Director in connection with an investigation.

006.20 Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information in violation of Section 204A of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-4a.

006.21 Entering into, extending or renewing any advisory contract which would violate Section 205 of the Investment Advisers Act of 1940,15 U.S.C § 80b-5 notwithstanding the fact that such adviser would be exempt from federal registration pursuant to Section 203(b) of the Investment Advisers Act of 1940, 15 U.S.C § 80b-3.

006.22Including a provision which purports to waive compliance with any provision of the Act, of the rules and regulations thereunder, or of the Investment Advisers Act of 1940 in any advisory contract, stipulation or other document binding on any person, or any other practice that would violate Section 215 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-15.

006.23 Engaging in any act, practice, or course of business which is fraudulent, deceptive or manipulative in contravention of Section 206(4) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-6, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203(b) of the Investment Advisers Act of 1940, 15 U.S.C § 80b-3.

006.24Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Act or any rule or regulation thereunder.

006.25 Dividing, splitting or otherwise paying fees or other compensation paid pursuant to the investment adviser contract with any individual or entity which is not registered as an investment adviser or investment adviser representative under the Act.

006.26 Publishing, circulating or distributing any advertisement, directly or indirectly:

006.26A Which refers, directly or indirectly, to any testimonial of any kind by any customer concerning the investment adviser or investment adviser representative concerning any advice, analysis, report or other service rendered to the customer by the investment adviser or investment adviser representative.

006.26B Which refers, directly or indirectly, to past specific recommendations of the investment adviser or investment adviser representative which were or would have been profitable to any person; provided, however, that this does not prohibit an advertisement which sets forth or offers to furnish a list of all recommendations made by the investment adviser or investment adviser representative for the twelve month period immediately preceding the date of the publication of the advertisement, and which:

006.26B1 Includes the name of each such security recommended, the date and nature of each such recommendation, for example, whether to buy, sell or hold, the market price at the time, the price at which the recommendation was to be acted upon, and the current market price of each such security.

006.26B2 Contains a disclosure statement prominently displayed on the first page thereof in print or type as large as the largest print or type used in the body or text cautioning investors that future results may vary from the past performance. Examples of acceptable statements include: "IT SHOULD NOT BE ASSUMED THAT RECOMMENDATIONS MADE IN THE FUTURE WILL BE PROFITABLE OR WILL EQUAL THE PERFORMANCE OF THE SECURITIES IN THIS LIST." and/or "PAST PERFORMANCE IS NOT AN INDICATION OF FUTURE RESULT."

006.26C Which represents, directly or indirectly, that any graph, chart, formula or other device being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them; or which represents, directly or indirectly, that any graph, chart, formula or other device being offered will assist any person in making decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in the advertisement the limitations thereof and the difficulties with respect to its use.

006.26D Which contains any statement to the effect that any report, analysis or other service will be furnished free or without charge, unless the report, analysis or other service actually is or will be furnished absolutely without condition or obligation.

006.26E Which contains any untrue statement of a material fact, or which is otherwise false or misleading in any material respect, including the failure to disclose compensation, including free or discounted securities, received directly or indirectly in connection with making a recommendation concerning a specific security.

006.26F Which recommends the purchase or sale of any security unless the investment adviser or investment adviser representative simultaneously offers to furnish to any person upon request a tabular presentation of:

006.26F1 The total number of shares or other units of the security held by the investment adviser or investment adviser representative for its own account or for the account of officers, directors, trustees, partners or affiliates of the investment adviser or for discretionary accounts of the investment adviser or investment adviser representative maintained for clients.

006.26F2 The price or price range at which the securities listed in subsection ~~017.06A~~ 006.26F1 were purchased.

006.26F3 The date or range of dates during which the securities listed in response to subsection ~~017.06A~~006.26F1 were purchased.

006.26G Definitions.

006.26G1 For the purpose of this section, the term "advertisement" includes any notice, circular, letter or other written communication addressed to more than one person or any notice or other announcement in any publication, by radio or television, or by electronic means, which offers:

006.26G1a Any analysis, report or publication concerning securities, or which is to be used in making any determination as to when to buy or sell any security, or which security to buy or sell.

006.26G1b Any graph, chart, formula or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell.

006.26G1c Any other investment advisory service with regard to securities.

006.26G2 The term "client" means any person to whom the investment adviser or investment adviser representative has given investment advice for which the investment adviser or investment adviser representative has received compensation.

006.26H This section does not apply to federal covered advisers unless the conduct is otherwise actionable under the Act.

006.27 Conducting a seminar, or advertising for a seminar, unless all advertisements, including but not limited to flyers, invitations, postcards, letters, e-mails, sales material, newspaper, television radio, and social media posts related to the seminar, and handouts given to attendees at the seminar, identify the name of the investment adviser representative offering the seminar and any investment adviser with which the agent is affiliated.

006.27A For purposes of this subsection, "seminar" ~~shall~~ includes any

educational or financial workshop targeted to members of the public at which at least one of the following occur:

006.27A1 Securities products are discussed;

006.27A2 The advertising for the seminar states or implies that securities products are going to be discussed; or

006.27A3 The presenter is collecting contact information to make future solicitations concerning securities products.

006.28 Accessing a client's account by using the client's own unique identifying information, such as username and password.

006.29 Failing to establish, maintain, or enforce a required policy or procedure.

006.~~28~~30 Federal statutory and regulatory provisions referenced herein shall apply to investment advisers and federal covered advisers, regardless of whether the federal provision limits its application to advisers subject to federal registration.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 17 - CONDITIONS AND INFORMATION REQUIREMENTS FOR THE SECTION 8-1111(16) UNIFORM LIMITED OFFERING EXEMPTION

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1111(16) and Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to exemptions from registration is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes and rules of the Securities and Exchange Commission ("SEC") or the Financial Industry Regulatory Authority ("FINRA") referenced herein shall mean those statutes and rules as amended on or before the effective date of this Rule. A copy of the applicable statutes or rule referenced in this Rule is attached hereto.

002 CONDITIONS OF EXEMPTION.

002.01 Any offer or sale of securities offered or sold in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 - 230.503, 230.505, and 230.507 - 230.508, 17 CFR 230.501-503, 17 CFR 230.505, and 17 CFR 230.507-508, which satisfies the following further conditions and limitations shall be deemed exempt from the registration provisions of the Act.

002.02 The issuer shall file the following with the Director within thirty days of the first sale made in Nebraska in reliance on the exemption contained in this Rule.

002.02A A SEC Form D notice manually signed by a person duly authorized by the issuer;

002.02B A copy of the disclosure statement given to investors in compliance with this Rule;

002.02C The date of the first sale of a security made in reliance on this exemption;

002.02D A check in the amount of two hundred dollars ($200.00), payable to "Nebraska Department of Banking and Finance";

002.01E A representation by an officer, director, general partner, managing member or legal counsel of the issuer that all of the conditions of Section 8-1111(16) of the Act have been or will be met; and

002.02F A consent to service of process in Nebraska.

002.03 No commission, finder's fee, or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser or in connection with sales of securities in reliance on this Rule, unless such person is a Nebraska-registered agent of a Nebraska-registered broker-dealer or issuer-dealer.

003 DISQUALIFICATION.

003.01 The exemption under this Rule shall not be available for the securities of any issuer if a party or interest described in the Securities Act of 1933, Regulation A, Rule 230.262, Section (a), (b) or (c), 17 CFR 230.262:

003.01A Has filed a registration statement which is the subject of a currently effective stop order entered pursuant to any federal or state securities laws within five years prior to the commencement of the offering.

003.01B Has been convicted within five years prior to the commencement of the offering of any felony or misdemeanor in connection with the offer, purchase, or sale of any security, or any felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

003.01C Is currently subject to an administrative enforcement order or judgment entered by any state securities administrator or the Securities and Exchange Commission within five years prior to the commencement of the offering.

003.01D Is subject to any federal, state, or foreign governmental agency administrative enforcement order or judgment in which fraud or deceit, including, but not limited to, making untrue statements of material facts and omitting to state material facts, was found, and the order or judgment was entered within five years prior to the commencement of the offering.

003.01E Is currently subject to any states administrative order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase, or sale of securities of the issuer.

003.01F Is subject to any order, judgment, or decree of any court of competent jurisdiction which temporarily or preliminarily restrains or enjoins, or which was entered within five years prior to the commencement of the offering and permanently restrained or enjoined such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with any state or with the Securities and Exchange Commission.

003.02 The prohibitions of Section 003.01, above, shall not apply if the party or interest subject to the disqualification is duly licensed to conduct securities related business in the state in which the administrative order or judgment was entered against such party or interest.

003.03 Any disqualification caused by this section is automatically waived if the state which created the basis for disqualification, or the Director, determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

003.04 An offering involving debt securities or preferred stock cannot qualify under this Rule if the offering would be disallowed under 48 NAC 29 or 48 NAC 30.

004 QUALIFICATION OF CERTAIN ISSUERS. An issuer offering securities pursuant to Regulation D, Rule 230.505, 17 CFR 230.505 can rely on such exemption only if the issuer:

004.01 Is not an investment company as defined by Section 3 of the Investment Company Act of 1940, 15 USC § 80-3; and

004.02 Is not a majority owned subsidiary of an issuer which does not meet the qualifications for use of this Rule as specified herein.

005 DISCLOSURE. Nothing in this exemption is intended to, or should be construed as, in any way relieving issuers or persons acting on behalf of issuers from providing to prospective investors disclosure adequate to satisfy the anti-fraud provisions of the Act.

006 AVAILABILITY OF EXEMPTION.

006.01 Offers and sales which are exempt under this Rule may not be combined with offers and sales exempt under any other Rule or section of the Act; however, nothing in this limitation shall act as an election. Should, for any reason, the offer and sale fail to comply with all of the conditions for this exemption, the issuer may claim the availability of any other applicable exemption.

006.02 This exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this Rule, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this Rule.

007 BURDEN OF PROOF. In any proceeding involving this Rule, the burden of proving the exemption from registration is upon the person claiming the exemption.

008 CURE ORDER. An issuer which fails to file a notice within thirty days of the first sale made in Nebraska in reliance on this exemption may request the late filing be cured by complying with 48 NAC 19.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 18 - INFORMATION REQUIREMENTS FOR THE SECTION 8-1111(20) NEBRASKA INTRASTATE ISSUER EXEMPTION

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1111(20) and Section 8-1120~~(3)~~ of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule regarding intrastate offerings is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected parties, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 ~~shall~~ apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes and rules of the Securities and Exchange Commission ("SEC") or the Financial Industry Regulatory Authority ("FINRA") referenced herein ~~shall~~ means those statutes and rules as amended on or before the effective date of this Rule. ~~A copy of the applicable statutes or rule referenced in this Rule is attached hereto.~~ A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations.

002 CONDITIONS OF EXEMPTION. Transactions meeting the conditions of this Rule will be deemed exempt from the registration provisions of the Act.

002.01 The offer or sale of securities pursuant to this Rule may be made only to Nebraska residents. No offers or sales may be made to persons who are not residents of Nebraska nor may offers or sales be made outside Nebraska.

002.02 An issuer relying on the Rule must have, both before and upon completion of the offering, its principal office and more than fifty percent of its employees located in Nebraska.

002.03 No commission, finder's fee, or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser or in connection with sales of securities in reliance on this Rule, unless such person is registered in this state as a broker-dealer or issuer-dealer, or agent of such.

002.04 The offering price for the securities, and the exercise price, if the securities offered are options, warrants or rights for common stock, and the conversion price if

the securities are convertible into common stock, must be equal to or greater than five dollars ($5.00) per share or unit offered.

002.05 The total aggregate amount of proceeds collected in a twelve-month period shall not exceed one million dollars ($1,000,000.00).

002.06 At least eighty percent of the net proceeds from the sale of the offering shall be used in Nebraska.

002.07 The issuer shall file a notice, as specified in Section 003, below, with the Nebraska Department of Banking and Finance, P.O. Box 95006, Lincoln, Nebraska 68509-5006, no later than twenty days prior to any sales for which an exemption under this Rule is claimed.

002.07A The Director shall notify the issuer of the date on which the notice of exemption becomes effective.

002.07B Such notice ~~shall be~~ is effective for a period of twelve consecutive months from the effective date established by the Director.

002.08 The issuer shall, within thirty days after the completion of the offering, file with the Director a statement indicating the number of investors, the total dollar amount raised, and the use of proceeds.

002.09 The issuer must have reasonable belief that the securities purchased are taken for investment. Investment intent may be manifested by, but is not limited to, a restriction which shall be stated on the face of the security that it shall be held by the purchaser until the earlier of two years from the date of purchase from the issuer or the date the issuer of the securities becomes subject to the reporting requirements of Sections 13 or 15(d) of the Securities Exchange Act of l934, 15 U.S.C. § 78m or 15 U.S.C. § 78o(d).

003 CONTENTS OF NOTICE.

003.01 The notice shall include the following information:

003.01A The name and address of the issuer;

003.01B The names and addresses of the broker-dealer or issuer-dealer, and any individuals selling or promoting the offering;

003.01C The business in which the issuer is to be engaged;

003.01D The type of security being issued (common stock, limited partnership interests, debentures, etc.);

003.01E The total dollar amount of such securities;

003.01F The Securities Offering Disclosure Document (“Form SODD”);

003.01G The financial statements prepared in accordance with Section 005 below;

003.01H A representation that all of the conditions of Section 8-1111(20) have been or will be met by the issuer; and

003.01I A ~~check in the amount~~filing fee of two hundred dollars ($200.00)~~., payable to Nebraska Department of Banking and Finance.~~

003.02 Every notice and disclosure document filed with the Director shall be ~~manually~~ signed by a person duly authorized by the issuer.

003.03 The Director may require the filing of additional information if he or she deems it material to the offering.

004 DELIVERY OF DISCLOSURE DOCUMENT. A copy of the offering disclosure document and the financial statements prepared in accordance with Section 005, below, shall be given to prospective investors at least twenty-four hours prior to signing any agreement to purchase the securities or paying any consideration for the securities.

005 FINANCIAL REPORTING REQUIREMENTS.

005.01 The issuer shall provide the following financial statements for itself and its consolidated subsidiaries, if applicable:

005.01A A balance sheet as of the end of the most recent fiscal year, or, as of a date within one hundred twenty days of the date of the first sale, if the issuer has been in existence for less than one fiscal year; and

005.01B An income statement for the immediate past fiscal year or such shorter period as the issuer (including predecessors) has been in existence.

005.01C If the issuer has not conducted significant operations, a statement of receipts and disbursements shall be included in lieu of a statement of income.

005.02 Except as otherwise provided, the financial statements shall be:

005.02A Prepared in accordance with generally accepted accounting principles and audited by an independent accountant; or

005.02B Reviewed by an independent accountant.

005.02B1 Financial statements shall be accompanied by an accountant's review report signed by the independent accountant after completion of his or her review performed in accordance with the standards prescribed by the American Institute of Certified Public Accountants.

005.02B2 The review shall be dated within one hundred twenty days of the date of the first sale.

005.02B3 If the Director deems it to be in the public interest and necessary for the protection of investors, audited financial statements will be required.

005.03 An issuer with no prior operating history may elect not to have an accounting review prepared by an independent accountant if the issuer deems the information not material to an investor's understanding of the issuer, its business, and the securities being offered.

005.03A Financial statements which are neither audited nor subjected to an accounting review must be accompanied by an affirmative representation by the issuer, signed by an officer, director or person occupying a similar position, that the statements provide all material information relating to the financial condition of the issuer and are true and accurate to the best of the signer's knowledge and belief.

005.03B All financial statements shall be prepared in accordance with generally accepted accounting principles.

005.04 The issuer shall provide the financial statement required by Section 005.01, above, in connection with income producing assets and/or income producing real property to be purchased with the proceeds of the offering by the issuer.

006 CORRECTION. If, during the offering period under this Rule, ~~there shall occur an event~~ an event occurs which would materially affect the issuer, its prospects or properties, or otherwise materially affect the accuracy or completeness of the information contained in the disclosure document, the disclosure document shall be promptly revised to reflect such event and filed with the Director. The revised document shall be used for all sales of securities claiming the exemption thereafter. All investors who have purchased in this offering must be given a copy of the revised document with the option of affirming their investment decision or receiving their money back.

007 SOLICITATION RESTRICTION. Neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following:

007.01 Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio;

007.02 Any advertisement, article, notice, spam or junk electronic mail, or other general communication placed on, or delivered by means of, the Internet; and

007.03 Any seminar or meeting to which attendees have been invited by any general solicitation or general advertising.

008 MINIMUM OFFERING AMOUNT. The issuer must specify in the disclosure document the minimum amount of funds necessary to achieve the results outlined in the disclosure document. This shall be the minimum amount of funds to be raised through the offering.

009 ESCROW REQUIREMENT. The issuer must establish a separate interest bearing account with a financial institution office located in Nebraska for all funds received from sales of securities under this exemption until at least the minimum amount has been raised. If the minimum amount of funds is not raised within twelve months of the beginning of the offering, then all funds, including any interest thereon, shall be promptly returned to the investors, and the issuer shall immediately notify the Director of such action.

010 LIMITATIONS ON AVAILABILITY. The exemption provided by this Rule is available only to an issuer of the securities. The exemption is not available for:

010.01 Affiliates of the issuer or any other person for resale of the issuer's securities; or

010.02 Transactions by existing security holders of the issuer.

010.03 An issuer that is either before or because of the offering, an investment company as defined in Section 3 of the Investment Company Act of 1940, 15 U.S.C. 80a-3, an entity that would be an investment company but for the exclusions provided in section 3(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-3(c), or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. 78m or 15 U.S.C. 78o(d);

010.04 Debt offerings unless the issuer can demonstrate reasonable historical ability to service its debt.

010.05 Offerings which are "blind pool offerings" or other offerings for which the specific business to be engaged in or specific property to be acquired by the issuer is not identified.

011 DISQUALIFICATION FACTORS. ~~This~~ The exemption provided by this Rule ~~shall not be~~ is not available for the securities of any issuer, if the issuer or any of its officers, directors, general partners, managing members, beneficial owners of ten percent or more of any class of its equity securities, promoters or any selling agents of the securities to be offered, or any officer, director, managing member, or partner of such selling agent:

011.01 Has filed a registration statement which is the subject of a currently effective stop order entered pursuant to any federal or state securities laws within five years prior to the commencement of the offering;

011.02 Has been convicted within five years prior to the commencement of the offering of any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud;

011.03 Is currently subject to any state administrative enforcement order or judgment entered by a state securities administrator or the Securities and Exchange Commission ("SEC") within five years prior to the commencement of the offering;

011.04 Is subject to any federal, state, or foreign governmental agency administrative enforcement order or judgment in which fraud or deceit, including, but

not limited to, making untrue statements of material facts ~~and~~ or omitting to state material facts, was found and the order or judgment was entered within five years prior to the commencement of the offering;

011.05 Is currently subject to an administrative enforcement order or judgment of a state securities administrator which prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase, or sale of securities of the issuer; or

011.06 Is currently subject to any order, judgment, or decree of any court of competent jurisdiction which temporarily or preliminarily restrains or enjoins, or which was entered within five years prior to the commencement of the offering, and permanently restrained or enjoined such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with any state, or with the SEC.

011.07 Any disqualification caused by this Section may be waived if the Director determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied.

011.08 For purposes of this Section, beneficial ownership means the power to vote or direct the vote and/or the power to dispose or direct the disposition of such securities.

012 DISCLOSURE. Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing to prospective investors disclosure adequate to satisfy the provisions of Section 8-1102(1) of the Act.

013 AVAILABILITY OF EXEMPTION.

013.01 Offers and sales which are exempt under this Rule may not be combined with offers and sales exempt under any other Rule or Section of the Act; however, nothing in this limitation shall act as an election. Should the offer and sale fail to comply with all of the conditions for this exemption, the issuer may claim the availability of any other applicable exemption.

013.02 The exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this Rule, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this Rule.

014 BURDEN OF PROOF. In any proceeding involving this Rule, the burden of proving the exemption from registration is upon the person claiming the exemption.

015 INTEGRATION. All offers or sales that are part of the same offering must meet all of the terms and conditions of this Rule. Offers and sales that are made more than six months before the start, or more than six months after completion, of an offering made in reliance on this Rule, will not be considered part of that offering, provided no offers or sales of securities are made by or for the issuer during such periods. ~~48 NAC 001.06~~ 48 NAC 41 identifies the factors that will be considered in determining whether offers and sales should be integrated.

016 CURE ORDER. An issuer which fails to file the notice at least twenty days prior to any sale made in reliance on this exemption may request the late filing be cured by complying with 48 NAC 19.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 20 - FEDERAL COVERED SECURITIES

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Sections 8-1108.02 and 8-1120~~(3)~~ of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to filing requirements for issuers of federal covered securities is consistent with investor protection and is in the public interest.

001.03 The definitions in 48 NAC 2 ~~shall~~ apply to the provisions of this Rule, unless otherwise specified.

001.04 Federal statutes and rules of the Securities and Exchange Commission ("SEC") or the Financial Industry Regulatory Authority ("FINRA") referenced herein ~~shall~~ means those statutes and rules as amended on or before the effective date of this Rule. ~~A copy of the applicable statutes or rule referenced in this Rule is attached hereto.~~ A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations.

002 OFFERINGS BY INVESTMENT COMPANIES.

002.01 Prior to the offer or sale of any security by an investment company registered under the Investment Company Act of 1940, the issuer shall file the following information with the Director:

002.01A A notice, on a uniform form, acceptable to the Director, which shall contain:

002.01A1 The name and address of the issuer; and

002.01A2 The dollar amount of securities which the issuer intends to offer in this state; and

002.01B A consent to service of process, which may incorporate by reference any consent to service of process previously filed with the Director by such issuer;

002.01C ~~A check payable to "Nebraska Department of Banking and Finance" for fees, which shall be~~ A filing fee calculated in accordance with Section 8-1108.03 of the Act; and

002.01D Any other information which the Director may require, subject to the limitations of Section 18 of the Securities Act of 1933, 15 USC § 77r .

002.02 Such notice ~~shall be~~is effective for a period of one year from the date the notice is received by the Director, unless the issuer ~~shall notify~~notifies the Director of a later date of effectiveness of the notice.

002.03 A notice filing may be renewed by filing the information specified in Section 002.01, above, with the Director before the expiration of the effectiveness of the previous notice filing, along with any sales report required by Section 8-1108.03 of the Act. A notice filing received pursuant to this subsection ~~shall take~~takes effect upon the expiration of the previous notice filing and ~~shall be~~is effective for one year.

003 OFFERINGS PURSUANT TO REGULATION 506.

003.01 An issuer offering a security which is a covered security pursuant to Section 18(b)(4)(F~~E~~) of the Securities Act of 1933, 15 U.S.C.§77r(b)(4)(F~~E~~) shall file the following information with the Director no later than fifteen days after the first sale of such security in this state:

003.01A A copy of the issuer's SEC Form D~~, including all parts and appendices.~~;

003.02B A consent to service of process; and

003.03C A ~~check in the amount~~ filling fee of two hundred dollars ($200.00)~~, payable to "Nebraska Department of Banking and Finance."~~.

003.02 An issuer may file an amendment to a previously filed notice of sales on SEC Form D at any time.

003.03 An issuer shall file an amendment to a previously filed notice of sales on SEC Form D for an offering:

003.03A To correct a material mistake of fact or error in the previously filed notice of sales on SEC Form D, as soon as practicable after discovery of the mistake or error.

003.03B To reflect a change in the information provided in the previously filed notice of sales on SEC Form D, as soon as practicable after the change, except that no amendment is required to reflect a change that occurs after the offering terminates or a change that occurs solely in the following information:

003.03B1 The address or relationship of the issuer or a related person identified in the SEC Form D;

003.03B2 An issuer's revenues or aggregate net asset value;

003.03B3 The minimum investment amount, if the change is an increase, or if the change, together with all other changes in that amount since the previously filed notice of sales on SEC Form D, does not result in a decrease of more than ten percent;

003.03B4 Any address or state(s) of solicitation shown on the notice of sales on SEC Form D;

003.03B5 The total offering amount, if the change is a decrease, or if the change, together with all other changes in that amount since the previously filed notice of sales on SEC Form D, does not result in an increase of more than ten percent;

003.03B6 The amount of securities sold in the offering or the amount remaining to be sold;

003.03B7 The number of nonaccredited investors who have invested in the offering, as long as the change does not increase the number to more than thirty-five;

003.03B8 The total number of investors who have invested in the offering; and

003.03B9 The amount of sales commissions, finders' fees or use of proceeds for payments to executive officers, directors or promoters, if the change is a decrease, or if the change, together with all other changes in that amount since the previously filed notice of sales on SEC Form D, does not result in an increase of more than ten percent.

003.03C Annually, on or before the first anniversary of the filing of the notice of sales on SEC Form D or the filing of the most recent amendment to the notice of sales on SEC From D, if the offering is continuing at that time.

003.04 An issuer that files an amendment to a previously filed notice of sales on SEC Form D must provide current information in response to all requirements of the notice of sales on SEC Form D regardless of why the amendment is filed.

004 OFFERINGS BY AGRICULTURAL CO-OPERATIVES. An issuer offering a security which is a covered security pursuant to Section 18(b)(4)(C) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(4)(C) and which is exempt from federal registration pursuant to Section 3(a)(5)(B), 15 U.S.C. § 77c(a)(5)(B), thereof, shall file the following information with the Director prior to the issuance of such security in this state:

004.01 The name and address of the issuer;

004.02 The place and date of incorporation;

004.03 The type of security being issued;

004.04 The total amount of securities to be sold by the issuer, both in Nebraska and nationwide;

004.05 An indication as to whom sales will be made: present members, patrons, or the general public;

004.06 A description of the method by which the securities will be sold;

004.07 The name and address of the registered broker-dealer who will be selling the securities;

004.08 A balance sheet and income statement for the past two years;

004.09 A description of the intended use of the proceeds;

004.10 The interest rate to be paid, if the offering involves debt securities;

004.11 Evidence of sufficient financial resources to service its debts for the next two years; and

004.12 A ~~check in the amount~~ filing fee of two hundred dollars ($200.00)~~, payable to "Nebraska Department of Banking and Finance."~~

005 OFFERINGS PURSUANT TO REGULATION A, TIER 2. An issuer offering a security which is a covered security pursuant to Section 18(b)(3) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(3) and which is exempt from federal registration pursuant to Tier 2 of federal Regulation A, 17 CFR 230.251(a) shall submit the following prior to the initial offer and/or sale in this state:

005.01 A completed Regulation A – Tier 2 notice filing form or copies of all documents filed with the Securities and Exchange Commission;

005.02 A consent to service of process on Form U-2 if not filing on the Regulation A – Tier 2 notice filing form; and

005.03 A ~~check or money order in the amount~~ filing fee of two hundred dollars ($200.00)~~, payable to "Nebraska Department of Banking and Finance."~~

006 RESTRICTION ON SALES. All sales of federal covered securities must be effected through a Nebraska-registered agent of a Nebraska-registered broker-dealer, except that this Section ~~shall not~~does not apply to sales of securities covered by Sections 003 and 005, above, provided no commissions or other remuneration are paid directly or indirectly for soliciting any prospective buyer.

NEBRASKA ADMINISTRATIVE CODE

TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 21 – ~~UNDERWRITING EXPENSES, UNDERWRITER'S WARRANTS, SELLING EXPENSES, AND SELLING SECURITY HOLDERS~~NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATON STATEMENTS OF POLICY

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120~~(3)~~ of the Securities Act of Nebraska ("Act").

~~001.02 The Department has determined that this Rule relating to underwriting expenses, selling expenses and selling security holders is consistent with investor protection and is in the public interest~~.

001.02 The Department has determined that this Rule relating to the registration of securities is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

~~001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.~~

001.04 A copy of each North America Securities Administrators Association ("NASAA") Statement of Policy referenced in subsection 002 below is available as an appendix to this rule at www.ndbf.ne.gov/legal and are also contained in NASAA REPORTS published by Commerce Clearing House, and on NASAA's website at www.nasaa.org.

~~002 DEFINITIONS. The following definitions, in addition to definitions contained in 48 NAC 2, shall apply to this Rule:~~

~~002.03 The term Underwriting expenses include, but are not limited to,~~

~~002.03A Commissions to underwriters or broker dealers;~~

~~002.03B Non-accountable fees or expenses paid to underwriters or broker dealers;~~

~~002.03C The value of underwriter's warrants;~~

~~002.03D Rights of first refusal, to be valued at one percent of the public offering or the amount payable to the underwriter if the issuer terminates the right of first refusal;~~

~~002.03E Solicitation fees payable to the underwriter, to be valued at the lesser of actual cost or one percent of the public offering if the fees are payable within one year of the offering;~~

~~002.03F Financial consulting or financial advisory agreements with an underwriter or any other similar type of agreement or fees, however designated, to be valued at actual cost;~~

~~002.03G Underwriter's due diligence expenses;~~

~~002.03H Payments made either six months prior to or required to be made six months following the offering to investor relations firms that the underwriter designated; and~~

~~002.03I Other underwriting expenses incurred in connection with the public offering of securities as determined by the Director.~~

002 NASAA STATEMENTS OF POLICY: In order to promote uniform regulation, the Director adopts the following NASAA Statements of Policy for issuers registering an offering pursuant to the Act. This rule does not incorporate any subsequent amendments or adoptions:

002.01 "Statement of Policy Regarding Corporate Securities Definitions" as amended on May 6, 2018.

002.02 "Statement of Policy Regarding Underwriting and Selling Expenses, Underwriter's Warrants and Selling Expenses" as amended on May 6, 2018.

002.03 "Statement of Policy Regarding Promotional Shares" as amended on March 31, 2008.

002.04 "Statement of Policy Regarding Promoters' Equity Investment" as amended on September 11, 2016.

002.05 "Statement of Policy Regarding Loans and Other Material Transactions" as amended on May 6, 2018.

002.06 "Statement of Policy Regarding the Impoundment of Proceeds" as amended on March 31, 2008.

002.07 "Statement of Policy Regarding Unequal Voting Rights" as amended on September 11, 2016.

002.08 "Statement of Policy Regarding Specificity in Use of Proceeds" as amended on September 11, 2016.

002.09 "Statement of Policy Regarding Unsound Financial Condition" as amended on May 6, 2018.

002.10 "Statement of Policy Regarding Debt Securities" as adopted on April 25, 1993.

002.11 "Statement of Policy Regarding Preferred Stock" as amended on September 11, 2016.

002.12 "Statement of Policy Regarding Options and Warrants" as amended on March 31, 2008.

002.13 "Statement of Policy Regarding Real Estate Investment Trusts" as amended on May 7, 2007.

002.14 "Statement of Policy Regarding Real Estate Programs" as amended on May 7, 2007.

002.15 "Registration of Oil and Gas Programs" as amended on May 6, 2012.

002.16 "Registration of Publicly-Offered Cattle Feeding Programs" as adopted on September 17, 1980.

002.17 "Registration of Commodity Pool Programs" as amended on May 6, 2012.

002.18 "Equipment Programs" as amended on May 6, 2012.

002.19 "Registration of Asset Backed Securities" as amended on May 6, 2012.

002.20 "Statement of Policy Regarding Church Extension Fund Securities" as amended on April 18, 2004.

002.21 "Mortgage Program Guidelines" as amended on May 7, 2007.

002.22 "Omnibus Guidelines" as amended on May 7, 2007, which apply to limited partnerships programs or other entities for which more specific statements of policy have not been adopted by NASAA.

002.23 "Statement of Policy Regarding Use of Electronic Offering Documents and Electronic Signatures" as adopted on May 7, 2017.

~~003 GROUNDS FOR DENIAL OF SECURITIES REGISTRATIONS. The Director may deny the registration of securities if:~~

~~003.01 The underwriting expenses exceed seventeen percent of the gross proceeds from the public offering;~~

~~003.02 The selling expenses of the offering exceed twenty percent of the gross proceeds from the public offering; or~~

~~003.03 Selling security holders are offering more than ten percent of the securities for sale in the public offering.~~

003 COMPLIANCE WITH STATEMENTS OF POLICY: An issuer registering an offering that falls within one or more of the statements of policy listed in subsection 002 of this Chapter shall comply with the requirements of said statement of policy or policies.

~~004 SELLING SECURITY HOLDERS. The Director may permit a public offering or sale of securities to include securities offered for sale by existing security holders if the offering document discloses the amount of selling expenses which the selling security holders shall pay and one of the following circumstances apply:~~

~~004.01 The selling security holders pay a pro rata share of all selling expenses that are the result of the inclusion of their shares in the public offering; or~~

~~004.02 The selling security holders have a written agreement with the issuer that was entered into in an arm's-length transaction, under which the issuer agreed to pay all of the selling security holders' selling expenses, with the exception of underwriter's or broker-dealer's compensation.~~

004 WAIVER OF RULE. While applications not conforming to the standards contained herein are looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

~~005 RESTRICTIONS ON WARRANTS GRANTED TO UNDERWRITERS. Warrants granted to underwriters are subject to the following restrictions:~~

~~005.01 The underwriter must be a managing underwriter.~~

~~005.02 The public offering must be either a firmly underwritten offering or a "minimum-maximum" offering. Options or warrants may be issued in a "minimum-maximum" public offering only if:~~

~~005.02A The options or warrants are issued on a pro rata basis; and~~

~~005.02B The "minimum" amount of securities has been sold.~~

~~005.03 The exercise price of the warrants must be at least equal to the public offering price.~~

~~005.04 The number of shares covered by the underwriter's options or warrants must not exceed ten percent of the shares of common stock actually sold in the public offering.~~

~~005.05 The options or warrants must not be exercisable more than five years after the public offering is completed.~~

~~005.06 The options or warrants must not be exercisable during the first year after the public offering is completed.~~

~~005.07 Option or warrants may not be transferred, except:~~

005.07A To partners of the underwriter, if the underwriter is a partnership;

005.07B To officers and employees of the underwriter, who are also shareholders of the underwriter, if the underwriter is a corporation; or

005.07C By will, under the laws of descent and distribution, or by operation of law.

005.08 The warrant agreement may not allow for a reduction in the exercise price of the options or warrants resulting from the issuer subsequently issuing shares except if the issuer issues shares under a stock dividend or stock split, or a merger, consolidation, reclassification, reorganization, recapitalization, or sale of assets.

006 EXCLUDED UNDERWRITING EXPENSES. Underwriting expenses shall not include expenses paid under financial consulting or financial advisory agreements with the underwriter payable at the time the services are rendered which agreements were entered into at least twelve months before the issuer filed the registration statement with the Securities and Exchange Commission.

007 VALUATION OF UNDERWRITER'S WARRANTS. The value of underwriter's warrants must be determined by the following formula: one hundred sixty-five percent of the aggregate offering price less the exercise price multiplied by the number of shares offered to the public, all divided by two, multiplied by the number of shares with underlying warrants divided by the number shares offered to the public

$$\frac{A - B}{2} \times \frac{C}{D}$$

where: A equals one hundred sixty-five percent of the aggregate offering price
B equals the exercise price multiplied by the number of shares offered to the public;
C equals the number of shares with underlying warrants, and
D equals the number of shares offered to the public

008 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 22 - PROMOTIONAL SHARES

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to the promotional shares is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes referenced herein shall mean those statutes as amended on or before the effective date of this Rule. A copy of the statutes referenced in this Rule is attached hereto.

002 ESCROW OF PROMOTIONAL SHARES. As a condition to registering a public offering of equity securities, the Director may require that some or all of the promoters deposit promotional shares into an escrow account with an escrow agent, as provided by an escrow agreement. Promoters who deposit promotional shares into the escrow account will be collectively referred to as "depositors."

002.01 Except as provided in Section 002.02, below, the number of promotional shares required to be deposited in the escrow account shall equal the total number of shares that the promoters hold less the number of fully paid shares.

002.01A The number of fully paid shares shall be equal to the total amount that the promoters paid for the shares divided by eighty-five percent of the public offering price per share.

002.01B In determining the amount that the promoters paid for the shares, the promoters cannot use consideration other than cash unless the Director accepts the value of the consideration.

002.02 If the issuer's most recent audited financial statements contain an auditor's report or footnote that contains an opinion or statement regarding the ability of the issuer to continue as a going concern, the promoters must deposit all promotional shares in the escrow account.

002.03 The Director may require the promoters to deposit promotional shares into the escrow account on a pro rata basis.

003 RELEASE OF PROMOTIONAL SHARES.

003.01 The escrow agent must release the promotional shares held in the escrow account in the manner set out in the table below:

003.01A If the issuer's aggregate revenues are five hundred thousand dollars ($500,000.00) or more, and neither the auditor's opinion nor any footnote to the issuer's most recent audited financial statements contain an opinion or statement regarding the ability of the issuer to continue as a going concern, then the required release of the escrow account or lock-in shares is as follows:

003.01A1 Year 1 - none

003.01A2 Year 2 - two and one-half percent pro rata per quarter

003.01A3 Year 3 - all

003.01B If the issuer's aggregate revenues are less than five hundred thousand dollars ($500,000.00), then the required release of the escrow account or lock-in shares is as follows:

003.01B1 Year 1 - none

003.01B2 Year 2 - none

003.01B3 Year 3 - two and one-half percent pro rata per quarter

003.01B4 Year 4 - two and one-half percent pro rata per quarter

003.01B5 Year 5 - all

003.02 In the event securities in the escrow account become federal "Covered Securities," as defined in Section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. § 77r, the escrow agent must release all securities in the escrow account.

003.03 If the public offering is terminated, and no securities were sold, the escrow agent must release all securities in the escrow account.

003.04 If the public offering is terminated, and all of the gross proceeds of the offering have been returned to the public investors, the escrow agent must release all securities in the escrow account.

004 DISTRIBUTION OF THE ISSUER'S ASSETS OR SECURITIES. The depositors agree that, if any transaction or proceeding results in a distribution of the issuer's assets or securities ("distribution"), while the escrow agreement remains in effect, one of the following will occur:

004.01 If the transaction is with a person that is not a promoter:

004.01A Holders of the issuer's equity securities initially share in the distribution on a pro rata basis, depending on the price the holders paid per share. This continues until the public shareholders are paid out in full. For the purpose of this Rule, the public shareholders are paid out in full when they have received, or have had irrevocably set aside for them, an amount equal to the price per share in the public offering times the number of shares the public shareholders purchased under the public offering and still hold at the time of the distribution.

004.01B Once the public shareholders are paid out under Section 004.01A, above, holders of the issuer's equity securities participate on a pro rata basis, depending on the number of shares of equity securities they hold at the time of the distribution.

004.01C A distribution may proceed on lesser terms and conditions than those stated in Sections 004.01A and 004.01B above, if the holders of a majority of the equity securities, not including securities held by promoters or their associates or affiliates, approve the lesser terms and conditions at a special meeting called for that specific purpose.

004.01D The number of shares calculated for distribution under Sections 004.01A and 004.01B, above, may be adjusted if there is a stock split, stock dividend, recapitalization or similar transaction.

004.02 If the transaction is with a promoter, the depositors' promotional shares must remain in the escrow account subject to the terms of the escrow agreement.

005 DOCUMENTATION REGARDING THE TERMINATION OF THE ESCROW AGREEMENT AND/OR THE RELEASE OF PROMOTIONAL SHARES.

005.01 A request for the release of any of the promotional shares from the escrow account must be in writing and forwarded to the escrow agent.

005.02 The issuer must provide the documentation to the escrow agent, showing that the requirements of Section 003, above, have been met.

005.03 The escrow agent must terminate the escrow agreement and/or release all remaining promotional shares from the escrow account if all the applicable provisions of the escrow agreement have been satisfied. The escrow agent must maintain all records relating to the escrow agreement for a period of three years following the termination of the escrow agreement.

005.04 The escrow agent must forward copies of all retained records to the Director promptly upon written request.

006 NON-EXCLUSIVE RESTRICTIONS ON THE TRANSFER, SALE, OR DISPOSAL OF PROMOTIONAL SHARES.

006.01 A depositor must not transfer any promotional shares held in the escrow account or any interest in the promotional shares in the escrow account.

006.02 Notwithstanding Section 006.01, above, a depositor may transfer promotional shares held in the escrow account to a family member by gift, if the family member agrees that the promotional shares will remain subject to the terms of the escrow agreement.

006.03 For a self-underwritten offering, promoters must not sell any of their promotional shares during the time that the issuer is offering its securities to the public, even if the promotional shares are not subject to the escrow account or would otherwise be released from the escrow account.

007 TERMS OF THE ESCROW ACCOUNT. A summary of the escrow agreement must be included in the offering document, annual reports to shareholders, proxy statements and other disclosure materials used to make investment decisions until the public offering ends.

008 APPLICATION. This Rule shall apply to applications for registration of equity securities or securities convertible into equity securities. In the latter case, and in the absence of a public market for the equity securities, the conversion price shall be deemed to be the public offering price.

009 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 23 – PROMOTERS' EQUITY INVESTMENT

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to promoters' equity investment in promotional or development stage companies is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 apply to the provisions of this Rule, unless otherwise specified.

002 MINIMUM PROMOTERS' EQUITY. A public securities offering by a promotional or development stage company may be disallowed by the Director if the promoters' equity investment is less than:

002.01 Ten percent (10%) of the first $1,000,000 of the aggregate public offering; and

002.02 Seven percent (7%) of the next $500,000 of the aggregate public offering; and

002.03 Five percent (5%) of the next $500,000 of the aggregate public offering; and

002.04 Two and one-half percent (2 1/2%) of the balance over $2,000,000, which may include items submitted by a promoter to meet this requirement whose value has been accepted by the Director.

003 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

Effective Date: April 7, 1999

NEBRASKA ADMINISTRATIVE CODE

TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 24 - LOANS AND OTHER MATERIAL AFFILIATED TRANSACTIONS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to loans and other material affiliated transactions is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002 GROUNDS FOR DENIAL OF SECURITIES REGISTRATIONS. The Director may deny the offer or sale of securities under the following circumstances:

002.01 The issuer or its affiliates have loans outstanding after the offering that are not permitted by this Rule;

002.02 The issuer or its affiliates have engaged in material transactions with promoters that are not permitted by this Rule; or

002.03 Representations and statements required by this Rule are not included in the offering documents.

003 LOANS. The following types of loans to, or loan guarantees on behalf of, promoters of the issuer are permitted:

003.01 Advances to officers, directors, and employees for travel, business expense, and similar ordinary operating expenditures;

003.02 Loans or loan guarantees to allow the issuer's officers, directors, and employees to purchase the issuer's securities, and loans for relocation of officers, directors, and employees, provided the loan is approved under Section 005 below;

003.03 Loans made by an issuer or its affiliates whose primary business is that of making loans, provided that:

003.03A The loans are evidenced by promissory notes naming the lender as payee;

003.03B The loans bear interest at rates which are comparable to those normally charged by other commercial lenders for similar loans made in the lender's locale;

003.03C The loans require repayment pursuant to appropriate amortization schedules;

003.03D The loans are supported by credit reports and financial statements which show that the issuer or its affiliates can collect the loans and that the borrowers are satisfactory credit risks, in light of the nature and terms of the loans and other circumstances;

003.03E The loans meet the loan policies other commercial lenders normally use for similar loans made in the lender's locale;

003.03F The issuer reviews purposes of the loans and monitors the disbursements of proceeds in a manner that other commercial lenders normally use for similar loans made in the lender's locale;

003.03G The loans do not violate the requirements of any banking or other financial institution's regulatory authority; and

003.03H The loans contain default provisions comparable to those other commercial lenders normally use for similar loans made in the lender's locale.

004 REPAYMENT OF LOANS. Loans to promoters that exist at the time of the application for registration must be repaid by the promoters in full:

004.01 From proceeds of the offering, if a portion of the offering is made on behalf of a promoter;

004.02 Before the offering; or

004.03 After the offering using appropriate amortization schedules, if the Director permits.

005 INDEPENDENT DIRECTORS.

005.01 If there have been or will be loans and/or other material affiliated transactions, the issuer will maintain at least two independent directors on its board of directors, which requirement must be disclosed in the offering document.

005.02 The issuer must provide independent directors with access, at the issuer's expense, to legal counsel for the issuer or independent legal counsel.

005.03 Any loan or other material affiliated transaction involving an issuer's promoters requires the approval of a majority of the issuer's independent directors who do not have an interest in the transactions.

005.03A If the issuer has only two independent directors on its board of directors, loans and other material affiliated transactions require the approval of both independent directors. Both independent directors must be disinterested in any loans and/or other material affiliated transactions in question.

006 DISCLOSURE REQUIREMENTS.

006.01 Loans. The issuer must disclose in the offering document whether or not it or its affiliates have made or will make loans to, or have made or will make loan guarantees on behalf of, promoters and the relevant terms and conditions of such loans or loan guarantees.

006.02 Affiliated Transactions. The issuer shall disclose in the offering documents whether or not it or its affiliates have engaged, or will engage, in material transactions with promoters and the relevant terms and conditions of such affiliated transactions.

006.03 Representations. The Director may require the following statements and representations to appear in the offering document.

006.03A A statement that the issuer or its affiliates will make all future material affiliated transactions and enter into all future loans on terms that are no less favorable to the issuer than those that can be obtained from unaffiliated third parties.

006.03B A statement that all future material transactions and loans, and any forgiveness of loans, in accordance with Section 005, above, will require the approval of a majority of the issuer's independent directors.

006.03C A statement that the issuer's officers, directors, and legal counsel will:

006.03C1 Consider their due diligence and assure that there is a reasonable basis for these representations; and

006.03C2 Consider whether to embody the representations in the issuer's charter or bylaws.

007 AFFILIATED TRANSACTIONS. The following types of affiliated transactions are allowed:

007.01 A transaction approved in accordance with Section 005, above, if the offering document discloses the terms of the transactions and indicates whether the terms are as favorable to the issuer or its affiliates as those generally available from unaffiliated third parties.

007.02 A transaction entered into when the issuer had less than two disinterested independent directors, if the offering document:

~~007.02A Discloses the terms of the transactions;~~

~~007.02B Indicates whether the terms are as favorable to the issuer or its affiliates as those generally available from unaffiliated third parties; and~~

~~007.02C Discloses that the issuer lacked sufficient disinterested independent directors to approve the transactions at the time the transactions were initiated.~~

~~008 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.~~

NEBRASKA ADMINISTRATIVE CODE

TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 25 - IMPOUNDMENT OF PROCEEDS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to the impoundment of proceeds is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002 DENIAL OF SECURITIES REGISTRATION. If an underwriter has not firmly underwritten an offering, the Director may deny a registration unless the issuer has impounded the proceeds.

003 DEPOSIT OF PROCEEDS. If the Director has not denied the registration under Section 002, above, the issuer or any other person that receives the proceeds from the sale of the securities must deposit the proceeds from the sale of the securities in an interest-bearing escrow or trust account with an impoundment agent.

003.01 The following are not eligible to act as an impoundment agent:

003.01A The issuer;

003.01B The issuer's officers and directors;

003.01C The underwriter;

003.01D Any promoter; or

003.01E An affiliate of any of the above.

004 AGREEMENT.

004.01 The impoundment agreement shall be in a form acceptable to the Director and shall include the following:

004.01A A provision that impounded proceeds ("proceeds") are not subject to claims by creditors of the issuer, affiliates, or associates, or the underwriters until the proceeds have been released to the issuer pursuant to the terms of the impoundment agreement.

004.01B A provision that the Director has the right to inspect and make copies of the records of the impoundment agent at any reasonable time wherever the records are located or to require the impoundment agent to provide copies of such records to the Director at the offices of the Department.

004.01C A provision that the proceeds may be released to the issuer five business days after:

004.01C1 The impoundment agent has provided to the Director an affidavit which states that all of the conditions of the impoundment agreement have been met; and

004.01C2 The issuer has provided to the Director an affidavit which states:

004.01C2a There have been no material omissions or changes in the financial condition of the issuer, or other changes of circumstances, that would render the amount of proceeds inadequate to finance the issuer's proposed plan of operations, business, or enterprise; and

004.01C2b There have been no material omissions or changes that would render the representations in the registration statement fraudulent, false, or misleading.

004.02 A copy of the impoundment agreement, signed by an officer of the issuer, an officer of the underwriter, if applicable, and an officer of the impoundment agent, each with the authority to sign such documents, must be filed with the Department and shall become part of the registration statement.

005 INSUFFICIENT PROCEEDS. If the proceeds are insufficient to meet the minimum requirements within the time prescribed by the impoundment agreement, the impoundment agent shall notify the Director in writing.

005.01 The impoundment agent must release and return the proceeds directly to the investors; and

005.02 The proceeds shall be returned to the investors with interest, and without deduction for expenses, including impoundment agent fees.

006 AFFILIATE PURCHASES. If an underwriter or an officer, director, promoter, affiliate, or an associate of the issuer, purchases securities that are a part of the public offering being sold pursuant to the offering document, and if the proceeds from that purchase are used to complete the impoundment requirements imposed under this Rule, the purchase shall be presumed to be a fraud or a deceit upon the public purchasers of the issuer's securities, unless:

006.01 The person purchases the securities with investment intent and on the same terms as unaffiliated public investors. If a person purchases the securities necessary to complete the impoundment requirements and holds the securities for two years or more, it may be presumed that investment intent has been met.

006.02 The offering document discloses the intent to purchase securities necessary to complete the impoundment requirements and the maximum amount of the issuer's securities that the person(s) would own upon completion of the purchase.

006.02A If the offering document does not disclose the intent to purchase the securities necessary to complete the impoundment requirements, the issuer must file an amended offering document and disclose the same to investors who have purchased pursuant to the issuer's registration statement.

006.02B The public investors must be given a reasonable opportunity after disclosure of the purchase of securities by one or more of the aforesaid persons to complete the impoundment requirements and the filing of an amended offering document to rescind their purchases.

006.02C If the issuer fails to make a reasonable rescission offer, the Director may treat such an act as a fraud or deceit upon the investors who purchased the issuer's securities pursuant to the public offering.

006.03 Any repurchase, within two years of the completion of the public offering, by the issuer of the securities sold to any of the aforesaid persons to complete the impoundment requirements shall be presumed to be a fraud or deceit upon investors.

007 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

DEPARTMENT OF BANKING & FINANCE

CHAPTER 26 - UNEQUAL VOTING RIGHTS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska.

001.02 The Director has determined that this Rule relating to public offerings of securities, that have less than equal voting rights, is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002 CONDITIONS. The offer and sale of securities that have less than equal voting rights may be deemed to be inconsistent with investor protection and against public policy by the Director unless:

002.01 The securities are given preferential treatment as to dividends and liquidation or the less than equal voting rights are justified to the satisfaction of the Director; and

002.02 The terms of the voting rights are prominently disclosed on the cover page of the issuer's offering circular or prospectus.

003 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

Effective Date: April 7, 1999

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 27 – SPECIFICITY REGARDING USE OF PROCEEDS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to specificity in the use of proceeds is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002 CONDITIONS. A registration statement not complying with the requirements of this Rule may be denied registration by the Director.

003 PROCEEDS DISCLOSURE. The issuer must disclose in the offering document for both the minimum and maximum amounts proposed, if applicable, the percentages and dollar amounts of the following, in a tabular form:

003.01 The proceeds the issuer expects to receive from the offering;

003.02 The purposes for which the issuer will use the proceeds;

003.03 The estimated amount to be used for each purpose; and

003.04 The order or priority in which the issuer will use the proceeds for the purposes stated.

004 DISCLOSURE OF OTHER SOURCES OF FUNDS. The issuer must disclose in the offering document:

004.01 The amounts of any funds to be raised from other sources to achieve the purposes stated;

004.02 The sources of any additional funds; and

004.03 Whether the sources are firm or contingent and, if contingent, an explanation of the contingency.

005 DISCLOSURE OF PROPERTY ACQUISITION.

005.01 If the issuer will use any part of the proceeds to acquire any property, including goodwill, other than in the ordinary course of business, the issuer must disclose in the offering document:

005.01A The names and addresses of the vendors;

005.01B The purchase price;

005.01C The names of any persons who have received commissions in connection with the acquisition; and

005.01D The amounts of any commissions and any other expense in connection with the acquisition, including the cost of borrowing money to finance the acquisition.

005.02 If any part of the proceeds will be used to acquire property or a business that is not yet identified, the issuer must disclose in the offering document:

005.02A The type of property or business the issuer is seeking;

005.02B The impact that the anticipated acquisition will have on the issuer's core business; and

005.02C The issuer's acquisition criteria.

006 DISCLOSURE OF DEBT REPAYMENT. If the issuer plans to use any material part of the proceeds to discharge indebtedness, the issuer must disclose in the offering document:

006.01 The terms of the indebtedness, including interest rate;

006.02 A statement of whether the indebtedness includes unpaid salaries to promoters; and

006.03 The use of proceeds from the indebtedness that was incurred.

007 FLEXIBILITY IN USE OF PROCEEDS. The issuer must not reserve more than fifteen percent of the proceeds for working capital or general corporate purposes, or for any other unspecified use. If the issuer's business plans require flexibility in the use of unspecified proceeds, the issuer must:

007.01 Disclose all potential uses of the proceeds with qualifying language that the uses may be subject to change; and

007.02 Indicate the circumstances that may lead to reallocation of the proceeds and the potential areas of such reallocation.

008 SUFFICIENCY OF FUNDS. The issuer must demonstrate that the offering proceeds, together with all other sources of financing currently available to the issuer, are

~~sufficient to sustain the issuer's proposed activities. If the proceeds are insufficient to sustain the issuer's activities for at least twelve months following the offering, the appropriate risk disclosure must be included in the offering document.~~

~~009 IMPOUNDMENT OF PROCEEDS. In the event the offering is not firmly underwritten, the issuer must set a minimum amount of proceeds to be raised consistent with the business plan set forth in the offering document.~~

~~009.01 The issuer or any other person that receives the proceeds from the sale of the securities must deposit the proceeds from the sale of the securities in an interest-bearing escrow or trust account with an impoundment agent and shall comply with the requirements set forth in 48 NAC 25, Sections 003, 004 and 005.~~

~~009.02 The offering document must disclose if officers, directors or other promoters have the right to purchase shares for the purpose of meeting the impound requirements.~~

~~010 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.~~

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 28 - UNSOUND FINANCIAL CONDITION

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to the offering of securities by issuers in unsound financial condition is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002 UNSOUND FINANCIAL CONDITION. An issuer shall be deemed to be in unsound financial condition if the financial statements contain:

002.01 A footnote to the financial statements or an explanatory paragraph in the independent auditor's report regarding the issuer's ability to continue as a going concern; and

002.02 One of the following:

002.02A An accumulated deficit;

002.02B Negative shareholder equity;

002.02C An inability to satisfy current obligations as they come due; or

002.02D Negative cash flow (or revenues not being generated by operations).

002.03 If the application for registration contains audited financial statements which were issued more than ninety days from the date of application, the accompanying interim unaudited financial statements are subject to the conditions of this Rule.

003 CONDITIONS.

003.01 An application for registration by an issuer in unsound financial condition may be denied by the Director, if the Director finds that such denial is necessary for investor protection and is in the best interests of the public.

003.02 An application for registration by an issuer in unsound financial condition may be registered by the Director if the chief financial officer of the issuer provides pro forma financial data acceptable to the Director that:

003.02A Demonstrate that the issuer's financial condition will improve either as a direct result of the offering proceeds, or as a proximate result of the offering proceeds (as part of a long term business plan);

003.02B Demonstrate when profitability is expected to occur; and

003.02C Are supported with documentation of, and the bases for, any assumptions.

004 DISCLOSURE. In addition to satisfying the requirements of Section 003.02 above, the issuer must:

004.01 Include prominent disclosure that the issuer is considered to be in unsound financial condition, and that persons should not invest unless they can afford to lose their entire investment; and

004.02 Disclose the following risk factors, as applicable:

004.02A The presence of an explanatory paragraph in the independent auditor's report;

004.02B The issuer's lack of revenues from operations, and the means by which the issuer has been financing its operations;

004.02C The presence and amount of any accumulated deficit;

004.02D The presence and amount of any negative shareholders' equity; and

004.02E The need for future financing.

005 SUITABILITY STANDARDS. In addition to the other requirements of this Rule, the Director may impose suitability standards or limit the sales of securities to accredited investors in lieu of, or in addition to, the requirements of Sections 003.02 and 004 above.

005.01 The imposition of any suitability standards does not relieve a broker-dealer or agent from the responsibility of making an independent determination of suitability required under industry standards.

005.02 Unless the Director determines that the risks associated with the offering would require different standards, public investors shall have one of the following:

005.02A A minimum annual gross income of seventy thousand dollars ($70,000.00) and a minimum net worth of seventy thousand dollars ($70,000.00); or

005.02B A minimum net worth of two hundred fifty thousand dollars($250,000.00).

005.02C Net worth shall be determined exclusive of home, home furnishings, and automobiles.

006 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 29 - DEBT SECURITIES

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to the public offering of debt securities is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes and rules of the Securities and Exchange Commission ("SEC") or the Financial Industry Regulatory Authority ("FINRA") referenced herein shall mean those statutes and rules as amended on or before the effective date of this Rule. A copy of the applicable statutes or rules referenced in this Rule is attached hereto.

002 DEFINITIONS. For purposes of this Rule, the following additional definitions shall apply:

002.01 Adjusted cash flow means the issuer's cash flow adjusted on a pro forma basis to reflect:

002.01A The elimination of interest and fees on debt or debt securities and of cash dividends on preferred stock that are to be retired with the proceeds derived from the public offering;

002.01B The effect of any acquisitions or capital expenditures that were made by the issuer after its last fiscal year, or which are proposed or required for the current fiscal year, which materially affect the issuer's cash flow;

002.01C The effect of interest and fees on debt or debt securities and of cash dividends paid after the issuer's last fiscal year;

002.01D The effect of any interest and fees on debt or debt securities and of cash dividends on preferred stock or common stock that were issued during the issuer's last fiscal year, but which were outstanding for only a portion of such fiscal year, as if such debt, debt securities, preferred stock or common stock had been outstanding for the issuer's entire fiscal year;

002.01E The effect of imputed or deferred charges of zero coupon debt or debt securities for the issuer's last fiscal year and any additional charges on such debt or debt securities issued after the issuer's last fiscal year;

002.01F The effect of accrued dividends on preferred stock for the issuer's last fiscal year and any additional dividends on such preferred stock issued after the issuer's last fiscal year; and

002.01G The effect of any other material changes to the issuer's future cash flow.

002.01H Notwithstanding 002.01F above, accrued dividends of cumulative preferred stock having a stated interest rate may be excluded from adjusted cash flow at the discretion of the Director.

002.02 Cash flow means the issuer's after-tax earnings that are derived from its normal operations, exclusive of extraordinary and nonrecurring items, less interest and dividends, plus certain noncash charges against earnings such as depreciation, depletion and amortization, determined according to generally accepted accounting principles, consistently applied.

003 CASH FLOW REQUIIREMENTS.

003.01 A public offering of debt securities may be disallowed if the issuer's adjusted cash flow for the last fiscal year or its average adjusted cash flow for the last three fiscal years prior to the public offering was insufficient to cover its fixed charges, meet its debt obligations as they became due, and service the debt securities being offered.

003.02 The Director, in his or her discretion, may waive the requirement in Section 003.01 above for public offerings of convertible debt securities that are superior in right of payment of interest and liquidation proceeds to any convertible debt that is or may be legally or beneficially, directly or indirectly, owned by promoters, provided:

003.02A The risks of failure to meet debt service obligations and the equity characteristics of such securities must be disclosed in the prospectus; and

003.02B The offering of such securities is reviewed using the Rules for equity offerings in 48 NAC 21 through 28 and 48 NAC 30 through 31, as applicable.

003.03 If the issuer's cash flow is subject to cyclical fluctuations or if the Director deems it necessary for investor protection, the Director may require that the issuer establish a sinking fund or redemption requirements.

004 TRUST INDENTURE. Unless the Director permits otherwise, public offerings of debt securities shall be offered and sold pursuant to a trust indenture ("indenture") which adequately protects the rights of the purchasers. Such protections shall include, but shall not be limited to, the following:

004.01 The indenture shall comply with the provisions of the Trust Indenture Act of 1939, 15 U.S.C. § 77aaa, et. seq., which shall be disclosed in the offering document;

004.02 The events of default of the indenture shall be disclosed in the offering document;

004.03 The trustee shall be provided with adequate reports, including any compliance reports from independent auditors, to allow the trustee to ensure compliance with the indenture;

004.04 Neither the trustee nor its promoters may be major creditors of the issuer or its affiliates;

004.05 The indenture shall provide that upon any consolidation, merger, recapitalization, reorganization, pledge foreclosure, equity or share exchange, conveyance or transfer of the properties and assets of the issuer substantially as an entirety, or any other transaction having a substantially equivalent effect, the successor person shall expressly assume the payment obligations on the debt securities and the performance of the covenants of the indenture; and

004.06 The indenture shall provide that interest will accrue and be paid to the date(s) of redemption or conversion of the debt securities.

005 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 30 - PREFERRED STOCK

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to the public offering of preferred stock is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002 GROUNDS FOR DENIAL OF SECURITIES REGISTRATION RELATING TO PAYMENT ABILITY. The Director may deny the offer or sale of preferred stock based on the issuer's adjusted net earnings or a cash analysis. The issuer must have enough cash to pay the dividend, if any, on the preferred stock being offered, whether or not declared.

002.01 The Director may deny the offer and sale of preferred stock if either the issuer's adjusted net earnings for its last fiscal year or the issuer's average adjusted net earnings for its last three fiscal years were insufficient to pay the issuer's:

002.01A Fixed charges;

002.01B Preferred stock dividends, whether or not accrued; and

002.01C The redemption requirements, if any, of the preferred stock being offered to investors.

002.02 The Director may deny the offer or sale of preferred stock unless the issuer's statement of cash flows shows that net cash provided by operating activities was positive for the issuer's last fiscal year.

002.02A The Director may require the issuer to submit a financial statement that is presented in conformity with generally accepted accounting principles and demonstrates that the issuer had an average positive net cash provided by operating activities for the last three fiscal years.

002.03 This Section shall not apply to public offerings of:

002.03A Convertible preferred stock that ranks ahead of any convertible debt relating to payment of dividends, interest, and liquidation proceeds; or

002.03B Preferred stock that is, or may be, legally or beneficially, directly or indirectly, owned by promoters.

003 GROUNDS FOR DENIAL OF SECURITIES REGISTRATION RELATING TO SHAREHOLDER APPROVAL. The Director may deny the offer or sale of equity securities if the issuer's articles of incorporation authorize the board of directors to issue preferred stock without a vote by the common shareholders.

003.01 This Section shall not apply to public offerings if:

003.01A The offering document states that the issuer will not offer preferred stock to promoters except on the same terms as it is offered to all other existing or new shareholders; or

003.01B A majority of the issuer's independent directors that do not have an interest in the transaction:

003.01B1 Approve any offering of preferred stock; and

003.01B2 Have access, at the issuer's expense, to issuer's legal counsel or independent counsel.

004 DISCLOSURE REQUIREMENTS. The issuer's offering document relating to an offering of preferred stock must disclose:

004.01 Whether dividends on the preferred stock are cumulative;

004.02 The risks of failure to declare or pay dividends on the preferred stock; and

004.03 The equity characteristics of any convertible preferred stock being offered to investors.

005 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

TITLE 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 31 - OPTIONS AND WARRANTS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska.

001.02 The Department has determined that this Rule relating to options and warrants is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule unless otherwise specified.

002 UNDERWRITER'S COMPENSATION. Options or warrants may be issued to underwriters as compensation in connection with a public offering if the following conditions are met:

002.01 The underwriter is a managing underwriter.

002.02 The public offering is:

002.02A A firmly underwritten offering, or

002.02B A "minimum-maximum" offering, provided options or warrants may be issued in a "minimum-maximum" public offering only if:

002.02B1 The options or warrants are issued on a pro rata basis; and

002.02B2 The "minimum" amount of securities has been sold.

002.03 The number of shares covered by underwriter's options or warrants does not exceed ten percent (10%) of the shares of common stock actually sold in the public offering.

002.04 The life of the options or warrants does not exceed a period of five years from the completion date of the public offering.

002.05 The options or warrants are not exercisable for the first year after the completion date of the public offering.

002.06 The exercise price of the options or warrants is at least equal to either:

002.06A The public offering price plus a step-up of seven percent (7%) for each year that the options or warrants are unexercised (the seven percent (7%) step-up per year will commence one year from the completion date of the public offering) up to a maximum of one hundred twenty-eight percent (128%); or

002.06B One hundred twenty percent (120%) of the public offering price.

002.07 Options or warrants may not be transferred, except:

002.07A To partners of the underwriter, if the underwriter is a partnership;

002.07B To officers and employees of the underwriter, who are also shareholders of the underwriter, if the underwriter is a corporation;

002.07C To managing members of the underwriter, if the underwriter is a limited liability company; or

002.07D By will, pursuant to the laws of descent and distribution, or by operation of law.

002.08 The warrant agreement may not allow for a reduction in the exercise price of the options or warrants resulting from the subsequent issuance of shares by the issuer except where such issuances are pursuant to:

002.08A A stock dividend or stock split; or

002.08B A merger, consolidation, reclassification, reorganization, recapitalization, or sales of assets.

003 INSTITUTIONAL INVESTORS. Options or warrants may be granted to unaffiliated institutional investors in connection with loans if the following conditions are met:

003.01 The options or warrants are issued contemporaneously with the issuance of the loan;

003.02 The options or warrants are issued as the result of bona fide negotiations between the issuer and the unaffiliated institutional investor;

003.03 The exercise price of the options or warrants is not less than the fair market value of the issuer's shares of common stock underlying the options or warrants on the date that the loan was approved; and

003.04 The number of shares issuable upon exercise of the options or warrants multiplied by the exercise price thereof does not exceed the face amount of the loan.

004 ACQUISITIONS, REORGANIZATIONS, CONSOLIDATIONS AND MERGERS. Options or warrants may be issued in connection with acquisitions, reorganizations, consolidations or mergers if:

004.01 The options and warrants are issued to persons who are not affiliates of the issuer; and

004.02 The earnings of the issuer at the time of grant and after giving effect to the acquisition, reorganization, consolidation or merger, would not be materially diluted by the exercise of the options or warrants.

005 EXERCISE PRICE. Options and warrants may not be granted at an exercise price of less than eighty-five percent (85%) of fair market value of the issuer's underlying shares of common stock on the date of grant.

006 TOTAL NUMBER OF OPTIONS AND WARRANTS. The total number of options and warrants issued or reserved for issuance at the date of the public offering, excluding options and warrants exercisable at or above the public offering price, may not exceed:

006.01 Fifteen percent (15%) of the issuer's shares of common stock that will be outstanding upon completion of the public offering; or

006.02 Fifteen percent (15%) of the number of shares outstanding during the period the registration is in effect.

006.03 The number of options and warrants reserved for issuance may be disregarded if the issuer files an undertaking or states in the prospectus that the amount of outstanding options and warrants shall not exceed the above limitation during the period the registration is in effect.

007 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

Effective Date: April 7, 1999

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING & FINANCE

CHAPTER 32 - REAL ESTATE INVESTMENT TRUSTS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Director has determined that this Rule relating to qualification and registration of Real Estate Investment Trusts is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes referenced herein shall mean those statutes as amended on or before the effective date of this Rule. A copy of the statutes referenced in this Rule is attached hereto.

002 DEFINITIONS. The following definitions, in addition to definitions contained in 48 NAC 2, shall apply to this Rule:

002.01 Real Estate Investment Trust ("REIT") means a corporation, trust, association or other legal entity, other than a real estate syndication, which is engaged primarily in investing in equity interests in real estate, including fee ownership and leasehold interests, or in loans secured by real estate, or both.

002.02 Acquisition expenses means expenses related to selection and acquisition of properties, whether or not acquired, including, but not limited to, legal fees and expenses, travel and communications expenses, costs of appraisals, nonrefundable option payments on property not acquired, accounting fees and expenses, title insurance, and miscellaneous expenses.

002.03 Acquisition fee means the total of all fees and commissions paid by any party to any party in connection with making or investing in mortgage loans or the purchase, development or construction of property by a REIT.

002.03A Acquisition fee includes any real estate commission, selection fee, development fee, construction fee, nonrecurring management fee, loan fees or points or any fee of a similar nature, however designated.

002.03B Acquisition fee shall not include development fees and construction fees paid to persons not affiliated with the sponsor in connection with the actual development and construction of a project.

002.04 Adviser means the person responsible for directing or performing the day-to-day business affairs of a REIT, including a person to which an adviser subcontracts substantially all such functions.

002.05 Average invested assets means the average of the aggregate book value of the assets of the trust invested, directly or indirectly, in equity interests in and loans secured by real estate, before reserves for depreciation or bad debts or other similar non-cash reserves, for any period, computed by taking the average of such values at the end of each month during such period.

002.06 Competitive real estate commission means a real estate or brokerage commission paid for the purchase or sale of a property which is reasonable, customary and competitive in light of the size, type and location of such property.

002.07 Contract price for the property means the amount actually paid or allocated to the purchase, development, construction or improvement of a property exclusive of acquisition fees and acquisition expenses.

002.08 Construction fee means a fee or other remuneration for acting as general contractor and/or construction manager to construct improvements, supervise and coordinate projects or to provide major repairs or rehabilitation on property owned by the REIT.

002.09 Cross Reference Sheet means a compilation of the provisions of this Rule, referenced to the page of the prospectus and declaration of trust, or other exhibits, and justification for any deviation from the Rule.

002.10 Declaration of trust means the declaration of trust, by-laws, certificate, articles of incorporation or other governing instrument pursuant to which a REIT is organized.

002.11 Development fee means a fee for the packaging of a REIT's property, including negotiating and approving plans, and undertaking to assist in obtaining zoning and necessary variances and necessary financing for the specific property, either initially or at a later date.

002.12 Independent expert means a person with no material current or prior business or personal relationship with the adviser or trustee who is engaged to a substantial extent in the business of rendering opinions regarding the value of assets of the type held by the REIT.

002.13 Independent trustee means a trustee of a REIT who is not associated and has not been associated within the last two years, directly or indirectly, with the sponsor or adviser of the REIT.

002.13A A trustee shall be deemed to be associated with the sponsor or adviser if he or she:

002.13A1 Owns an interest in the sponsor, adviser, or any affiliate thereof;

002.13A2 Is employed by the sponsor, adviser or any affiliate thereof;

002.13A3 Is an officer or director of the sponsor, adviser, or any affiliate thereof;

002.13A4 Performs services, other than as a trustee, for the REIT;

002.13A5 Is a trustee for more than three REITs organized by the sponsor or advised by the adviser; or

002.13A6 Has any material business or professional relationship with the sponsor, adviser, or any affiliate thereof.

002.13B For purposes of determining whether or not the business or professional relationship is material, the gross revenue derived by the prospective independent trustee from the sponsor and adviser and affiliates shall be deemed material per se if it exceeds five percent of the prospective independent trustee's:

002.13B1 Annual gross revenue, derived from all sources, during either of the last two years; or

002.13B2 Net worth, on a fair market value basis.

002.13C An indirect relationship shall include circumstances in which a trustee's spouse, parent, child, sibling, mother- or father-in-law, son- or daughter-in-law, or brother- or sister-in-law is, or has been associated with the sponsor, adviser, any of their affiliates, or the REIT.

002.14 Initial investment means that portion of the initial capitalization of the REIT contributed by the sponsor or its affiliates pursuant to Section 003.01 of this Rule.

002.15 Leverage means the aggregate amount of indebtedness of a REIT for money borrowed, including purchase money mortgage loans, outstanding at any time, both secured and unsecured.

002.16 Net assets means the total assets, other than intangibles, at cost before deducting depreciation or other non-cash reserves less total liabilities, calculated at least quarterly on a basis consistently applied.

002.17 Net income means total revenues applicable to such period, less the expenses applicable to such period other than additions to reserves for depreciation or bad debts or other similar non-cash reserves. If the adviser receives an incentive fee, net income, for purposes of calculating total operating expenses in Section 005.04, below, shall exclude the gain from the sale of the REIT's assets.

002.18 Organizational and offering expenses means all expenses incurred by, and to be paid from, the assets of the REIT in connection with preparing a REIT for

registration and subsequently offering and distributing it to the public, including, but not limited to:

002.18A Total underwriting and brokerage discounts and commissions, including fees of the underwriters' attorneys;

002.18B Expenses for printing, engraving, and mailing;

002.18C Salaries of employees while engaged in sales activity;

002.18D Charges of transfer agents, registrars, trustees, escrow holders, depositories, and experts;

002.18E Expenses of qualification of the sale of the securities under federal and state laws, including taxes and fees; and

002.18F Accountants' and attorneys' fees.

002.19 Prospectus shall have the meaning given to that term by Section 2(10) of the Securities Act of 1933, 15 U.S.C. § 77b(10) including a preliminary prospectus; provided, however, that such term as used herein shall also include an offering circular as described in 17 CFR 230.254 or, in the case of an intrastate offering, any document by whatever name known, utilized for the purpose of offering and selling securities to the public.

002.20 Roll-up means a transaction involving the acquisition, merger, conversion, or consolidation either directly or indirectly of the REIT and the issuance of securities of a roll-up entity, but does not include:

002.20A A transaction involving securities of the REIT that have been for at least twelve months listed on a national securities exchange or traded through the NASDAQ Global Market; or

002.20B A transaction involving the conversion to corporate, trust, or association form of only the REIT if, as a consequence of the transaction there will be no significant adverse change in:

002.20B1 Shareholders' voting rights;

002.20B2 The term of existence of the REIT;

002.20B3 Sponsor or adviser compensation; or

002.20B4 The REIT's investment objectives.

002.21 Roll-up entity means a partnership, real estate investment trust, corporation, trust, or other entity that would be created or would survive after the successful completion of a proposed roll-up transaction.

002.22 Shares means shares of beneficial interest or of common stock of a REIT of the class that has the right to elect the trustees of such REIT.

002.23 Shareholders means the registered holders of a REIT's shares.

002.24 Specified asset REIT means a program where, at the time a securities registration is ordered effective, at least seventy-five percent of the net proceeds from the sale of shares, excluding reserves, are allocable to the purchase, construction, renovation, or improvement of individually identified assets.

002.25 Sponsor means:

002.25A Any person directly or indirectly instrumental in organizing, wholly or in part, a REIT; or

002.25B Any person who will control, manage or participate in the management of a REIT; and

002.25C Any affiliate of such person.

002.25D A person may be deemed a sponsor of the REIT by:

002.25D1 Taking the initiative, directly or indirectly, in founding or organizing the business or enterprise of the REIT, either alone or in conjunction with one or more other persons;

002.25D2 Receiving a material participation in the REIT in connection with the founding or organizing of the business of the REIT, in consideration of services, property or both;

002.25D3 Having a substantial number of relationships and contacts with the REIT;

002.25D4 Possessing significant rights to control REIT properties;

002.25D5 Receiving fees for providing services to the REIT which are paid on a basis that is not customary in the industry; or

002.25D6 Providing goods or services to the REIT on a basis which was not negotiated at arm's-length with the REIT.

002.25E Sponsor shall not include:

002.25E1 Any person whose only relationship with the REIT is that of an independent property manager of REIT assets, and whose only compensation is as such; or

002.25E2 Wholly independent third parties such as attorneys, accountants and underwriters whose only compensation is for professional services.

002.26 Total operating expenses means aggregate expenses of every character paid or incurred by the REIT as determined under generally accepted accounting principles, including advisers' fees, but excluding:

002.26A The expenses of raising capital such as organizational and offering expenses; legal, audit, accounting, underwriting, brokerage, listing, registration and other fees; printing and other such expenses; and taxes incurred in connection with the issuance, distribution, transfer, registration, and stock exchange listing of the REIT's shares;

002.26B Interest payments;

002.26C Taxes;

002.26D Non-cash expenditures such as depreciation, amortization and bad debt reserves;

002.26E Incentive fees paid in compliance with Section 005.06, below, notwithstanding Section 002.26F, below; and

002.26F Acquisition fees, acquisition expenses, real estate commissions on resale of property and other expenses connected with the acquisition, disposition, and ownership of real estate interests, mortgage loans, or other property, such as the costs of foreclosure, insurance premiums, legal services, maintenance, repair, and improvement of property.

002.27 Trustee(s) means the members of the board of trustees or directors or other body which manages the REIT.

002.28 Unimproved real property means the real property in which a REIT has an equity interest and which:

002.28A Was not acquired for the purpose of producing rental or other operating income;

002.28B Has no development or construction in process on such land; and

002.28C Has no development or construction on such land planned in good faith to commence on such land within one year.

003 REQUIREMENTS OF SPONSOR, ADVISER, TRUSTEE AND ANY AFFILIATE.

003.01 Prior to the initial public offering, the sponsor, or an affiliate, shall contribute, as an initial investment to the REIT, an amount not less than the lesser of:

003.01A Ten percent of the total net assets upon completion of the offering; or

003.01B Two hundred thousand dollars ($200,000.00).

003.01C The sponsor or the contributing affiliate may not sell this initial investment while the sponsor remains a sponsor. The shares may be transferred to other affiliates of the sponsor.

003.02 The REIT shall have a minimum of three trustees, each of whom is elected by the shareholders of the REIT and shall serve for a term of one year.

003.02A This Section shall not apply to a trustee elected to fill the unexpired term of another trustee.

003.02B Nothing in this Section shall prohibit a trustee from being re-elected by the shareholders.

003.02C A majority of the trustees shall be independent trustees.

003.02D Independent trustees shall nominate replacements for vacancies amongst the independent trustees' positions.

003.02E The trustees may establish such committees as they deem appropriate, provided the majority of the members of each committee are independent trustees.

003.03 At or before the first meeting of the trustees, the declaration of trust shall be reviewed and ratified by a majority vote of the trustees and of the independent trustees. The prospectus shall disclose that such ratification is required.

003.04 The trustees shall establish written policies on investments and borrowing and shall monitor the administrative procedures, investment operations and performance of the REIT and the adviser to assure that such policies are carried out.

003.05 Matters to which Sections 003.01, 003.03, 003.08, 003.09, 005, 006.07, 006.10, 006.13, 007.01, 007.02D, and 007.07, of this Rule apply must be approved by a majority of the independent trustees.

003.05A The special obligations of the independent trustees should not be interpreted to lessen in any way the obligations of the affiliated trustees.

003.06 At least one independent trustee shall have had at least three years of relevant experience demonstrating the knowledge and experience required to successfully acquire and manage the type of assets being acquired by the REIT.

003.06A Relevant real estate experience means actual direct experience by the trustee in acquiring or managing the type of real estate to be acquired by the REIT for his or her own account or as an agent.

003.06B Relevant real estate experience does not include experience in buying and selling houses.

003.07 The trustees and adviser of the REIT shall be deemed to be in a fiduciary relationship to the REIT and the shareholders. The trustees of the REIT shall also

have a fiduciary duty to the shareholders to supervise the relationship of the REIT with the adviser.

003.08 It shall be the duty of the trustees to evaluate the performance of the adviser before entering into or renewing an advisory contract. The criteria used in such evaluation shall be reflected in the minutes of such meeting.

003.08A Each contract for the services of an adviser entered into by the trustees shall have a term of no more than one year.

003.08B Each advisory contract shall be terminable by a majority of the independent trustees, or the adviser on sixty days written notice without cause or penalty. In the event of the termination of such contract, the adviser will cooperate with the REIT and take all reasonable steps requested to assist the trustees in making an orderly transition of the advisory function.

003.08C The qualifications of the adviser shall be set forth in the prospectus relating to the initial public offering of the shares of the REIT and the trustees shall determine that any successor adviser possesses sufficient qualifications to:

003.08C1 Perform the advisory function for the REIT; and

003.08C2 Justify the compensation provided for in its contract with the REIT.

003.09 The REIT shall not indemnify the trustees, advisers or affiliates for any liability or loss suffered by the trustees, advisers or affiliates, nor shall it provide that the trustees, advisers or affiliates be held harmless for any loss or liability suffered by the REIT, unless all of the following conditions are met:

003.09A The trustees, advisers or affiliates have determined, in good faith, that the course of conduct which caused the loss or liability was in the best interests of the REIT.

003.09B The trustees, advisers or affiliates were acting on behalf of or performing services for the REIT.

003.09C Such liability or loss was not the result of:

003.09C1 Negligence or misconduct by the trustees, excluding the independent trustees, advisers or affiliates; or

003.09C2 Gross negligence or willful misconduct by the independent trustees.

003.09D Such indemnification or agreement to hold harmless is recoverable only out of REIT net assets and not from shareholders.

003.09E Notwithstanding anything to the contrary contained in this Section, the trustees, advisers or affiliates and any persons acting as a broker-dealer shall not be indemnified by the REIT for any losses, liabilities or expenses arising from or out of an alleged violation of federal or state securities laws by such party unless one or more of the following conditions are met:

003.09E1 There has been a successful adjudication on the merits of each count involving alleged securities law violations as to the particular indemnitee.

003.09E2 Such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee.

003.09E3 A court of competent jurisdiction approves a settlement of the claims against a particular indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the Securities and Exchange Commission ("SEC") and of the published position of any state securities regulatory authority in which securities of the REIT were offered or sold as to indemnification for violations of securities laws.

003.09F The advancement of REIT funds to the trustees, advisers or affiliates for legal expenses and other costs incurred as a result of any legal action for which indemnification is being sought is permissible only if all of the following conditions are satisfied:

003.09F1 The legal action relates to acts or omissions with respect to the performance of duties or services on behalf of the REIT.

003.09F2 The legal action is initiated by a third party who is not a shareholder or by a shareholder acting in his or her capacity as such and a court of competent jurisdiction specifically approves such advancement.

003.09F3 The trustees, advisers or affiliates undertake to repay the advanced funds to the REIT, together with the applicable legal rate of interest thereon, in cases in which such trustees, advisers or affiliates are found not to be entitled to indemnification.

003.10 The declaration of trust may contain provisions relating to the use of arbitration as a means of dispute resolution, provided, it may not require arbitration for allegations involving breach of contract, negligence, violations of state or federal securities laws, breach of fiduciary duty or other misconduct by the trustees or adviser, nor shall it provide for mandatory venue.

003.10A A declaration of trust which contains arbitration provisions shall prominently disclose such fact on the cover page of the declaration of trust.

003.10B Allocation of the cost of arbitration may be made a matter for determination in the proceedings.

003.10C This Section shall not prohibit arbitration agreements entered into as a condition for opening or maintaining an account with a broker-dealer, who may also be a sponsor.

003.10D This Section shall not prohibit separate arbitration agreements between sponsors and shareholders if the agreements are not a condition of making an investment in the REIT.

004 SUITABILITY OF SHAREHOLDERS.

004.01 The sponsor shall establish minimum suitability standards for persons who purchase shares in a REIT for which there is not likely to be a substantial and active secondary market.

004.02 Unless the Director determines that the risks associated with the REIT would require higher standards, shareholders shall have one of the following:

004.02A A minimum annual gross income of seventy thousand dollars ($70,000.00) and a minimum net worth of seventy thousand dollars ($70,000.00); or

004.02B A minimum net worth of two hundred fifty thousand dollars ($250,000.00).

004.02C Net worth shall be determined exclusive of home, home furnishings, and automobiles.

004.02D In the case of sales to fiduciary accounts, these minimum suitability standards may be met by the beneficiary, by the fiduciary account, or by the donor or grantor who directly or indirectly supplies the funds to purchase the shares if the donor or grantor is the fiduciary.

004.02E The sponsor shall set forth in the final prospectus:

004.02E1 The investment objectives of the REIT;

004.02E2 A description of the type of person who might benefit from an investment in the REIT; and

004.02E3 The minimum suitability standards imposed on each shareholder in the REIT.

004.02F In evaluating the proposed suitability standards, the Director may consider the following:

004.02F1 The REIT's use of leverage;

004.02F2 The tax implications;

004.02F3 Balloon payment financing;

004.02F4 The potential variances in cash distributions;

004.02F5 The potential shareholders;

004.02F6 The relationship among potential shareholders, the sponsor and adviser;

004.02F7 The liquidity of the REIT shares;

004.02F8 The prior performance of sponsor and adviser;

004.02F9 The financial condition of the sponsor;

004.02F10 The potential transactions between the REIT and the sponsor and adviser; and

004.02F11 Any other factors that the Director deems to be relevant.

004.03 The sponsor and each person selling shares on behalf of the sponsor or REIT shall make every reasonable effort to determine that the purchase of shares is a suitable and appropriate investment for each shareholder.

004.03A In making this determination, the sponsor or each person selling shares on behalf of the sponsor or REIT shall ascertain that the prospective shareholder:

004.03A1 Meets the minimum suitability standards established for the REIT;

004.03A2 Can reasonably benefit from the REIT based on the prospective shareholder's overall investment objectives and portfolio structure;

004.03A3 Is able to bear the economic risk of the investment based on the prospective shareholder's overall financial situation; and

004.03A4 Has apparent understanding of:

004.03A4a The fundamental risks of the investment;

004.03A4b The risk that the shareholder may lose the entire investment;

004.03A4c The lack of liquidity of REIT shares;

004.03A4d The restrictions on transferability of REIT shares; and

004.03A4e The tax consequences of the investment.

004.03B The sponsor or each person selling shares on behalf of the sponsor or REIT will make this determination on the basis of information it has obtained from a prospective shareholder, including at least the age, investment objectives, investment experience, income, net worth, financial situation, and other investments of the prospective shareholder, as well as any other pertinent factors.

004.03C The sponsor or each person selling shares on behalf of the sponsor or REIT shall maintain records of the information used to determine that an investment in shares is suitable and appropriate for a shareholder for at least six years.

004.03D The sponsor shall disclose in the final prospectus the responsibility of the sponsor and each person selling shares on behalf of the sponsor or REIT to make every reasonable effort to determine that the purchase of shares is a suitable and appropriate investment for each shareholder, based on information provided by the shareholder regarding the shareholder's financial situation and investment objectives.

004.04 Each shareholder is required to complete and sign a written subscription agreement.

004.04A The sponsor may require that each shareholder make certain factual representations in the subscription agreement, including the following:

004.04A1 The shareholder meets the minimum suitability standards established for the REIT.

004.04A2 The shareholder is purchasing the shares for his or her own account.

004.04A3 The shareholder has received a copy of the prospectus.

004.04A4 The shareholder acknowledges that the shares are not liquid.

004.04B The shareholder must separately sign or initial each representation made in the subscription agreement. Except in the case of fiduciary accounts, the shareholder may not grant any person a power of attorney to make such representations on his or her behalf.

004.04C The sponsor and/or each person selling shares on behalf of the sponsor or REIT shall not require shareholders to make representations in the subscription agreement which are subjective or unreasonable and which:

004.04C1 Might cause the shareholder to believe that he or she has surrendered rights to which he or she is entitled under federal or state law; or

004.04C2 Would have the effect of shifting the duties regarding suitability, imposed by law on broker-dealers, to the shareholders.

004.04C3 Prohibited representations include, but are not limited to, the following:

004.04C3a The shareholder understands or comprehends the risks associated with an investment in the REIT;

004.04C3b The investment is a suitable one for the shareholder;

004.04C3c The shareholder has read the prospectus; and

004.04C3d In deciding to invest in the REIT, the shareholder has relied solely on the prospectus, and not on any other information or representations from other persons or sources.

004.04C4 The sponsor may place the content of the prohibited representations in the subscription agreement in the form of advisory disclosures to shareholders, but the disclosures may not be contained in the shareholder representation section of the subscription agreement.

004.05 The sponsor or any person selling shares on behalf of the sponsor or REIT may not complete a sale of shares to a shareholder until at least five business days after the date the shareholder receives a final prospectus.

004.06 The sponsor or the person designated by the sponsor shall send each shareholder a confirmation of his or her purchase.

004.07 The Director may require minimum initial and subsequent cash investment amounts.

005 FEES, COMPENSATION AND EXPENSES.

005.01 The prospectus must fully disclose, in tabular form, and itemize all consideration which may be received in connection with REIT activities directly or indirectly by the sponsor, trustees, adviser and underwriters; the purpose for the consideration; and the time and method of payment.

005.01A The independent trustees will determine, at least annually, that the total fees and expenses of the REIT are reasonable in light of the investment performance of the REIT, its net assets, its net income, and the fees and expenses of other comparable unaffiliated REITs.

005.01B Each such determination shall be reflected in the minutes of the meeting of the trustees.

005.02 The organizational and offering expenses paid in connection with the REIT's formation or the syndication of its shares shall be reasonable and shall in no event exceed an amount equal to fifteen percent of the proceeds raised in an offering.

005.03 The total of all acquisition fees and acquisition expenses shall be reasonable, and shall not exceed an amount equal to six percent of the contract price of the property, or in the case of a mortgage loan, of the funds advanced, except that a majority of the trustees, including a majority of the independent trustees, not otherwise interested in the transaction may approve fees in excess of these limits if they determine the transaction to be commercially competitive, fair and reasonable to the REIT.

005.04 The total operating expenses of the REIT shall, in the absence of a satisfactory showing to the contrary, be deemed to be excessive if they exceed in any fiscal year the greater of two percent of its average invested assets or twenty-five percent of its net income for such year.

005.04A The independent trustees shall have the fiduciary responsibility of limiting such expenses to amounts that do not exceed such limitations unless such independent trustees shall have made a finding that, based on such unusual and non-recurring factors which they deem sufficient, a higher level of expenses is justified for such year. Any such finding and the reason in support thereof shall be reflected in the minutes of the meeting of the trustees.

005.04B Within sixty days after the end of any fiscal quarter of the REIT for which total operating expenses, for the twelve months then ended, exceed the above limitations, a written disclosure of such fact, together with an explanation of the factors the independent trustees considered in arriving at the conclusion that such higher operating expenses were justified, shall be sent to shareholders.

005.04C In the event the independent trustees determine such excess expenses are not justified, the adviser shall reimburse the REIT at the end of the twelve month period the amount by which the aggregate annual

expenses paid or incurred by the REIT exceed the limitations herein provided.

005.05 If an adviser, trustee, sponsor or any affiliate provides a substantial amount of the services in the effort to sell the property of the REIT, that person may receive up to one-half of the brokerage commission paid but in no event to exceed an amount equal to three percent of the contracted for sales price. The amount paid when added to the sums paid to unaffiliated parties in such a capacity shall not exceed the lesser of the competitive real estate commission or an amount equal to six percent of the contracted for sales price.

005.06 An interest in the gain from the sale of assets of the REIT, for which full consideration is not paid in cash or property of equivalent value, shall be allowed provided the amount or percentage of such interest is reasonable.

005.06A An interest in gain from the sale of REIT assets shall be presumed reasonable if it does not exceed fifteen percent of the balance of such net proceeds remaining after payment to shareholders, in the aggregate, of an amount equal to one hundred percent of the original issue price of REIT shares, plus an amount equal to six percent of the original issue price of the REIT shares per annum cumulative.

005.06B The original issue price of the REIT shares may be reduced by prior cash distributions to shareholders of net proceeds from the sale of REIT assets.

005.06C In the case of multiple advisers, advisers and any affiliates shall be allowed incentive fees provided such fees are distributed by a proportional method reasonably designed to reflect the value added to REIT assets by each respective adviser or any affiliate.

005.07 The independent trustees shall determine, at least annually, whether the compensation which the REIT contracts to pay to the adviser is reasonable in relation to the nature and quality of services performed and whether such compensation is within the limits prescribed by this Rule.

005.07A The independent trustees shall supervise the performance of the adviser and the compensation paid to it by the REIT to determine that the provisions of such contract are being carried out.

005.07B Each such determination shall be based on the following factors:

005.07B1 The size of the advisory fee in relation to the size, composition and profitability of the portfolio of the REIT;

005.07B2 The success of the adviser in generating opportunities that meet the investment objectives of the REIT;

005.07B3 The rates charged to other REITs and to investors other than REITs by advisers performing similar services;

005.07B4 Additional revenues realized by the adviser and any affiliate through their relationship with the REIT, including loan administration, underwriting or broker commissions, or servicing, engineering, inspection and other fees, whether paid by the REIT or by others with whom the REIT does business;

005.07B5 The quality and extent of service and advice furnished by the adviser;

005.07B6 The performance of the investment portfolio of the REIT, including income, conservation or appreciation of capital, frequency of problem investments, and competence in dealing with distress situations;

005.07B7 The quality of the portfolio of the REIT in relationship to the investments generated by the adviser for its own account; and

005.07B8 All other factors such independent trustees may deem relevant.

005.07C The findings of the independent trustees on each factor shall be recorded in the minutes of the trustees.

006 CONFLICTS OF INTEREST AND INVESTMENT RESTRICTIONS.

006.01 The REIT shall not purchase property from the sponsor, adviser, trustee, or any affiliate thereof, unless a majority of trustees, including a majority of independent trustees, not otherwise interested in such transaction approve the transaction as being fair and reasonable to the REIT and at a price to the REIT no greater than the cost of the asset to such sponsor, adviser, trustee or any affiliate thereof, or if the price to the REIT is in excess of such cost, that substantial justification for such excess exists and such excess is reasonable. In no event shall the cost of such asset to the REIT exceed its current appraised value.

006.02 A sponsor, adviser, trustee or any affiliate thereof shall not acquire assets from the REIT unless approved by a majority of trustees, including a majority of independent trustees, not otherwise interested in such transaction, as being fair and reasonable to the REIT, except that a REIT may lease assets to a sponsor, adviser, trustee or any affiliate thereof only if approved by a majority of trustees, including a majority of independent trustees, not otherwise interested in such transaction as being fair and reasonable to the REIT.

006.03 No loans may be made by the REIT to the sponsor, adviser, trustee or any affiliate thereof except as provided under Section 006.13C, below, or to wholly owned subsidiaries of the REIT.

006.04 The REIT may not borrow money from the sponsor, adviser, trustee, or any affiliate thereof, unless a majority of trustees, including a majority of independent trustees, not otherwise interested in such transaction approve the transaction as

being fair, competitive, and commercially reasonable and no less favorable to the REIT than loans between unaffiliated parties under the same circumstances.

006.05 The REIT shall not invest in joint ventures with the sponsor, adviser, trustee, or any affiliate thereof, unless a majority of trustees, including a majority of independent trustees, not otherwise interested in such transactions, approve the transaction as being fair and reasonable to the REIT and on substantially the same terms and conditions as those received by the other joint venturers.

006.06 The REIT shall not invest in equity securities unless a majority of trustees, including a majority of independent trustees, not otherwise interested in such transaction approve the transaction as being fair, competitive, and commercially reasonable.

006.07 The prospectus must state the specific investment objectives of the REIT and should indicate whether the primary objective is to obtain current income, tax benefits, or capital appreciation for its shareholders.

006.07A The independent trustees shall review the investment policies of the REIT at least annually to determine that the policies being followed by the REIT at any time are in the best interests of its shareholders.

006.07B Each such determination and the basis therefore shall be set forth in the minutes of the trustees.

006.08 The method for the allocation of the acquisition of properties by two or more programs of the same sponsor or adviser seeking to acquire similar types of assets shall be reasonable.

006.08A The method shall be described in the prospectus.

006.08B It shall be the duty of the trustees, including the independent trustees, to insure such method is applied fairly to the REIT.

006.09 All other transactions between the REIT and the sponsor, adviser, trustee or any affiliate thereof, shall require approval by a majority of the trustees, including a majority of independent trustees, not otherwise interested in such transactions as being fair and reasonable to the REIT and on terms and conditions not less favorable to the REIT than those available from unaffiliated third parties.

006.10 The consideration paid for real property acquired by the REIT shall be based on the fair market value of the property as determined by a majority of the trustees, except that, in cases in which a majority of the independent trustees so determine, and in all cases in which assets are acquired from the advisers, trustees, sponsors or affiliates thereof, such fair market value shall be as determined by an independent expert selected by the independent trustees.

006.11 In connection with a proposed roll-up, an appraisal of all REIT assets shall be obtained from a competent, independent expert.

006.11A If the appraisal will be included in a prospectus used to offer the securities of a roll-up entity, the appraisal shall be filed with the Director as an exhibit to the registration statement for the offering.

006.11A1 REIT assets shall be appraised based on an evaluation of all relevant information and shall indicate the value of the REIT's assets as of a date immediately prior to the announcement of the proposed roll-up transaction.

006.11A2 The appraisal shall assume an orderly liquidation of REIT assets over a twelve month period.

006.11A3 The terms of the engagement of the independent expert shall clearly state that the engagement is for the benefit of the REIT and its investors.

006.11A4 A summary of the independent appraisal, indicating all material assumptions underlying the appraisal, shall be included in a report to the investors in connection with a proposed roll-up.

006.11A5 The issuer shall be subject to liability under the Act for any material omission or misrepresentation contained in the appraisal.

006.11B In connection with a proposed roll-up, the person sponsoring the roll-up shall offer to shareholders who vote "no" on the proposal the choice of:

006.11B1 Accepting the securities of the roll-up entity offered in the proposed roll-up; or

006.11B2 One of the following:

006.11B2a Remaining as shareholders of the REIT and preserving their interests therein on the same terms and conditions as existed previously; or

006.11B2b Receiving cash in an amount equal to the shareholders' pro-rata share of the appraised value of the net assets of the REIT.

006.11C The REIT shall not participate in any proposed roll-up which would result in shareholders having democracy rights in the roll-up entity that are less than those provided for under Sections 007.01, 007.02, 007.03, 007.04, and 007.05, below.

006.11D The REIT shall not participate in any proposed roll-up which includes provisions which would operate to materially impede or frustrate the accumulation of shares by any purchaser of the securities of the roll-up

entity, except to the minimum extent necessary to preserve the tax status of the roll-up entity.

006.11E The REIT shall not participate in any proposed roll-up which would limit the ability of an investor to exercise the voting rights of his/her securities of the roll-up entity on the basis of the number of REIT shares held by that investor.

006.11F The REIT shall not participate in any proposed roll-up in which investors' rights of access to the records of the roll-up entity will be less than those provided for under Section 007.05, below.

006.11G The REIT shall not participate in any proposed roll-up in which any of the costs of the transaction would be borne by the REIT if the roll-up is not approved by the shareholders.

006.12 The prospectus shall include an explanation of the borrowing policies of the REIT.

006.12A The aggregate borrowings of the REIT, secured and unsecured, shall be reasonable in relation to the net assets of the REIT and shall be reviewed by the trustees at least quarterly.

006.12B The maximum amount of such borrowings in relation to the net assets shall, in the absence of a satisfactory showing that higher level of borrowing is appropriate, not exceed three hundred percent. Any excess in borrowing over such level shall be approved by a majority of the independent trustees and disclosed to shareholders in the next quarterly report of the REIT, along with justification for such excess.

006.13 The REIT may not:

006.13A Invest more than ten percent of its total assets in unimproved real property or mortgage loans on unimproved real property;

006.13B Invest in commodities or commodity future contracts, except that this limitation is not intended to apply to future contracts used solely for hedging purposes in connection with the REIT's ordinary business of investing in real estate assets and mortgages;

006.13C Invest in or make mortgage loans unless an appraisal is obtained concerning the underlying property except for those loans insured or guaranteed by a government or government agency;

006.13C1 In cases in which a majority of the independent trustees so determine, and in all cases in which the transaction is with the adviser, trustees, sponsor or affiliates thereof, such an appraisal must be obtained from an independent expert concerning the underlying property. A copy of the appraisal shall be maintained in the REIT's records for at least five years,

and shall be available for inspection and duplication by any shareholder.

006.13C2 A mortgagee's or owner's title insurance policy or commitment as to the priority of the mortgage or the condition of the title must be obtained.

006.13C3 The adviser and trustees shall observe the following policies in connection with investing in or making mortgage loans:

006.13C3a The REIT shall not invest in real estate contracts of sale, unless such contracts of sale are in recordable form and appropriately recorded in the chain of title.

006.13C3b The REIT shall not make or invest in mortgage loans, including construction loans, on any one property if the aggregate amount of all mortgage loans outstanding on the property, including the loans of the REIT, would exceed an amount equal to eighty-five percent of the appraised value of the property as determined by appraisal unless substantial justification exists because of the presence of other underwriting criteria. For purposes of this subsection, the "aggregate amount of all mortgage loans outstanding on the property, including the loans of the REIT," shall include all interest, excluding contingent participation in income and/or appreciation in value of the mortgaged property, the current payment of which may be deferred pursuant to the terms of such loans, to the extent that deferred interest on each loan exceeds five percent per annum of the principal balance of the loan.

006.13C3c The standards provided in Section 006.13C3b, above, may be exceeded for a particular registration if:

006.13C3c(1) The mortgage loans are supported by sound underwriting criteria, such as the net worth of the borrower, the credit rating of the borrower based on historical financial performance, or collateral adequate to justify waiver from application of this Section; or

006.13C3c(2) The program mortgage loans are or will be insured or

guaranteed by a government or a government agency where the loan is secured by the pledge or assignment of other real estate or another real estate mortgage, where rents are assigned under a lease where a tenant or tenants have demonstrated through historical net worth and cash flow the ability to satisfy the terms of the lease, or where similar criteria is presented satisfactory to the Director.

006.13C3d The REIT shall not make or invest in any mortgage loans that are subordinate to any mortgage or equity interest of the adviser, trustees, sponsors or any affiliate of the REIT.

006.13D Issue redeemable equity securities;

006.13E Issue debt securities unless the debt service coverage in the most recently completed fiscal year as adjusted for known changes is sufficient to properly service that higher level of debt;

006.13F Issue options or warrants to purchase its shares to the adviser, trustees, sponsors or any affiliate thereof except on the same terms as such options or warrants are sold to the general public; or

006.13F1 The REIT may issue options or warrants to persons not so connected with the REIT but not at exercise prices less than the fair market value of such securities on the date of grant and for consideration, which may include services, that in the judgment of the independent trustees, has a market value less than the value of such option on the date of grant.

006.13F2 Options or warrants issuable to the adviser, trustees, sponsors or any affiliate thereof shall not exceed an amount equal to ten percent of the outstanding shares of the REIT on the date of grant of any options or warrants.

006.13G Issue its shares on a deferred payment basis or other similar arrangement.

007 RIGHTS AND OBLIGATIONS OF SHAREHOLDERS.

007.01 There shall be an annual meeting of the shareholders of the REIT upon reasonable notice and within a reasonable period, not less than thirty days, following delivery of the annual report.

007.01A The trustees, including the independent trustees, shall be responsible for complying with the meeting requirement.

007.01B Special meetings of the shareholders may be called by the chief executive officer, by a majority of the trustees or by a majority of the independent trustees, and shall be called by an officer of the REIT upon written request of shareholders holding in the aggregate not less than ten percent of the outstanding shares of the REIT entitled to vote at such meeting. Upon receipt of a written request stating the purpose(s) of the meeting, the sponsor shall, within ten days after receipt of said request, provide all shareholders with written notice of the meeting, including the purpose thereof, to be held on a date not less than fifteen nor more than sixty days after the distribution of such notice, at a time and place specified in the request, or if none is specified, at a time and place convenient to shareholders.

007.02 Voting Rights of Shareholders.

007.02A A public offering of equity securities of a REIT other than voting shares will be looked upon with disfavor.

007.02B The voting rights per share of equity securities of the REIT, other than the publicly held equity securities of the REIT, sold in a private offering shall not exceed voting rights which bear the same relationship to the voting rights of the publicly held shares of the REIT as the consideration paid to the REIT for each privately offered REIT share bears to the book value of each outstanding publicly held share.

007.02C The declaration of trust must provide that a majority of the then outstanding shares may, without the necessity for concurrence by the trustees, vote to:

007.02C1 Amend the declaration of trust;

007.02C2 Terminate the REIT; or

007.02C3 Remove the trustees.

007.02D The declaration of trust must provide that a majority of shareholders present in person or by proxy at an annual meeting at which a quorum, being fifty percent of the then outstanding shares, is present, may, without the necessity for concurrence by the trustees, vote to elect the trustees.

007.02E Without concurrence of a majority of the outstanding shares, the trustees may not:

007.02E1 Amend the declaration of trust, except for amendments which do not adversely affect the rights, preferences and privileges of shareholders including amendments to provisions relating to trustee qualifications, fiduciary duty, liability and indemnification, conflicts of interest, investment policies or investment restrictions;

007.02E2 Sell two-thirds or more of the REIT's assets, based on the total number of properties and mortgages or on the current fair market value of the assets, other than in the ordinary course of the REIT's business or in connection with liquidation and dissolution;

007.02E3 Cause the merger or other reorganization of the REIT; or

007.02E4 Dissolve or liquidate the REIT, other than before the initial investment in property.

007.02F With respect to shares owned by the adviser, the trustees, or any affiliate, neither the adviser, nor the trustees, nor any affiliate may vote or consent on matters submitted to the shareholders regarding the removal of the adviser, trustees or any affiliate or any transaction between the REIT and any of them.

007.02G In determining the requisite percentage-in-interest of shares necessary to approve a matter on which the adviser, trustees and any affiliate may not vote or consent, any shares owned by any of them shall not be included.

007.03 The declaration of trust shall provide that:

007.03A The shares of the REIT shall be non-assessable by the REIT whether trust, corporation or other entity.

007.03B The shareholders of a REIT that is not a corporation shall not be personally liable on account of any of the contractual obligations undertaken by the REIT.

007.03C All written contracts to which a REIT that is not a corporation is a party shall include a provision that the shareholders shall not be personally liable thereon.

007.04 The declaration of trust shall provide that the REIT shall cause to be prepared and mailed or delivered to each shareholder as of a record date after the end of the fiscal year and each holder of other publicly held securities of the REIT within one hundred twenty days after the end of the fiscal year to which it relates, an annual report for each fiscal year ending after the initial public offering of its securities which shall include:

007.04A Financial statements prepared in accordance with generally accepted accounting principles which are audited and reported on by independent certified public accountants;

007.04B The ratio of the costs of raising capital during the period to the capital raised;

007.04C The aggregate amount of advisory fees and the aggregate amount of other fees paid to the adviser and any affiliate of the adviser by REIT and including fees or charges paid to the adviser and any affiliate of the adviser by third parties doing business with the REIT;

007.04D The total operating expenses of the REIT, stated as a percentage of average invested assets and as a percentage of its net income;

007.04E A report from the independent trustees that the policies being followed by the REIT are in the best interests of its shareholders and the basis for such determination; and

007.04F Full disclosure, separately stated, of all material terms, factors, and circumstances surrounding any and all transactions involving the REIT, trustees, advisers, sponsors and any affiliate thereof occurring in the year for which the annual report is made. Independent trustees shall examine and comment in the report on the fairness of such transactions.

007.04G The trustees, including the independent trustees, shall be required to take reasonable steps to insure that the above requirements are met.

007.04H This Section is not intended to be exhaustive of the type and extent of information presented to shareholders in an annual report.

007.05 Any shareholder and any designated representative thereof shall be permitted access to all records of the REIT at all reasonable times, and may inspect and copy any of them.

007.05A Inspection of the REIT's books and records by the Director shall be provided upon reasonable notice and during normal business hours.

007.05B The declaration of trust shall include the following provisions regarding access to the list of shareholders:

007.05B1 An alphabetical list of the names, addresses, and telephone numbers of the shareholders of the REIT along with the number of shares held by each of them (the "shareholder list") shall be maintained as part of the books and records of the REIT and shall be available for inspection by any shareholder or the shareholder's designated agent at the home office of the REIT upon the request of the shareholder.

007.05B2 The shareholder list shall be updated at least quarterly to reflect changes in the information contained therein.

007.05B3 A copy of the shareholder list shall be mailed to any shareholder requesting it within ten days of the request.

007.05B3a The copy of the shareholder list shall be printed in alphabetical order, on white paper, and in a readily readable type size, in no event smaller than 10-point type.

007.05B3b A reasonable charge for copy work may be charged by the REIT.

007.05B4 The purposes for which a shareholder may request a copy of the shareholder list include, without limitation, matters relating to shareholders' voting rights under the REIT agreement and the exercise of shareholders' rights under federal proxy laws.

007.05B5 The REIT may require the shareholder requesting the shareholder list to represent that the list is not requested for a commercial purpose unrelated to the shareholder's interest in the REIT.

007.05B6 If the advisor or trustees of the REIT neglects or refuses to exhibit, produce, or mail a copy of the shareholder list as requested, the advisor and the trustees shall be liable to any shareholder requesting the list for the costs, including attorneys' fees, incurred by that shareholder for compelling the production of the shareholder list, and for actual damages suffered by any shareholder by reason of such refusal or neglect.

007.05B6a It shall be a defense that the actual purpose and reason for the requests for inspection or for a copy of the shareholder list is to secure such list of shareholders or other information for the purpose of selling such list or copies thereof, or of using the same for a commercial purpose other than in the interest of the applicant as a shareholder relative to the affairs of the REIT.

007.05B6b The remedies provided hereunder are in addition to, and shall not in any way limit, other remedies available to shareholders under federal law, or the laws of any state.

007.06 The REIT is neither obligated to repurchase any of the shares nor precluded from voluntarily repurchasing the shares if such repurchase does not impair the capital or operations of the REIT.

007.06A The REIT may have excess share provisions that provide for mandatory redemption.

007.06B The sponsor, adviser, trustees or affiliates are prohibited from receiving a fee on the repurchase of the shares by a REIT.

007.07 All distribution reinvestment plans shall, at a minimum, provide:

007.07A All material information regarding the distribution to the shareholder and the effect of reinvesting such distribution, including the tax consequences thereof, shall be provided to the shareholder at least annually.

007.07B Each shareholder participating in the plan shall have a reasonable opportunity to withdraw from the plan at least annually after receipt of the information required above.

007.08 The declaration of trust shall state the manner in which distributions to shareholders are to be determined.

007.09 Distributions in kind shall not be permitted, except for:

007.09A Distributions of readily marketable securities;

007.09B Distributions of beneficial interests in a liquidating trust established for the dissolution of the REIT and the liquidation of its assets in accordance with the terms of the declaration of trust; or

007.09C Distributions of in-kind property which meet all of the following conditions:

007.09C1 The trustees advise each shareholder of the risks associated with direct ownership of the property;

007.09C2 The trustees offer each shareholder the election of receiving in-kind property distributions; and

007.09C3 The trustees distribute in-kind property only to those shareholders who accept the trustee's offer.

008 DISCLOSURE AND MARKETING.

008.01 Statements made in sales material communicated, directly or indirectly, to the public may not conflict with, or modify risk factors or other statements made in the prospectus.

008.02 A prospectus which is not part of a registration statement declared effective by the SEC pursuant to the Securities Act of 1933 shall generally conform to the disclosure requirements which would apply if the offering were so registered. The format and information requirements of applicable guide(s) promulgated by the SEC shall be followed, with appropriate adjustments made for the different business of the REIT.

008.03 In connection with the offering and sale of shares in a REIT, neither the sponsor(s) nor the underwriter(s) may, in writing or otherwise, directly or indirectly, represent or imply that the Director has approved the merits of the investment or any

aspects thereof. Any reference to the REIT's compliance with this Rule or any provisions herein which connotes or implies compliance is prohibited.

008.04 Forecasts and Projections.

008.04A Neither the prospectus nor any sales material communicated, directly or indirectly, to the public shall contain a quantitative estimate of a REIT's anticipated economic performance or anticipated return to participants, in the form of investment objectives, cash distributions, tax benefits or otherwise, except as permitted by this Section.

008.04B The presentation of predicted future results of operations of programs shall be permitted but not required for a specified asset REIT if they comply with all of the following requirements:

008.04B1 The cover of the prospectus for a specified asset REIT with forecasts must contain in bold face the following language: "Forecasts are contained in this prospectus. Any representation to the contrary and any predictions, written or oral, which do not conform to that contained in the prospectus shall not be permitted."

008.04B2 Forecasts shall be realistic in their predictions and shall clearly identify the assumptions made with respect to all material features of presentation.

008.04B3 Forecasts should be examined by an independent certified public accountant in accordance with the Guide for Prospective Financial Statements and the Statement on Standards for Accountant's Services on Prospective Financial Information as promulgated by the American Institute of Certified Public Accountants, and a copy of the report of the independent certified public accountant must be included in the prospectus.

008.04B4 If any part of the forecast appears in the sales material, the entire forecast must be presented.

008.04B5 Forecasts shall generally be for a period equivalent to the anticipated holding period for REIT assets.

008.04B5a Forecasts which do not extend through the expected term of the REIT's life must show the effects of a hypothetical liquidation of program assets under good and bad conditions.

008.04B5b Yield information may not be presented for forecasts which do not extend through the expected term of the REIT's life.

008.04B6 Forecasts shall disclose possible undesirable tax consequences of an early sale of program assets.

008.04B7 In computing any rate of return or yield to investors, no unrealized gains or value shall be included.

008.04C For all other REITs, the presentation of predicted future results of operations of programs shall be prohibited. The cover of the prospectus for such a REIT must contain in bold face the following language: "The use of forecasts in this offering is prohibited. Any representations to the contrary and any predictions, written or oral, as to the amount or certainty of any present or future cash benefit or tax consequence which may flow from an investment in this program is not permitted."

008.05 The Director may require that the declaration of trust be given to prospective shareholders.

009 MISCELLANEOUS.

009.01 The requirements and/or provisions of appropriate portions of the following Sections shall be included in the declaration of trust: Sections 002; 003; 004.02; 004.03; 004.06; 005.01A; 005.01B; 005.03; 005.04; 005.05; 005.06; 005.07; 006.01; 006.02; 006.03; 006.04; 006.05; 006.06; 006.07A; 006.07B; 006.09; 006.10; 006.11; 006.12; 006.13; and 007.

009.02 A marked copy of all amendments and supplements to an application shall be filed with the Director as soon as the amendment or supplement is available.

009.03 The Cross Reference Sheet shall be included with the application for registration.

009.03A Sections which are not applicable should be noted as such.

009.03B Provisions of the REIT which vary from the Rule must be explained by endnote. Endnotes should be numbered sequentially in the column designated "Endnotes" and should be presented on a rider identified as "Endnotes" with each endnote on the rider numerically corresponding to the endnote identified on the Cross Reference Sheet.

010 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 33 - LIMITED PARTNERSHIPS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to limited partnerships is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002 REQUIREMENTS. Certificates of interest or participation in limited partnerships shall conform to the provisions of this Rule and any other policies and requirements that may be adopted or approved by the Director with respect to a specific security or transaction or types of plans or programs.

002.01 Limited partnerships must comply with the applicable North American Securities Administrators Association ("NASAA") Guidelines or Statements of Policy specified below, as adopted on the effective date of this Rule. A copy of each Guideline or Statement of Policy is available in the appendix to this rule at http://www.ndbf.ne.gov/legal/title48.shtml and are also contained in NASAA REPORTS published by Commerce Clearing House..

002.01A The offer or sale of interests in a limited partnership or other business combination which will engage in real estate syndications may be deemed inconsistent with investor protection and not in the public interest if the offering does not comply with the provisions of NASAA's Statement of Policy Regarding Real Estate Programs.

002.01B The offer or sale of interests in a limited partnership or other business combination which will engage in oil or gas well drilling and exploration activities or the purchase of production from oil and gas wells may be deemed inconsistent with investor protection and not in the public interest if the offering does not comply with the provisions of NASAA's Statement of Policy for the Registration of Oil and Gas Programs.

002.01C The offer or sale of interests in a limited partnership or similar organizational form which will engage in cattle feeding operations may be deemed inconsistent with investor protection and not in the public interest if the offering does not comply with the provisions of NASAA's Statement of Policy for the Registration of Publicly Offered Cattle Feeding Programs.

002.01D The offer or sale of interests in a limited partnership or other business combination which will engage in the buying and selling of, and trading in, commodity futures contracts, options thereon, commodity forward contracts or similar instruments, may be deemed inconsistent with investor protection and not in the public interest if the offering does not comply with the provisions of NASAA's Statement of Policy on Registration of Commodity Pool Programs.

002.01E The offer or sale of interests in a limited partnership or other business combination which will engage in the acquisition and ownership of equipment for lease or operation may be deemed inconsistent with investor protection and not in the public interest if the offering does not comply with the provisions of NASAA's Statement of Policy for Equipment Programs.

002.01F The offer or sale of interests in any other limited partnership or other business combination may be deemed inconsistent with investor protection and not in the public interest if the offering does not comply with the provisions of NASAA's Statement of Policy for Omnibus Guidelines.

002.02 The limited partnership agreement or other organizational instrument shall conform to the provisions and requirements of this Rule, which shall also be fully disclosed in the prospectus of the offering.

002.03 An offer or sale of securities may be disallowed if the standards described in this Rule are not met, or if the offering is deemed inconsistent with investor protection.

002.04 The total amount of consideration of all kinds which may be paid directly or indirectly to the sponsor or its affiliates shall be reasonable, considering all of the aspects of the program and the investors.

002.05 The limited partnership shall specify an offering minimum which shall be an amount sufficient for the limited partnership to reasonably begin its program.

003 MINIMUM INVESTMENTS. Limited partnerships shall require the following:

003.01 The minimum investment of initial and subsequent investors in limited partnerships shall be five thousand dollars ($5,000.00), except for an investment through an IRA/Keogh plan which shall be one thousand dollars ($1,000.00).

003.02 The minimum amounts for additional investments or reinvestments shall be:

003.02A One thousand dollars ($1,000.00) for investments in subsequent partnerships of the same series in the same program year; and

003.02B Fifty dollars ($50.00) for reinvestments of dividends from income revenues in the same program year.

003.03 Reinvestments in continuous offerings in subsequent program years will be permitted where all offers are made by prospectus and where the investor annually signs a new agreement to reinvest.

004 SUITABILITY.

004.01 Unless the Director determines that the risks associated with the limited partnership would require higher standards, limited partnerships shall require purchasers of limited partnership interests to have one of the following:

004.01A A minimum annual gross income of at least seventy thousand dollars ($70,000.00) and a minimum net worth of at least seventy thousand dollars ($70,000.00); or

004.01B A minimum net worth of at least two hundred fifty thousand dollars ($250,000.00).

004.01C Net worth shall be determined exclusive of home, home furnishings, and automobiles.

004.01D In the case of sales to fiduciary accounts, these minimum suitability standards may be met by the beneficiary, by the fiduciary account, or by the donor or grantor who directly or indirectly supplies the funds to purchase the shares if the donor or grantor is the fiduciary.

004.02 A purchaser of limited partnership interests shall be required to sign a subscription agreement. Such subscription agreement shall contain a statement attesting that the purchaser meets the suitability standards required.

005 LIMITED LIFE. The limited partnership shall exist for a specified length of time.

005.01 The length of the existence of the partnership shall be reasonable.

005.02 The length of the existence of the partnership shall be disclosed in the prospectus and partnership agreement.

006 OFFERING PERIOD.

006.01 The duration of the offering period shall be specified in the prospectus and partnership agreement.

006.02 The proceeds of the sales shall be escrowed during the offering period.

006.03 If the specified offering minimum is not received during the offering period, the proceeds of the sales shall be returned to the investors with pro rata interest from the escrowed funds.

007 TAXES. The limited partnership shall obtain a favorable tax ruling concerning the tax status of the partnership before commencing operations.

007.01 An opinion of independent tax counsel may be accepted by the Director in lieu of a tax ruling.

007.02 Any projection of earnings, tax write-offs and returns shall be reasonable and fully disclosed in the prospectus.

008 RIGHTS OF LIMITED PARTNERS.

008.01 Limited partners owning ten percent of the limited partnership capital shall have the right to propose for vote any amendment to the limited partnership agreement, any dismissal of the general partner, and/or the termination of the life of the partnership. A majority of the limited partnership interests shall be required for approval of any such proposal.

008.02 Any limited partner shall have the right to secure, by written request to the general partner, an alphabetical list of the names, addresses and telephone numbers of all other limited partners ("limited partner list") along with the number of interests held by each of them.

008.02A A copy of the limited partner list shall be mailed to the requesting limited partner within ten days of the request.

008.02A1 The copy of the limited partner list shall be printed in alphabetical order, on white paper, and in a readily readable type size, in no event smaller than 10-point type.

008.02A2 A reasonable fee for copy work may be charged by the limited partnership.

008.03 Any contract between the partnership and the general partner or an affiliate of the general partner shall be subject to termination by majority vote or consent of the limited partners following sixty days' prior written notice thereof to the limited partners.

008.04 The general partner shall not withdraw from the partnership without sixty days' prior written notice thereof to the limited partners.

008.05 A majority of the limited partnership interests shall approve any transfer of the general partner's interest.

009 SERIES OFFERINGS. A filing to register a limited partnership that is the continuation of a series previously registered in Nebraska shall include the following additions to such filing:

009.01 An affidavit:

009.01A Setting forth the substantive changes from the prior partnership, and

009.01B Attesting that any changes required by the Department following review of previous filings are included in the offering; and

009.02 A marked copy of the prospectus showing the changes from the previous filing.

010 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING & FINANCE

CHAPTER 34 - REGISTRATION OF ASSET-BACKED SECURITIES

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to the registration of asset-backed securities is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case by case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes and rules of the Securities and Exchange Commission ("SEC"), the Financial Industry Regulatory Authority ("FINRA"), or the Financial Accounting Standards Board ("FASB") referenced herein shall mean those statutes and rules as amended on or before the effective date of this Rule. A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at http://www.ndbf.ne.gov/legal/title48.shtml.

002 DEFINITIONS. The following definitions, in addition to definitions contained in 48 NAC 2, shall apply to this Rule:

002.01 Acquisition cost means the cost of an eligible asset as reflected on the issuer's balance sheet, net of applicable acquisition expenses and origination fees.

002.02 Acquisition criteria means the specified characteristics an eligible asset is required to possess in order for it to be sufficiently similar to other eligible assets to make possible a reliable prediction of the cash flows associated with the eligible assets when pooled in large numbers.

002.03 Acquisition expenses mean all direct and indirect expenses incurred by the issuer in connection with the selection and acquisition of eligible assets, whether or not acquired, other than origination fees.

002.04 Allowed expenses means trustee fees, ongoing fees paid to rating agencies, servicing fees, origination fees, acquisition expenses, liquidation expenses, bank service charges, taxes, attorneys' fees, audit fees, and other direct charges incurred by the issuer in the ordinary course of the issuer's business, exclusive of organizational and offering expenses, conversion expenses and extraordinary expenses.

002.05 Asset-backed securities mean securities that provide a stated rate of return to security holders and that are primarily serviced as to both return of investment and return on investment by the cash flow from designated eligible assets, excluding:

002.05A The securities of an investment company subject to the Investment Company Act of 1940; and

002.05B Equity interests in limited partnerships or other direct investment vehicles subject to other applicable registration Rules.

002.06 Cash flow means the amount of cash generated from operations, calculated in compliance with Financial Accounting Standard 95, plus receipts from the disposition or liquidation of eligible assets.

002.07 Collections account means the account in a financial institution created to receive cash flow generated by the eligible assets and to maintain the segregation of such cash from other assets of the servicer.

002.08 Conversion expenses means the expenses associated with changing from one servicer to another servicer or one trustee to another trustee.

002.09 Credit enhancement means insurance, letters of credit, lines of credit, over-collateralization, seller recourse, reserve accounts, senior claim guarantees, and other arrangements intended to decrease the likelihood of default on the asset-backed securities.

002.10 Eligible assets means financial or commercial assets, either fixed or revolving, which are:

002.10A Generally homogenous in nature;

002.10B Subject to reasonably objective valuation; and

002.10C For other than asset-backed securities with an investment grade rating:

002.10C1 Self-liquidating or easily liquidated; and

002.10C2 Capable of generating a predictable cash flow.

002.11 Investment grade means a rating that is in one of the four highest rating categories as determined by a rating agency.

002.12 Issuer means the person formed to issue the asset-backed securities and to hold ownership of, or a security interest in, the eligible assets.

002.13 Liquidation expenses means the expenditures necessary to convert residual or non-performing eligible assets, or any underlying collateral, into cash, including expenditures necessary to collect on insurance or other credit enhancements.

002.14 Net worth means the excess of total assets over total liabilities as determined by generally accepted accounting principles.

002.15 Obligor means a person obligated to make the payments on or under an eligible asset.

002.16 Operating account means the account in a financial institution created to receive offering proceeds and revenues from the collections account which are not required to be transferred to the trust account, and from which payments are made for additional eligible assets and allowed expenses.

002.17 Origination fees means all fees, commissions, or other consideration, other than the purchase price of the eligible assets, paid by any party to any party in connection with the origination and sale of eligible assets to the issuer, but not including initial fees paid to rating agencies and professional fees paid to attorneys, accountants, appraisers, and similar professionals for providing routine professional services, which fees shall be deemed acquisition expenses.

002.18 Originator means a person, which may or may not be the sponsor, that creates or originates, directly or indirectly, eligible assets to be sold or pledged, to the issuer.

002.19 Organizational and offering expenses means all expenses incurred in connection with and in preparing the asset-backed securities for registration and subsequently offering and distributing the asset-backed securities to the public. Organizational and offering expenses include, but are not limited to, total underwriting and brokerage discounts and commissions, including fees of the underwriters' attorneys; initial fees paid to rating agencies; expenses for printing, engraving, and mailing; salaries of employees while engaged in sales activity; charges of transfer agents, registrars, trustees, escrow holders, depositories, and experts; expenses of qualification of the sale of the securities under federal and state laws, including taxes and fees; and accountants' and attorneys' fees.

002.20 Paying agent means the trustee or other person responsible for disbursing funds from the trust account to the security holders in satisfaction of the issuer's obligation for payments on the asset-backed securities.

002.21 Prospectus means the primary disclosure document(s), by whatever name known, utilized for the purpose of offering and selling asset-backed securities to the public.

002.22 Rating agency means Standard and Poor's Ratings Group, a division of McGraw Hill Company; Moody's Investors Service, Inc.; Fitch Investors Service, Inc.; or Duff & Phelps Credit Rating Co.; or a successor to any of the foregoing.

002.23 Security holders means the persons in whose names the issuer's asset-backed securities are held and to whom payments pursuant to the terms of the trust agreement are entitled to be made.

002.24 Servicer means the person responsible for the management of the issuer's assets and the conversion of such assets into the cash flow necessary to make stated payments on the asset-backed securities.

002.25 Servicing agreement means the contract that establishes the responsibilities and compensation of the servicer.

002.26 Servicing fees means compensation paid to the servicer pursuant to the terms of the servicing agreement.

002.27 Special purpose entity means a trust, corporation, partnership, limited liability company, or other legal entity formed for the purpose of making one or more offerings of asset-backed securities, holding an ownership interest or a security interest in the eligible assets, and forwarding the cash flows from the eligible assets to the security holders.

002.28 Sponsor means any person directly or indirectly instrumental in organizing, wholly or in part, an issuer or any person, other than the trustee, who will control, manage, or participate in the management of an issuer or its assets, but shall not include:

002.28A Any person whose only relationship with the issuer is that of an independent servicer of the issuer's eligible assets and whose only compensation is as such; or

002.28B Wholly independent third parties such as attorneys, accountants, rating agencies, and underwriters whose only compensation is for professional services rendered in connection with the offering of asset-backed securities.

002.29 Stated rate of return means a return where the security holder is entitled to receive either:

002.29A A stated principal amount;

002.29B Interest on the principal amount, which may be a notional principal amount, calculated by reference to:

002.29B1 A fixed rate, or

002.29B2 A standard or formula which does not reference any change in the market value or fair value of eligible assets.

002.29C Interest on a principal amount, which may be a notional principal amount, calculated by reference to:

002.29C1 Auctions among security holders and prospective security holders;

002.29C2 A periodic remarketing of the asset-backed security;

002.29D An amount representing specified fixed or variable portions of the interest generated by the underlying eligible assets; or

002.29E Any combination of the above.

002.30 Trust account means the account in a financial institution created to receive funds from the collections account and the operating account and from which payments are made on the asset-backed securities of the issuer.

002.31 Trust agreement means the governing document(s), by whatever name, which defines the pooling arrangements and which establishes the rights, privileges, duties, and responsibilities of the trustee, the issuer, the security holders, and, when relevant, the servicer in connection with the issuance of the asset-backed securities.

002.31A The trust established by the trust agreement may or may not be a taxable entity and it may or may not serve as the issuer of the asset-backed securities.

002.31B The trust agreement may include the servicing agreement.

002.32 Trustee means the financial institution meeting the requirements under Section 006, below, which is party to the trust agreement and which has the primary responsibility of representing the interests of the security holders by assuring the terms of the trust agreement are enforced.

002.33 Trustee fees means the fees and other consideration paid to the trustee for performing services under the trust agreement.

003 REQUIREMENTS OF SPONSOR.

003.01 For other than asset-backed securities with an investment grade rating, the sponsor or its management shall demonstrate the knowledge and expertise necessary to supervise the origination, pooling and servicing of the type of eligible assets being securitized.

003.02 Financial Condition.

003.02A The sponsor shall demonstrate that it is solvent and will, with reasonable certainty, be able to meet any financial obligations to the issuer.

003.02B If the Director deems it relevant, the sponsor shall provide complete audited financial statements for its most recent fiscal year and, if necessary, unaudited financial statements prepared within one hundred thirty-five days of the date that the application for registration of the asset-backed securities is made effective by the Director.

003.03 Credit Enhancements.

003.03A The sponsor shall make or cause to be made an equity contribution to the issuer or shall provide or cause to be provided other

substantial credit enhancements to help establish a reasonable likelihood that the stated rate of return will be realized, unless:

003.03A1 The asset-backed securities have an investment grade rating, or

003.03A2 The Director waives this requirement.

003.03B The sponsor shall describe the credit enhancement in the prospectus, including summary information regarding any third party which is providing the credit enhancement.

003.04 Portfolio Characteristics.

003.04A For other than asset-backed securities with an investment grade rating, the sponsor shall demonstrate, based on designated acquisition criteria or specifically identified eligible assets, that the eligible assets being pooled will generate sufficient cash flow to make all scheduled payments on the asset-backed securities after taking allowed expenses into consideration.

003.04B For other than asset-backed securities with an investment grade rating, if a significant portion of the cash flow is anticipated to come from the liquidation of tangible assets underlying the eligible assets, additional evidence should be provided establishing the issuer's or servicer's ability to reliably predict the value of such tangible assets.

003.04C For other than asset-backed securities with an investment grade rating, if the cash flow is primarily based upon the credit quality of the obligors, the sponsor shall demonstrate that adequate measures will be taken to qualify obligors.

003.04D The sponsor shall disclose, in the prospectus, the following information regarding the identified eligible assets:

003.04D1 The outstanding principal balance of the eligible assets;

003.04D2 The outstanding principal balance of the eligible assets as a percentage of the total amount of asset-backed securities being offered;

003.04D3 The cash flow currently being generated by the eligible assets as a percentage of the total amount of asset-backed securities being offered;

003.04D4 A description of what constitutes a default;

003.04D5 The amount of eligible assets in default;

003.04D6 The amount of eligible assets in default as a percentage of the total amount of asset-backed securities being offered; and

003.04D7 The amount of eligible assets in default as a percentage of the credit enhancement.

003.05 Asset-backed securities must have a stated rate of return.

003.06 Asset Selection.

003.06A Acquisition criteria for the eligible assets or the relevant characteristics of any specified pool of eligible assets shall be set forth in the prospectus and the trust agreement.

003.06B If eligible assets are selected from a larger pool of eligible assets owned or controlled by the sponsor, the selection process must be random, unless a reasonable basis exists for selecting eligible assets on a non-random basis.

003.06C Any selection method used must be fair and must be fully disclosed in the prospectus.

003.07 Asset Repurchase and Substitution.

003.07A The sponsor may repurchase an eligible asset or may substitute one or more eligible assets which are part of the collateral underlying the asset-backed securities with new eligible assets if:

003.07A1 The eligible assets which are to be repurchased or replaced are found not to meet the acquisition criteria or are otherwise found not to comply with the requirements set forth in the trust agreement; and

003.07A2 The repurchase or substitution is not made for the purpose of recognizing gains or decreasing losses resulting from market value changes in the issuer's portfolio of eligible assets.

003.07B The sponsor or another person may repurchase the eligible assets when the pool of eligible assets has been reduced to fifteen percent or less of the original eligible assets.

003.07C A repurchase must be made at a price determined by a fair and reasonable formula set forth in the original prospectus.

003.07D If a substitution takes place, the new eligible asset must have equal or greater scheduled cash flow, approximately the same term; and, if appropriate, equal or greater liquidation value than the eligible asset to be replaced. Compliance with this requirement must be verified by a certified public accountant, or if the eligible asset is readily marketable, by documentation of the current market value of the eligible asset.

003.07E If any repurchases or substitutions take place and the asset-backed securities are rated at the time of the initial offering, then the initial rating must be maintained.

003.07F The sponsor shall provide a report representing compliance with these requirements to the trustee simultaneously with consummating the repurchase or substitution.

003.07G The sponsor shall disclose, in the prospectus, any obligation it has to repurchase eligible assets.

003.08 Cash flow not needed for stated payments on the asset-backed securities, reserve deposits, or other designated purposes, may be reinvested in additional eligible assets which meet acquisition criteria.

003.09 Distributions of excess cash flow or eligible assets to the sponsor, or other residual owners of the issuer, while the asset-backed securities are outstanding will be allowed, provided that:

003.09A The specific circumstances permitting such distributions are fully disclosed in the prospectus; and

003.09B The ability of the issuer to make all subsequent stated payments on the asset-backed securities, as determined on the date of such distributions, is not materially diminished as a result of such distributions.

003.09C For other than asset-backed securities with an investment grade rating, the issuer must provide reasonable evidence that such distribution rights will not impact the credit quality of the asset-backed securities at the time the asset-backed securities are registered.

004 REQUIREMENTS OF ISSUER.

004.01 The issuer must be a special purpose entity.

004.01A The issuer will generally not be permitted to:

004.01A1 Have employees, other than non-compensated officers; or

004.01A2 Incur obligations other than allowed expenses, conversion expenses, organizational and offering expenses and other extraordinary expenses arising from a change of servicer or similar extraordinary event.

004.01B The issuer may make more than one offering, if the asset-backed securities have an investment grade rating or if each offering is secured by a distinct pool of assets, with cross-defaults and cross-collateralization prohibited by contract or otherwise.

004.01C If the issuer is not a trust, there must be a supplemental trust agreement administered by a trustee.

004.02 For other than asset-backed securities with an investment grade rating, the issuer's interest in the eligible assets must be an ownership interest or a security interest. The eligible assets may be held by a special purpose entity other than the issuer if the issuer's ownership interest or security interest in the eligible assets is supported by an opinion of counsel as required by Section 004.03B, below.

004.03 For offerings where the issuer acquires ownership of the eligible assets, the Director may require the issuer to provide an opinion of qualified counsel to the effect that, in the event of a bankruptcy by the sponsor or an originator or other seller of eligible assets to the issuer, the transfer of eligible assets would be treated as a true sale.

004.03A For offerings where the issuer acquires a security interest in the eligible assets, an opinion may be required indicating:

004.03A1 That the security interest will be perfected based on procedures set forth in the trust agreement; and

004.03A2 Whether financial statements under the Uniform Commercial Code are necessary to perfect security interests in the eligible assets.

004.03B If a special purpose entity, other than the issuer, is established to hold the eligible assets that are pledged to the issuer, an opinion may be required indicating that, in the event of a bankruptcy by the sponsor or an originator or other seller of eligible assets to the special purpose entity, the transfer of eligible assets would be treated as a true sale.

004.04 For other than asset-backed securities with an investment grade rating, the minimum amount of proceeds required to close the offering shall be sufficient to allow the issuer to acquire all specified eligible assets or a sufficient amount of unspecified eligible assets to diversify the pool of eligible assets to the extent necessary to achieve a high level of confidence with respect to the statistical characteristics of the portfolio.

004.05 All funds received prior to achieving the minimum offering shall be deposited in an interest-bearing account with an independent escrow agent whose name and address shall be disclosed in the prospectus.

004.05A In the event that the established minimum is not reached, all paid subscriptions shall be returned to the investors, plus interest earned, on a pro rata basis.

004.05B The Director may require the available proceeds from offerings that do not have an investment grade rating to be fully invested in eligible assets within two months from the date such proceeds are released from escrow.

004.06 The offering period may not exceed one year from the date of effectiveness unless permitted by the Director.

004.07 For other than asset-backed securities with an investment grade rating, cash held in collections accounts, operating accounts, trust accounts or reserve accounts, cash held pending investment in eligible assets, cash held pending distribution to security holders, and other temporary cash balances may be invested, either directly or through money market funds, in securities that are direct obligations of, or fully guaranteed by, the U.S. Government or a U.S. Governmental agency or instrumentality, certificates of deposit, demand or time deposits, and bankers acceptances from any state or federally chartered depository institution having an investment grade rating.

004.08 If the asset-backed securities are rated at the time of the initial offering, the issuer must agree to pay to have that rating monitored at least annually.

004.09 The trust agreement shall provide that the issuer or trustee shall cause to be prepared and distributed to the security holders the following reports:

004.09A A report containing relevant information regarding the performance of the issuer's portfolio of eligible assets, including cash flows, delinquency rates, gross and net loss rates, substitution, and changes in the outstanding principal balance of eligible assets, if applicable, which report shall be prepared concurrently with distributions to security holders;

004.09B A table comparing any forecasts previously provided with the actual results during the period covered by the report, which shall be prepared at least annually; and

004.09C An annual audited financial statement of the issuer.

005 REQUIREMENTS OF SERVICER.

005.01 For other than asset-backed securities with an investment grade rating, the servicer or its management must have at least three years' experience servicing eligible assets similar to the assets to be acquired by the issuer.

005.01A A greater amount of experience may be required if the portfolios of eligible assets require intensive levels of servicing.

005.01B The servicer may be required to provide supplemental summary information regarding the performance of prior pools of similar eligible assets which it has serviced.

005.02 For other than asset-backed securities with an investment grade rating, the servicer must demonstrate that it is solvent and possesses the financial resources necessary to perform under the servicing agreement and/or trust agreement.

005.02A For other than asset-backed securities with an investment grade rating, a servicer which is to provide any financial guarantees or advances in connection with the issuance of the asset-backed securities must

demonstrate its ability to perform on such guarantees or advances under a default.

005.02B For other than asset-backed securities with an investment grade rating, if the Director deems it relevant, the servicer shall provide complete audited financial statements for its most recent fiscal year-end and, if necessary, unaudited financial statements prepared within one hundred thirty-five days of the date that the application for registration of the asset-backed securities is made effective by the Director.

005.03 The servicer may not be affiliated with the trustee.

005.03A For other than asset-backed securities with an investment grade rating, the servicer may not be affiliated with any obligor under any eligible asset.

005.03B The trustee may serve as successor servicer if it is otherwise qualified to perform the servicing function.

005.04 The servicing agreement shall require that the servicer prepare and deliver to the trustee the following reports, if applicable:

005.04A On a monthly basis or similar time interval that coincides with the timing of cash flows from the eligible assets:

005.04A1 For other than asset-backed securities with an investment grade rating, a report containing relevant information regarding the performance of the portfolio of eligible assets, including cash flows, delinquency rates, gross and net loss rates, substitutions, and changes in the outstanding principal balance of eligible assets;

005.04A2 Information regarding the status of credit enhancements, including the extent to which any such credit enhancements have been utilized by the servicer to supplement the cash flow associated with the eligible assets; and

005.04A3 For other than asset-backed securities with an investment grade rating, notification of any default in the payment of principal and interest on any other asset-backed securities issued by a special purpose entity with the same sponsor, servicer, and business plan.

005.04B On a quarterly basis:

005.04B1 Information regarding the identity of each originator or seller of eligible assets to the issuer, and if the originator or seller has guaranteed any aspect of performance of any eligible assets, complete financial statements of the originator or seller as of the most recent date available together with specific

information regarding the historical performance of the originator's or seller's portfolio of eligible assets;

005.04B2 Information regarding the percentage of eligible assets acquired from each originator or seller; and

005.04B3 Information regarding the diversification of each originator's or seller's portfolio of eligible assets with respect to underlying obligors, if applicable.

005.05 The servicer may not voluntarily withdraw as servicer, except as may be required by law, or upon at least thirty days prior notice to the trustee, provided that a qualified successor servicer has been retained, effective as of the resignation date of its predecessor.

005.05A In the event that the trustee, sponsor, or security holders terminates the servicer, the servicing agreement shall designate a qualified successor servicer or shall specify the criteria for selecting a qualified successor servicer.

005.05B The successor servicer must be approved by the trustee and must be capable of commencing the servicing of the eligible assets within a commercially reasonable period of time.

006 REQUIREMENTS OF TRUSTEE.

006.01 There shall at all times be one or more trustees under the trust agreement, with at least one trustee at all times being a corporation organized and doing business under the laws of the United States or of any state or territory thereof or of the District of Columbia which:

006.01A Is authorized under such laws to exercise corporate trust powers;

006.01B Is subject to supervision or examination by federal, state, territorial, or District of Columbia authority; and

006.01C Has a rating, or is a subsidiary of an institution having a rating, issued by a nationally recognized bank or financial institution rating organization, in one of the four highest categories.

006.02 The trustee or one or more of its corporate trust officers must have at least three years' relevant experience. The trustee in its commercial capacity must have origination or servicing experience with respect to similar eligible assets.

006.03 The trustee may not be affiliated with the servicer, the sponsor, or the issuer.

006.03A The trustee may serve as successor servicer if it is otherwise qualified to perform the servicing function.

006.03B The trustee may not have received within the last five years and may not receive during the term of the trust agreement more than five percent of its total revenue from all sources, including trustee's fees, from the sponsor and the servicer on a combined basis.

006.03C The trust agreement shall provide that no more than five percent of the loan portfolio of the trustee or its affiliates may be loans to either the issuer, the sponsor, or the servicer.

006.04 If the trustee voluntarily withdraws as trustee, the issuer or sponsor shall designate a successor trustee or the withdrawing trustee may petition a court to appoint a successor trustee.

006.04A The withdrawing or resigning trustee must continue to perform under the trust agreement until the successor trustee is designated by the issuer, the sponsor, or the court.

006.04B If the trust agreement allows the trustee to be terminated by the security holders or by the issuer, there must be a reasonable procedure set forth in the trust agreement for replacing the trustee.

006.05 The trust agreement shall provide that it shall be the responsibility of the trustee to:

006.05A Maintain the custody of the documentation delivered to it evidencing title or perfected security interest in the issuer's eligible assets.

006.05B Verify all funds deposited in the trust account for the benefit of the security holders and use its best efforts to verify all payments called for under the terms of the trust agreement.

006.05C Verify the delivery of all reports and other instruments required pursuant to the terms of the trust agreement and the Securities Exchange Act of 1934.

006.05D Examine all reports or other instruments furnished to the trustee pursuant to the terms of the trust agreement and determine, based on the information provided, whether there is a violation of any of the terms and conditions set forth in the trust agreement.

006.05E In the event that the trustee determines there has been a default under the terms of the trust agreement, the trustee shall be responsible for the timely notification of security holders and the implementation of appropriate remedial actions and may not first seek additional indemnification other than that provided in the trust agreement from the security holders before taking such actions.

006.05E1 The trustee shall be entitled to reimbursement for all costs relating to a default.

006.05E2 The trustee shall not be indemnified for its breach of contract, misconduct or gross negligence.

006.05F Upon notification of a default, under Section 005.04A3, above, the trustee may, if it deems appropriate, replace the servicer and take any other steps necessary for the protection of security holders.

006.06 The trustee shall provide an annual report to the security holders which indicates whether the trustee has fulfilled its obligations under the trust agreement and whether there have been any known uncured defaults under the trust agreement.

007 SUITABILITY OF SECURITY HOLDERS.

007.01 The sponsor shall establish minimum income and net worth standards which are reasonable given the risks associated with the purchase of the asset-backed securities. Offerings with greater investor risk shall have minimum suitability standards with a greater income and net worth requirements.

007.01A The provisions of this Section shall not apply to asset-backed securities:

007.01A1 Which have an investment grade rating;

007.01A2 Which are firmly underwritten; or

007.01A3 For which the sponsor is able to demonstrate that there will be a substantial and active secondary market.

007.01B The Director shall evaluate the standards proposed by the sponsor when the issuer's application for registration is reviewed, which evaluation may involve the following:

007.01B1 Potential for variances in cash flows;

007.01B2 Intensity of the servicing function;

007.01B3 Potential security holders;

007.01B4 Relationships among potential security holders and the sponsor;

007.01B5 Liquidity of the asset-backed securities;

007.01B6 Prior performance of similar pools formed by the sponsor;

007.01B7 Financial condition of the sponsor;

007.01B8 Credit enhancements;

007.01B9 Transactions between the issuer and the sponsor; and

007.01B10 Any other relevant factors.

007.02 Unless the Director determines that the risks associated with particular asset-backed securities would require greater suitability standards, security holders shall have:

007.02A A minimum annual gross income of seventy thousand dollars ($70,000.00) and a minimum net worth of seventy thousand dollars ($70,000.00); or

007.02B A minimum net worth of two hundred fifty thousand dollars ($250,000.00).

007.02C Net worth shall be determined exclusive of home, home furnishings, and automobiles.

007.02D In the case of sales to fiduciary accounts, the minimum suitability standards may be met by the beneficiary, by the fiduciary account, or by the donor or grantor who directly or indirectly supplies the funds to purchase the asset-backed securities if the donor or grantor is the fiduciary.

007.02E The sponsor shall set forth in the final prospectus:

007.02E1 A description of the type of prospective security holder who might benefit from an investment in the asset-backed securities; and

007.02E2 The minimum suitability standards imposed on security holders.

007.03 The sponsor and each person selling asset-backed securities on behalf of the sponsor or issuer shall make every reasonable effort to determine that the purchase of asset-backed securities is a suitable and appropriate investment for each security holder.

007.03A In making this determination, the sponsor and/or each person selling shares on behalf of the sponsor shall ascertain that the prospective security holder:

007.03A1 Meets the minimum suitability standards established by the issuer;

007.03A2 Can reasonably benefit from the asset-backed securities based on the prospective security holder's overall investment objectives and portfolio structure;

007.03A3 Is able to bear the economic risk of the investment based on the prospective security holder's overall financial situation; and

007.03A4 Has apparent understanding of:

007.03A4a The fundamental risks of the investment; and

007.03A4b The lack of liquidity of the asset-backed securities.

007.03B Each person selling asset-backed securities on behalf of the sponsor or issuer shall make the suitability determination on the basis of information it has obtained from a prospective security holder, including the age, investment objectives, investment experience, income, net worth, financial situation, and other investments of the prospective security holder, as well as any other pertinent factors.

007.03C Each person selling asset-backed securities on behalf of the sponsor or issuer shall maintain records of the information used to determine that an investment in asset-backed securities is suitable and appropriate for a security holder for at least six years.

007.03D The issuer shall disclose in the final prospectus the responsibility of each person selling asset-backed securities on behalf of the sponsor or issuer to make every reasonable effort to determine that the purchase of asset backed securities is a suitable and appropriate investment for each security holder, based on information provided by the security holder regarding the security holder's financial situation and investment objectives.

007.04 Security holders shall be required to complete and sign a written subscription agreement.

007.04A The sponsor may require that security holders make certain factual representations in the subscription agreement, including the following:

007.04A1 The security holder meets the minimum suitability standards established for the issuer;

007.04A2 The security holder is purchasing the asset-backed securities for his or her own account;

007.04A3 The security holder has received a copy of the prospectus; and

007.04A4 The security holder acknowledges that the asset-backed securities will not be readily marketable.

007.04B The security holders must separately sign or initial each representation made in the subscription agreement. Except in the case of fiduciary accounts, the security holders may not grant any person a power of attorney to make such representations on their behalf.

007.04C The sponsor and/or each person selling asset-backed securities on behalf of the sponsor or issuer shall not require security holders to make representations in the subscription agreement which are subjective or unreasonable and which:

007.04C1 Might cause the security holder to believe that he or she has surrendered rights to which he or she is entitled under federal or state law; or

007.04C2 Would have the effect of shifting the duties regarding suitability, imposed by law on broker-dealers, to the security holders.

007.04C3 Prohibited representations include, but are not limited to the following:

007.04C3a The security holder understands or comprehends the risk factors associated with an investment in the asset-backed securities;

007.04C3b The investment is a suitable one for the security holder;

007.04C3c The security holder has read the prospectus; and

007.04C3d In deciding to invest in the asset-backed securities, the security holder has relied solely on the prospectus, and not on any other information or representations from other persons or sources.

007.04C4 The sponsor may place the content of the prohibited representations in the subscription agreement in the form of advisory disclosures to security holders, but the disclosures may not be contained in the security holder representation section of the subscription agreement.

007.05 The sponsor or persons selling the asset-backed securities shall send all security holders a confirmation of their purchase.

008 FEES, COMPENSATION AND EXPENSES.

008.01 For other than asset-backed securities with an investment grade rating, the sponsor shall demonstrate that the total amount of consideration of all kinds which may be paid, directly or indirectly, to all parties is fair, competitive, commercially

reasonable, and not less favorable to the issuer than fees or expenses between unrelated third parties.

008.01A The sponsor shall subordinate its interest in the cash flow and liquidation value of eligible assets and the underlying collateral, if any, to the interest of the security holders.

008.01B The prospectus must fully disclose, in tabular form, an itemization of:

008.01B1 The consideration which may be received in connection with the issuer's activities directly or indirectly by the sponsor, the servicer, and the selling agents;

008.01B2 The reason for which the consideration is paid; and

008.01B3 The method for paying the consideration, including the time when payment will be made.

008.02 All items of compensation to underwriters or selling agents, including, but not limited to, selling commissions, expenses, rights of first refusal, consulting fees, finders' fees and all other items of compensation of any kind or description paid by the issuer, directly or indirectly, shall be taken into consideration in computing the amount of allowable organizational and offering expenses. Generally, organizational and offering expenses will not be permitted to exceed fifteen percent of gross proceeds.

008.03 For other than asset-backed securities with an investment grade rating, origination fees and acquisition expenses paid or to be paid by the issuer, sponsor, or their affiliates must be fully justified based on actual services provided and expenses incurred in connection with acquiring the eligible assets.

008.04 Other than allowed expenses, organizational and offering expenses, and conversion expenses, the issuer may only be charged for the actual cost of goods and services used or incurred for or by the issuer and obtained from persons other than the sponsor, servicer, or their affiliates.

008.04A No reimbursement shall be permitted for goods or services for which the sponsor or servicer are entitled to compensation by way of separate fees. Items excluded from permitted expenses include, but are not limited to, the following:

008.04A1 Rent or depreciation, utilities, capital equipment, and other administrative items of the sponsor or servicer; and

008.04A2 Salaries, fringe benefits, travel expenses, and other administrative items incurred or allocated to any controlling person of the sponsor or servicer.

008.04B For other than asset-backed securities with an investment grade rating, the prospectus shall contain a table showing an itemized listing of

the fees and expenses expected to be incurred by the issuer annually, with the amounts expressed in dollars and as a percentage of the gross proceeds of the offering.

008.05 For other than asset-backed securities with an investment grade rating, servicing fees must be demonstrated to be fair and reasonable based on the actual services performed.

009 CONFLICTS OF INTEREST.

009.01 For other than asset-backed securities with an investment grade rating, the issuer will not be permitted to acquire an interest in eligible assets in which the sponsor or servicer has an interest unless the following conditions are met:

009.01A The transaction occurs at the closing of the offering and is fully disclosed in the prospectus or, in the case of revolving and substituted eligible assets, the terms and conditions of all transfers are fully disclosed in the prospectus; and

009.01B The eligible assets are acquired upon terms fair to the issuer and at a price not to exceed fair market value, inclusive of origination fees and acquisition expenses.

009.02 Notwithstanding the requirements of Section 009.01, above, the sponsor or servicer may purchase or generate eligible assets in its own name or the name of a nominee and temporarily hold title thereto, for the purpose of facilitating the acquisition of the eligible assets by the issuer. If the offering does not have an investment grade rating, the following additional conditions must be met:

009.02A The eligible assets must be purchased by the issuer for a price no greater than the cost of the eligible assets to the sponsor or servicer, adjusted for intervening cash flow and expenses; and

009.02B There may be no other benefits arising out of such transaction to the sponsor or servicer apart from compensation otherwise permitted by this Rule and disclosed in the prospectus.

009.03 For other than asset-backed securities with an investment grade rating, a sponsor or servicer shall not be permitted to acquire eligible assets from the issuer, except for:

009.03A Repurchases or substitutions permitted under Section 003.07, above;

009.03B Repurchases where there has been a breach of a representation or warranty pursuant to the trust agreement with respect to eligible assets; and

009.03C Circumstances where the proceeds are used to redeem one hundred percent of the outstanding principal amount of asset-backed

securities, together with interest accrued to the date of redemption, without any penalty to the issuer.

009.04 Except as provided below, the assets of the issuer shall not be commingled with the assets of any other person.

009.04A For other than asset-backed securities with an investment grade rating, all cash flows generated by the eligible assets shall be deposited, daily, into a segregated collections account.

009.04B For other than asset-backed securities with an investment grade rating, in no event shall the servicer hold cash flow in its own account for more than two business days, unless such amounts are guaranteed by a letter of credit, a segregated reserve account, or other arrangement acceptable to the Director. Amounts in the collections account may be transferred to an operating account for reinvestment and the payment of allowed expenses or directly to a trust account for distribution to security holders.

009.05 For other than asset-backed securities with an investment grade rating, if the Director deems appropriate, the Director may delay the registration of asset-backed securities of another special purpose entity formed by the sponsor to purchase similar eligible assets until:

009.05A The offering of the asset-backed securities is completed; and

009.05B Seventy-five percent of the proceeds of the offering have been invested, or committed to investment, in eligible assets.

009.06 For other than asset-backed securities with an investment grade rating, the trust agreement shall provide that all transactions between the issuer and the sponsor or the servicer or their affiliates will be on terms no less favorable to the issuer than could be obtained from a nonaffiliated entity in an arm's-length transaction.

010 DISCLOSURE AND MARKETING.

010.01 Sales material, including, but not limited to, books, pamphlets, movies, slides, article reprints, television and radio commercials, materials prepared for broker-dealer use only, sales presentations, including prepared presentations to prospective security holders at group meetings, materials to be made available through the Internet, and all other advertising used in the offer or sale of asset-backed securities, shall conform to filing, disclosure, and adequacy requirements under the Act and any applicable rules and regulations. Statements made in sales material communicated directly or indirectly to the public may not conflict with or modify risk factors or other statements made in the prospectus.

010.02 Prospectus and its Contents.

010.02A In connection with the offering and sale of asset-backed securities, neither the sponsor(s) nor the underwriter(s) may, in writing or

otherwise, directly or indirectly, represent or imply that the Director has approved the merits of the investment or any aspects thereof.

010.02A1 Any reference to compliance with this Rule or any provisions herein which connotes or implies compliance shall not be allowed.

010.02A2 The title of the issuer may not include the words "mutual fund" or "fund."

010.02B A forecast of the issuer's economic performance may be included in the prospectus and in the sales material for the offering if it complies with all of the following requirements:

010.02B1 The forecast is realistic in its predictions and clearly identifies the assumptions made with respect to all material features of the presentation.

010.02B2 The forecast is examined by an independent certified public accountant in accordance with the Guide for Prospective Financial Statements and the Statement on Standards for Accountant's Services on Prospective Financial Information as promulgated by the American Institute of Certified Public Accountants.

010.02B3 The report of the independent certified public accountant is included in the prospectus.

010.02B4 If any part of the forecast appears in the sales material, the entire forecast, including notes, must be presented.

010.02B5 The forecast is for a period equal to the term of the asset-backed securities.

010.02B6 If supplemental projections are included in the prospectus or the sales material, they must be accompanied by the complete forecast.

010.02C For other than asset-backed securities with an investment grade rating, the prospectus shall disclose relevant facts and performance information for previous offerings by the sponsor made within the prior ten years of the date the registration application is filed with the Director.

010.02C1 Information regarding offerings made within six months of the date the registration application is filed with the Director need not be included in the disclosure.

010.02C2 The Director may allow the disclosure to be limited to offerings of asset-backed securities supported by eligible assets similar to those identified for the current offering unless it

is determined that information about other offerings is also relevant.

010.02C3 The disclosure should generally include the following:

010.02C3a The acquisition criteria defining the eligible assets;

010.02C3b Information indicating whether all stated payments have been made as scheduled;

010.02C3c The structure and key features of the previous offering, if applicable;

010.02C3d The size of the portfolio;

010.02C3e Statistical data on losses, delinquencies, recoveries, turnover, and diversification; and

010.02C3f Types and amounts of credit enhancements.

010.03 A marked copy of all amendments and supplements to an application shall be filed with the Director as soon as the amendment or supplement is available.

011 WAIVER OF RULE. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain provisions of this Rule may be waived by the Director.

NEBRASKA ADMINISTRATIVE CODE

Title - 48 - DEPARTMENT OF BANKING AND FINANCE

CHAPTER 36 - GENERAL OBLIGATION FINANCING BY RELIGIOUS DENOMINATIONS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to the disclosure requirements for an offering of debt securities in the form of general obligation financing issued by a religious denomination, or a national or regional unit thereof, or other entity affiliated or associated therewith (collectively a "church extension fund"), is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 This Rule is not applicable to single project financing by individual churches or congregations. Such securities offerings must conform to the requirements of 48 NAC 35.

001.05 Federal statutes referenced herein shall mean those statues as amended on or before the effective date of this Rule. A copy of the applicable statutes or rule referenced in the Rule is attached hereto.

002 DEFINITIONS. The following definitions, in addition to definitions contained in 48 NAC 2, shall apply to this Rule:

002.01 Advertising means any information or promotional materials, including, but not limited to, magazine or newsletter advertisements, brochures, video tapes, fliers, church bulletin inserts, mailers and Internet information posted by the issuer or denomination, that are used, in addition to offering circulars, to solicit investors.

002.02 Audited financial statements means financial statements prepared in accordance with generally accepted accounting principles applied on a consistent basis, and examined and reported upon by an independent certified public accountant.

002.03 Church extension fund ("CEF") means a not for profit organization affiliated or associated with a denomination, or a fund that is accounted for separately by a denomination organized as a not-for-profit organization, that offers and sells notes primarily to provide funding for loans to various affiliated churches and related religious organizations of the denomination, for the acquisition of property,

~~construction or acquisition of buildings and other related capital expenditures or operating needs.~~

~~002.04 Change in net assets means the change in net assets as reported in the Statement of Activities of the CEF in conformity with generally accepted accounting principles which reflects the net increase or decrease in net assets of the CEF.~~

~~002.05 Denomination means a national or regional religious organization or association that consists of, or acts on behalf of, its individual affiliated churches as well as various affiliated national or regional administrative and religious organizations or units. The organizations, associations, churches or units described in this definition shall be organized as, or associated with, a not-for-profit organization.~~

~~002.06 Denominational accounts means demand and other obligations of a CEF held by national, regional or other affiliated organizations of the denomination, other than congregations.~~

~~002.07 GAAP means Generally Accepted Accounting Principles in the United States as established by the Financial Accounting Standards Board (FASB), Accounting Principles Board (APB), Accounting Research Bulletins (ARB) and American Institute of Certified Public Accountants (AICPA). The AICPA Audit and Accounting Guide for Not-For-Profit Organizations provides guidance on specific GAAP for not-for-profit organizations.~~

~~002.08 Investor(s) means the person(s) who purchase(s) notes.~~

~~002.09 Issuer means the CEF that issues or proposes to issue notes.~~

~~002.10 Loan delinquency means a borrower's loan balance on which payments of principal or interest are delinquent ninety days or more, whether in default or not.~~

~~002.11 Net assets mean the excess or deficiency of assets over liabilities, classified according to the existence or absence of donor-imposed restrictions.~~

~~002.12 Notes mean notes, certificates, similar debt instruments or other evidences of indebtedness which may be certificated or issued in book entry form by a CEF and represent a general unsecured obligation to repay a specific principal amount at a stated or variable rate of interest, when due. Notes shall not include denominational accounts.~~

~~002.13 Not-for-profit organization means an entity as described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, that is accounted for as a not-for-profit organization under GAAP. A not-for-profit organization generally possesses the following characteristics, in varying degrees, that distinguish it from a business enterprise: (a) contributions of significant amounts of resources from resource providers who do not expect commensurate or proportionate pecuniary return, (b) operating purposes other than to provide goods or services at a profit, and (c) absence of ownership interests like those of business enterprises.~~

002.14 Offering circular means the disclosure document or prospectus that provides material information about the issuer and the offering of notes.

002.15 Seasoned issuer means a CEF that, alone or through a predecessor organization, has been in continuous existence for more than ten years, has offered notes for more than ten years, and has paid or otherwise satisfied all obligations to pay principal and interest on its notes in a timely manner.

002.16 Senior secured indebtedness means any debt or debt securities incurred or issued by a CEF and secured by assets of the CEF in such a manner as to have a priority claim against any of the assets of the CEF over and above the notes. Such debt may include, but is not limited to, a mortgage loan incurred for the purchase of an advance church site or CEF headquarters building, and a secured operating line of credit.

003 REQUIREMENTS.

003.01 Any CEF intending to offer and sell notes to Nebraska residents shall comply with the disclosure provisions of the Act.

003.02 The notes shall be offered and sold without the payment of any direct or indirect underwriting, sales or similar fees, or commissions.

003.03 A CEF shall comply with the applicable broker-dealer, issuer-dealer, and agent licensing requirements.

004 LIMITED CLASS OF INVESTORS. The notes shall be sold to a limited class of investors. The issuer shall specify a limited class of investors that is consistent with its operations and compatible with the mission, structure, organization and theology of its denomination.

004.01 A suggested form of limited class of investors is persons who are, prior to the receipt of the offering circular, members of, contributors to, including previous investors, or participants in the denomination, the CEF or in any program, activity or organization which constitutes a part of the denomination or the CEF, or in other religious organizations that have a programmatic relationship with the denomination or the CEF.

005 ADVERTISING. Any advertising used by the issuer must comply with the following standards:

005.01 Advertising shall set forth that:

005.01A The advertising does not constitute an offer to sell or the solicitation of an offer to buy;

005.01B The issuer will offer and sell the securities only in states where authorized; and

005.01C The offering is made solely by the offering circular.

005.02 Advertising shall not be directed to persons who are not, or potentially may not be, within the limited class of investors described in Section 004, above.

005.03 Advertising shall not set forth any statements, data or information that:

005.03A Is materially inconsistent with the statements, data or information set forth in the offering circular;

005.03B When read in connection with the offering circular, renders either the offering circular or advertising materially misleading; or

005.03C Emphasizes the religious aspect or any other aspect of the offering or issuer in a manner that is materially misleading.

006 OPERATIONAL AND STRUCTURAL STANDARDS. A CEF shall be a not-for-profit organization, validly organized under the laws of a state, that operates exclusively for religious, charitable or educational purposes and qualifies as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

006.01 The notes offered and sold by the CEF should be exempt from registration pursuant to the provisions of Section 3(a)(4) of the Securities Act of 1933, as amended.

006.02 The notes shall provide general obligation financing for the CEF and shall not be specifically secured by particular loans to specific borrowing entities.

006.02A The proceeds from the notes may be deposited to a general fund or unrestricted account from which the CEF will make or complete commitments for loans primarily to churches and religious organizations affiliated with the denomination.

006.02B If a material amount of assets, liabilities, revenues or expenses of the CEF are unrelated to CEF operations, appropriate disclosure shall be provided in the offering circular.

006.02C In all cases there shall be a separate accounting for the operations of the CEF.

006.03 The amount of any senior secured indebtedness to which the notes are or will be subordinated shall not exceed ten percent of the tangible assets, including total assets less intangible assets as defined by GAAP, of the CEF. To the extent that such subordination of the notes exists, appropriate disclosure shall be required.

006.04 Limit on Securitization of CEF Loan Portfolio. A CEF may ordinarily securitize up to ten percent of its loan portfolio, if all of the following are met:

006.04A The loans are securitized and sold on a non-recourse basis predominantly to entities not affiliated with the CEF;

006.04B The proceeds from the sale of the securitized loans will be used to make additional loans to churches and other entities within the denomination; and

006.04C The securitization will not hinder the ability of the CEF to repay the principal and interest on the notes when due.

006.05 Management of the CEF. One or more executive officers or other individuals engaged in the day to day management of the CEF shall have at least three years of relevant experience in lending and investment activities involving churches or similar organizations or otherwise must demonstrate sufficient knowledge and experience to manage loans, investments and operations of the CEF.

007 FINANCIAL STANDARDS. An issuer shall not offer and sell more notes than it can reasonably expect to repay, when due, in the ordinary course of its operations.

007.01 Audited financial statements of the issuer and/or the offering circular must disclose sufficient information to evaluate the extent of compliance with the standards in this Rule. To facilitate review by investors, the offering circular should provide the financial information required by this section in a tabular or graphic presentation.

007.02 At the end of its most recent fiscal year as reported on its audited financial statements, the issuer's net assets shall be positive and equal to five percent or more of its total assets.

007.03 At the end of its most recent fiscal year as reported in its audited financial statements, the issuer's cash, cash equivalents, readily marketable securities and available lines of credit shall have a value of at least eight percent of the principal balance of its total outstanding notes, except that the value of available lines of credit for meeting this standard shall not exceed two percent of the principal balance of its total outstanding notes.

007.03A Management of the CEF shall establish and administer investment policies that provide for reasonable and prudent diversification and preservation of its cash, cash equivalents and readily marketable securities for compliance with this section.

007.04 For each of the issuer's three most recent fiscal years and, as estimated, for each of the issuer's next two fiscal years, as reported in its audited financial statements, the coverage ratio of available cash as compared to cash redemptions, exclusive of denominational accounts, shall be at least one to one. In determining the issuer's available cash, the following may be considered:

007.04A Cash provided by its normal CEF operating activities as reported in its Statements of Cash Flows;

007.04B Liquid assets, including the total of cash, cash equivalents and readily marketable securities, at the beginning of its fiscal year;

~~007.04C Loan principal repayments, less loan disbursements;~~

~~007.04D Cash generated from the sale of notes, exclusive of denominational accounts, except to the extent that year-end redemptions exceed deposits to, or investments in, such denominational accounts during its fiscal year; and~~

~~007.04E Funds from other sources.~~

~~007.05 Loan delinquencies during the issuer's most recent fiscal year as reported in its audited financial statements and disclosed in the offering circular, shall not be excessive and shall be at such a level that the overall quality of its loan portfolio will allow the issuer:~~

~~007.05A To maintain sufficient capital adequacy in compliance with this Rule; and~~

~~007.05B Receive the timely repayments of sufficient loan principal necessary to meet the liquidity and cash flow requirements as set forth in this Rule.~~

~~007.06 When the loan delinquencies become material, the extent of the loan delinquencies and the quality of the issuer's loan portfolio should be disclosed as risk factors in the offering circular.~~

~~007.07 Management of the CEF shall establish and administer lending policies that provide reasonable assurance of sufficient loan quality to prevent excessive loan delinquencies that could result in loan losses by the CEF. The provisions of lending policies, such as, but not limited to, requirements for appraisals of properties to be financed, financial statements of borrowers, and limits or criteria for loan to value ratios, debt-service ratios and geographic concentration of loans shall be disclosed in the offering circular.~~

~~007.08 A CEF's loan program shall be primarily secured. Unless a lower percentage is justified by management of the issuer, at least ninety percent of the CEF's outstanding loans shall be secured by real or personal property or guaranteed by third parties.~~

~~007.09 The change in net assets of the issuer, less any non-recurring or extraordinary items, for three of its last five fiscal years as reported in the audited financial statements of the issuer shall be positive.~~

~~007.10 A seasoned issuer shall be deemed to comply with the above financial standards in any given fiscal year, if the issuer can show that:~~

~~007.10A It has fulfilled the requirements of the financial standards for at least three out of its five most recent fiscal years;~~

~~007.10B The average of the relevant financial information for its five most recent fiscal years reflects compliance with the financial standards; and~~

007.10C Management of the issuer has taken appropriate action to correct or mitigate the circumstances that caused noncompliance and can demonstrate satisfactory plans or ability to meet the financial standards and repay notes in future years.

008 ISSUANCE OF NOTES. An issuer that meets the standards of this Rule shall be entitled to offer and sell its notes under the following provisions:

008.01 Trust indentures or sinking funds shall not be required in connection with the notes.

008.02 Notes, upon maturity, may be extended or rolled over under the expressed terms and conditions stated in the offering circular, if:

008.02A Each investor is provided with written notification of the maturity and the proposed extension or rollover of the notes at least thirty days prior to the maturity dates of the notes; and

008.02B Each investor is or has been provided with the issuer's most current offering circular.

008.02C If the investor notifies the issuer in writing, on or prior to the maturity date, that the investor elects not to extend or roll-over the note, the issuer promptly shall repay the principal and interest accrued thereon.

008.03 Interest payable on notes may be compounded for payment at maturity of the notes if accrued interest is included with redemption amounts for determining compliance with Section 007.04, above.

009 DISCLOSURE. Investors shall receive adequate material information in order to make informed investment decisions, and the issuer must provide investors with a complete offering circular prior to their purchase of notes.

009.01 The offering circular must be written in clearly understandable language and disclose all relevant and material information that affects or would affect a prospective investor's decision to purchase the notes.

009.01A The information set forth in this Rule shall be included in the offering circular unless the issuer can demonstrate that a particular type of information is not applicable or material to an understanding of the issuer of the notes.

009.01B The information set forth in this Rule is not all-inclusive. The issuer must include all information, whether or not specifically listed, that would be important for an investor's understanding of the issuer and the notes.

009.02 Any material adverse changes in the financial condition of the issuer or material changes in other information in the offering circular during the offering period shall be promptly disclosed in an appropriate supplement, or an amendment to the offering circular.

009.03 The offering circular shall contain a cover page which includes:

009.03A The name of the issuer;

009.03B The principal business address and telephone number of the issuer;

009.03C A brief description of the notes offered, including interest rates and maturity terms available;

009.03D The total amount of the offering, the estimated offering expenses, and the net proceeds of the offering;

009.03E A statement that the offering is subject to certain risks and the page numbers in the offering circular where the risk factors are disclosed;

009.03F A description of the limited class of investors to whom the notes will be sold;

009.03G The date of the offering circular and the proposed offering period;

009.03H Any legends deemed to be appropriate by the Director;

009.03I Any other state-specific limitations or conditions on the sale of the notes to investors; and

009.03J An advisory disclosure for consideration by investors encouraging investors to consider the concept of investment diversification when determining the amount of notes that would be appropriate to purchase in relation to the investor's overall investment portfolio and personal financial needs.

009.04 A summary of narrative and financial information that highlights the key aspects and risks of the notes and the financial and operational characteristics of the issuer should be presented concisely in the offering circular following the cover page or risk factor section. The "Summary" Section should include the disclosure of the issuer's proposed use of proceeds and a summary in tabular form of the financial data, for the issuer's most recent fiscal year.

009.05 Risk Factors

009.05A Format and Use of Risk Factors.

009.05A1 Risk factors should immediately follow the "Cover" Section or the "Summary" Section. Consistent with investor protection, a comprehensive listing of the material risks to the potential investor in the offering should be located at the forefront of the offering circular. Potential investors often focus on the forepart of the document. When comparing potential

investment opportunities, consistency in format of complex disclosure documents further assists the investor.

009.05A2 The "Risk Factor" Section is a list identifying the material risks associated with the offering. The "Risk Factor" Section should not be a comprehensive discussion of the risks and counterbalancing considerations. Like the "Summary" Section, the "Risk Factor" Section is a summary of the material disclosures that are discussed and analyzed in more detail in the appropriate, related sections of the body of the offering circular. Consistent with this purpose, most risk factors will not be comprehensive discussions of the issues. The "Risk Factor" Section itself should be limited in length. In order to emphasize the nature of the disclosures as risks, no ameliorative statements should appear in the risk factors.

009.05A3 The risk factors that identify risks the potential investor is likely to find most significant should appear at or close to the beginning of the list.

009.05A4 A caption shall precede each risk factor and shall appear in off-set or emphasized type. As a listing of the material risks of the notes, captions should stand out to the eye of the reader. Italicized, bold-face, or underlined type assists the reader to quickly comprehend the scope and nature of the particular risk factors, and permits the reader to focus further on the risk factors of most interest to that reader. For the same reason, issuers should avoid lengthy captions.

009.05B Risk Factor Content.

009.05B1 Each caption should succinctly identify the risky element of the factor. The caption should avoid the use of general, boiler-plate language. As a topic sentence to the factor, the caption can further streamline and shorten the factor.

009.05B2 Specific cross-references point the reader to complete discussions of the issue. Risk factors should not merely repeat verbatim disclosure appearing elsewhere in the disclosure document. Where appropriate, the risk factor should be a two or three sentence summary with a cross reference to the discussion appearing elsewhere in the offering circular. In some cases, there may be no need to repeat the risk factor in the body of the offering circular. Potential investors often focus interest on disclosure that is of most interest to them, and cross-references assist the potential investor in locating this disclosure.

009.05B3 Eliminate general, boiler-plate risk factors that could apply to any type of securities offering. Include only risks

that are material to the particular offering, the particular issuer, or specific to notes.

009.05C Specific Risk Factors for CEF notes. The issuer must describe to the investors the risks of investing in the notes. Particular care must be taken with respect to risks associated with the financial condition of the issuer. Statements to the effect that little or no risk is involved in buying notes are prohibited, and such statements by most issuers will be regarded as material misrepresentations. It is important that the issuer concisely describe all of the relevant and material risks. These risks could include, but are not limited to, explanations of any of the following risks, if applicable to the particular offering. The captions of those risk factors may be, but are not required to be, similar to the following:

009.05C1 Notes are unsecured general obligations of the issuer, and investors will be dependent solely upon the financial condition and operations of the issuer for repayment of principal and interest.

009.05C2 No sinking fund or trust indenture has been or will be established to ensure or secure the repayment of notes.

009.05C3 The notes are subordinate in ranking and priority in relation to the issuer's existing and anticipated future senior secured indebtedness (See Section 006.03, above).

009.05C4 No public market exists for the notes and none will develop, and therefore, the transferability of the notes is limited and restricted.

009.05C5 The recent negative changes or trends in the financial condition of the issuer and its operations may adversely affect the issuer's ability to make payments of principal and interest on the notes when due.

009.05C6 The issuer's liquid assets invested in readily marketable securities are subject to various market risks which may result in losses if market values of investments decline.

009.05C7 There are no income tax benefits with respect to investment in the notes; and interest paid or payable on notes is taxed as ordinary income, regardless of whether interest is received by the investor or retained and compounded by the issuer.

009.05C8 The issuer's loans are made primarily to affiliated churches and related religious organizations, including local churches, whose ability to repay the loans depends primarily upon contributions that they receive from their members.

009.05C9 The loan policies of the issuer for loans to its affiliated churches and its related religious organizations are less stringent than loan policies of commercial lenders.

009.05C10 Future changes in federal or state laws may adversely affect the issuer's ability to continue to sell its notes.

009.05C11 The issuer is involved in activities other than its CEF operations.

009.05C12 There are risks involved in specific transactions or arrangements, such as loan securitizations, undertaken or entered into by the CEF.

009.05C13 There are risks related to geographic concentration of loans to affiliated churches or other related organizations within a limited region, such that changes in economic conditions of that region could affect the ability of the churches or organizations, as a group, to repay the loans.

009.05C14 Risks of investment in the notes may be greater than implied by relatively low interest rates on the notes.

009.05C15 The notes are not insured by any governmental agency or private insurance company.

009.06 The offering circular shall contain all material information on the issuer's history and operations, including:

009.06A A description of the issuer, including the name, address of principal business office, place and date of incorporation, type and nature of the corporation, such as not-for-profit;

009.06B A description of the history of the issuer and its denominational affiliation or association;

009.06C A description of the religious purposes of the issuer and the general nature and purposes of its operations;

009.06D A description of the nature and extent of the offering of the notes and the extent of the issuer's offerings on a nationwide basis; and

009.06E A description of the current operations and principal business activities of the issuer.

009.07 The offering circular shall describe the use of the proceeds and other material information related thereto.

009.07A If a material amount of proceeds are to be used for purposes other than operating a CEF program, the offering circular shall explain the uses and the need to use the funds for such purposes.

009.08 The offering circular shall describe the financing operations and activities of the issuer, including:

009.08A A description and summary, in tabular form, of the issuer's outstanding notes and debt obligations, categorized to the extent necessary to inform an investor of the nature and type of notes and debt obligations that it has sold and incurred, including the principal amounts due at maturity, if the information is not disclosed in the audited financial statements of the issuer or the footnotes attached thereto;

009.08B A description of the receipts that the issuer received from the sale of its notes and the amount of any redemptions that it made on its notes in its prior fiscal year;

009.08C A description and summary, in tabular form, of the amount and nature of the issuer's outstanding loans receivable at the end of its last fiscal year and a summary of maturities of the various outstanding loans receivable of the issuer, if the information is not disclosed in the audited financial statements of the issuer or the footnotes attached thereto;

009.08C1 The disclosure of loans receivable shall also demonstrate that loans are primarily secured as required under Section 007.05D, above.

009.08C2 Information concerning loans guaranteed by third parties, including a summary of the financial condition of guarantors, shall be disclosed, if material

009.08D A description of the issuer's direct and indirect revenues and expenses that are unrelated to its CEF operations, if material; and

009.08E A description of any other related material financial information of the issuer's financial activities and operations that relate to its ability to repay the principal and interest on its outstanding notes and other debt securities when due.

009.09 The offering circular shall describe the lending activities of the issuer, including, if applicable:

009.09A The nature and types of its loans receivable;

009.09B The issuer's loan policies;

009.09C Material loans made to a single borrower;

009.09D The nature and extent of any material loan delinquencies for the last three fiscal years; and

009.09E The nature and extent of any material loan losses that the issuer has incurred within its last three fiscal years.

009.10 The offering circular shall describe the investing activities of the issuer, including:

009.10A A description and summary of the nature and amount of any invested funds which the issuer maintains pending utilization for its loan activities or for purposes of maintaining a reasonable liquidity as required by Section 007.03, above.

009.10B A description of the policies of the issuer as required by Section 007.03A, above, with respect to making and maintaining such investments, including the types of investments the issuer is permitted to make under its investment policy and any limitations on such investments. Any investment(s) currently held by the issuer that does not comport with this policy must be disclosed and a reason provided as to why the issuer holds that investment(s).

009.10C The name(s) of the person(s) responsible for setting or altering the issuer's investment policy and the person(s) responsible for making and maintaining the issuer's investments. If the issuer has engaged a third party to make or maintain its investments, the identity of that third party must be disclosed.

009.10D A description in tabular form of the issuer's outstanding investments categorized according to the types of investments held, such as equity securities, government securities or corporate bonds, which discloses the amount invested in each category, both in monetary terms and as a percentage of the issuer's total investments. The monetary value of investments disclosed in the table should be presented in conformity with GAAP for not-for-profit organizations.

009.10E The issuer's aggregate realized and unrealized gains and losses from investments for each of its last three fiscal years.

009.10F Any other material information regarding the issuer's investments.

009.11 Selected Financial Data. The offering circular shall:

009.11A Disclose the following selected financial data in tabular form for each of the issuer's last five fiscal years as reported in or derived from its audited financial statements:

009.11A1 Cash, cash equivalents and readily marketable securities, combined;

009.11A2 Total loans receivable;

009.11A3 Amount and percent of unsecured loans receivable;

009.11A4 Loan delinquencies as a percent of loans receivable;

009.11A5 Total assets;

009.11A6 Total notes payable;

009.11A7 Amount of notes redeemed during the fiscal year;

009.11A8 Other long-term debt;

009.11A9 Net assets; and

009.11A10 Change in net assets.

009.11B Include, to the extent relevant and material, any discussion and analysis by management of the issuer that will assist investors in understanding the nature of the operations of the issuer and the selected financial data.

009.12 The offering circular shall contain all material information on the notes, including:

009.12A A description of the type and nature of the notes and the manner in which the interest thereon will be computed and/or accrued;

009.12B A description of the terms of the notes, including any right to early redemption and any penalties that will be applied thereto;

009.12C A description of the nature of cash or cash equivalent that will be acceptable for purchase of the notes;

009.12D A description of the restrictions and limitations on transferability of the notes; and

009.12E A description of the ranking and priority of the notes in relation to other indebtedness of the issuer.

009.13 The offering circular shall contain all material information regarding the distribution of the securities, including:

009.13A A description of the method and manner in which the notes will be offered and sold to investors, including the methods of solicitation and subscription; and

009.13B A statement that no underwriting or selling agreements exist and that no direct or indirect commissions or other remuneration will be paid to any individuals or organizations in connection with the offer and sale of the notes.

009.14 The offering circular shall contain a description of the federal tax aspects of ownership of the notes and a description of the taxability of the interest paid or accrued on the notes under current federal tax law.

009.15 The offering circular shall contain all material information on litigation and other material transactions to which the issuer is a party, including:

009.15A A description of all present, pending or threatened material legal proceedings, including those that are known to be contemplated by governmental authorities, administrative bodies, or other administrative persons to which the issuer or its property is or may become a party;

009.15B The name of the court or agency in which the proceedings are pending, the date that the proceedings were instituted, the principal parties involved, and a description of the factual basis underlying the proceedings and the relief sought; and

009.15C A description of any transactions that may materially affect the offering or an investor's investment decision and which are not otherwise mentioned in the offering circular.

009.16 Management. The offering circular shall contain all material information concerning the issuer's management, including:

009.16A A description of the organizational structure of the issuer, including the method of choosing or replacing the members of its Board of Directors or other legal governing body;

009.16B A statement identifying all directors and executive officers, or persons having similar authority, of the issuer, and describing their experience and credentials, the functions they perform for the issuer and the dates that their terms of office expire;

009.16C A statement disclosing if any director or officer of the issuer has, during the past ten years, been convicted in any criminal proceeding, other than for traffic violations or other minor misdemeanors, is the subject of any pending criminal proceedings, or was the subject of any order, judgment or decree of any court enjoining such person from any activities associated with the offer or sale of securities;

009.16D A table disclosing all direct and indirect remuneration, which includes, but is not limited to, salaries, health and other insurance, pensions or retirement plans and the use of the issuer's assets for personal purposes, that are paid by the issuer to the following:

009.16D1 Its executive officers, directors or persons having similar authority for the issuer's last fiscal year in the aggregate, and

009.16D2 Its executive officers, directors or persons having similar authority, individually, if the remuneration equals or

exceeds one hundred fifty thousand dollars ($150,000.00) during the issuer's last fiscal year; and

009.16E A description of all material employment contracts, perquisites of employment and conflicts of interests of the issuer's officers, directors, or persons having similar authority.

009.17 Financial Statements. The offering circular shall contain the audited financial statements, of the issuer, which shall include all financial statements and notes required by GAAP as follows:

009.17A Balance sheets for the issuer's two most recent fiscal years;

009.17B Statements of activities, including revenues, expenses and the change in net assets, for the issuer's three most recent fiscal years;

009.17C Statements of cash flows for the issuer's three most recent fiscal years with gross rather than net reporting of financing and investing activities;

009.17D Notes to the financial statements to explain accounting policies and provide other disclosures required by GAAP for not-for-profit organizations or as required by this Section.

009.18 The offering circular shall state that the issuer's current audited financial statements will be made available to investors upon written request, and will be mailed to investors within one hundred twenty days of its last fiscal year end.

010 WAIVER OF RULE. While disclosures not conforming to the provisions of this Rule shall be looked upon with disfavor, where good cause is shown, certain provisions of the Rule may be waived by the Director.