

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 November 10, 2021 commencing at 10 a.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 1, 3, 4, 9, 10, 12, 18, 19, 20, 38, & 39.

48 NAC 2—General Provisions. The purpose of the proposed amendments is to delete unnecessary rules pertaining to fee schedules and forms, to clarify when a document filed electronically is received by the Department, and to clarify that the Department will not accept checks drawn on non-United States banks for payment of filing fees.

48 NAC 3—Definition of an Offer. The purpose of the proposed amendment is to update the reference to the Department's website.

48 NAC 4—Broker-Dealers. The purpose of the proposed amendment is to update requirements related to audited financial statements for newly formed broker-dealers, and to clarify requirements related to the broker-dealer's designated principal.

48 NAC 9 Investment Adviser Representatives. The purpose of the proposed amendment is to allow dual registration for investment adviser representatives during the time in which an investment adviser representative is transferring firms.

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

48 NAC 12—Fraudulent, Dishonest and Unethical Business Practices. The purpose of the proposed amendments is to repeal the existing rules related to marketing and to incorporate by reference the United States Securities & Exchange Commission's recently amended marketing rule.

48 NAC 18—Information Requirements for the Section 8-1111(20) Nebraska Intrastate Issuer Exemption. The purpose of the proposed amendments is to increase the amount that can be offered from \$1 million to \$1.25 million.

48 NAC 19—Orders Curing Late Notice. The purpose of the proposed amendments is to adopt a procedure for curing late notices of Regulation D, Rule 506 filings.

48 NAC 20—Federal Covered Securities. The purpose of the proposed amendments is to provide a cross-reference to the procedure to cure late notices of Regulation D, Rule 506 filings.

48 NAC 38—Information Requirements for the Section 8-1111(23) Notice. The purpose of the proposed amendments is to increase the amount that can be raised pursuant to this exemption from \$750,000.00 to \$811,500.00 as a result of changes in the Consumer Price Index for All Urban Consumers as prepared by the United States Department of Labor, Bureau of Labor Statistics.

48 NAC 39—Conditions and Information Requirement for the Section 8-1111(24) Crowdfunding Exemption. The purpose of this amendment is to eliminate a requirement related to the payment of filing fees by physical check.

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, including accommodations related to COVID-19, 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 27th day of September, 2021.

Kelly Lammers, Director
Nebraska Department of Banking and Finance

FISCAL IMPACT STATEMENT

Agency: Banking and Finance
Title: 48
Chapters: 1, 3, 4, 9, 10, 12, 18, 19, 20, 38, and 39

Prepared by: Michael Cameron, Legal Counsel
Date prepared: August 30, 2021
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 1 - GENERAL PROVISIONS

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 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 ADMINISTRATION.

~~002.01~~ The Securities Act of Nebraska is administered by the Director of Banking and Finance, Department of Banking and Finance, pursuant to Sections 8-1101 through 8-1123, R.R.S. 1943. The offices of the Department are open from the hours of 8 a.m. to 5 p.m., Monday through Friday, legal holidays excepted. The mailing address of the agency is Department of Banking and Finance, P.O. Box 95006, Lincoln, Nebraska 68509-5006.

~~002.02~~ References in Chapters 1 through 42 of Title 48 of the Nebraska Administrative Code to the Securities Act of 1933; the Securities Exchange Act of 1934; the Investment Company Act of 1940; the Investment Advisers Act of 1940; Securities and Exchange Commission ("SEC") rules, regulations, forms and ethical standards; and Financial Industry Regulatory Authority ("FINRA") rules and ethical standards are to such statutes, rules, regulations, forms and ethical standards as adopted on the effective date of these rules. Copies of any statute, rule, regulation, standard, form or other material referenced in Chapters 1 through 42 are attached to the applicable Chapter or may be obtained through the Department.

003 PAYMENT OF FEES SCHEDULE. The following fee schedule has been set according to the provisions of the Act:

<u>003.01</u> Broker-Dealer (initial and renewal)	\$250.00
Agent of Broker-Dealers and	
Issuer-Dealers (initial and renewal)	\$ 40.00
Investment Advisor (initial and renewal)	\$200.00
Issuer-Dealer (initial and renewal)	\$100.00
Nebraska Securities Law Examination	\$ 5.00
Exemption Filings pursuant to 8-1111(16),	
8-1110(5), 8-1111(20), and 8-1111(24)	\$200.00

Investment Adviser Representative (initial and renewal)	\$ 40.00
Notice Filings by Federal Covered Adviser (initial and renewal)	\$200.00
Notice Filing for Federal Covered Securities, Except Securities Issued By an Investment Company	\$200.00
Portal Operator Registration	\$200.00s

~~003.02 With regard to fees for registration of securities, refer to Section 8-1108 of the Act as fees may vary depending upon the type of registration being sought.~~

~~003.03 With regard to fees for notice filings by investment companies, refer to Section 8-1108.03 of the Act, as fees are based on the amount of securities intended to be sold in Nebraska.~~

~~003.04 All filing Fees are payable by corporate check, or money order, or ACH to the Nebraska Department of Banking and Finance or through a registration depository or electronic filing system recognized by the Director. Neither eCash, nor personal checks, and checks drawn on non-United States banks will not be accepted.~~

004 RETENTION OF FEES UPON WITHDRAWAL OR DENIAL.

004.01 Upon withdrawal or denial of an application for registration as a broker-dealer, agent, investment adviser, investment adviser representative, or issuer-dealer, the entire fee shall be retained by the Department.

004.02 Upon withdrawal of a notice filing by a federal covered adviser, the entire fee shall be retained by the Department.

004.03 Upon withdrawal or denial of an application for registration of securities, one hundred dollars (\$100.00) shall be retained by the Department.

004.04 Upon the withdrawal of a notice filing for federal covered securities, except securities issued by an investment company, the entire fee shall be retained by the Department.

004.05 Upon withdrawal of a notice filing by an investment company subject to the Investment Company Act of 1940, a fee of one hundred dollars (\$100.00) shall be retained by the Department.

004.06 Upon the withdrawal or denial of an exemption notice, the entire fee shall be retained by the Department.

005 EFFECTIVE DATE OF FILING. A document is filed when it is received in the office of the Department with the appropriate fee, or when the filer makes a filing and pays the fees to an electronic system recognized by the Director. A document so filed cannot be returned.

006 FORMS.

006.01 The following forms for the registration of securities, for the claim of exemption from registration, or for a notice filing of federal covered securities, shall be used in Nebraska:

- ~~**Form U-1 Uniform Application for Registration of Securities~~
- ~~Application for Registration of Securities by Qualification~~
- ~~**Form D Notice of Sale of Securities Pursuant to Regulation D,~~
- ~~Section 4(6), and/or Uniform Limited Offering Exemption~~
- ~~**Form NF Uniform Investment Company Notice Filing Form~~
- ~~**Form U-2 Uniform Consent to Service of Process~~
- ~~Indefinite Mutual Fund Sales Report for Nebraska~~
- ~~Indefinite Unit Investment Trust Sales Report for Nebraska~~
- ~~Form SODD Securities Offering Disclosure Document~~
- ~~Form NCF Nebraska Intrastate Crowd Funding Exemption Filing Form~~

006.02 The following forms for the registration of broker-dealers and agents and for registering as a portal operator shall be used in Nebraska:

- ~~**Form BD Uniform Application for Broker-Dealer Registration~~
- ~~**Form BDW Notice of Withdrawal from Registration as Broker-Dealer~~
- ~~**Form U-2A Corporate Resolution~~
- ~~**Form U-2 Uniform Consent to Service of Process~~
- ~~**Form U-4 Uniform Application for Securities Industry Registration~~
- ~~or Transfer~~
- ~~**Form U-5 Uniform Termination Notice for Securities Industry~~
- ~~Registration~~
- ~~**Form U-10 Uniform Examination Request for Non-FINRA Candidates~~
- ~~Affidavit of Broker-Dealer Activity in Nebraska~~
- ~~Form NPO Nebraska Portal Operator Registration Form~~

006.03 The following forms for the registration of investment advisers and investment adviser representatives or for a notice filing by a federal covered adviser shall be used in Nebraska:

- ~~**Form ADV Uniform Application for Investment Adviser Registration~~
- ~~**Form ADV-W Notice of Withdrawal from Registration as Investment~~
- ~~Adviser~~
- ~~Affidavit of Investment Adviser Activity in Nebraska~~
- ~~I-A Corporate Resolution~~
- ~~**Form U-2A Corporate Resolution~~
- ~~**Form U-2 Uniform Consent to Service of Process~~
- ~~**Form U-4 Uniform Application for Securities Industry Registration~~
- ~~or Transfer~~
- ~~**Form U-5 - Uniform Termination Notice for Securities Industry~~
- ~~Registration~~
- ~~**Form U-10 Uniform Examination Request for Non-FINRA Candidates~~

~~006.04~~ The following forms for the registration of issuer-dealers and agents shall be used in Nebraska:

~~Application for Registration as Issuer-Dealer~~

~~Application for Registration as Agent of Issuer-Dealer~~

~~** Uniform Form Accepted~~

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 3 - DEFINITION OF AN OFFER

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 definition of an offer 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 <https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations>~~http://www.ndbf.ne.gov/legal/title48.shtml~~.

002 OFFERINGS REGISTERED IN NEBRASKA. For the purposes of Section 8-1101(13) of the Act, the term "offer" ~~shall~~ does not include the circulation of a preliminary offering document provided.

002.01 The document is circulated by a broker-dealer registered in Nebraska;

002.02 The document is filed with the Director as part of an application to register the securities by qualification prior to its circulation.

002.03 The preliminary offering document is in the form of a prospectus which contains substantially the information required to be included in a prospectus meeting the requirements of Section 8-1107 of the Act for the securities being registered by qualification; and

002.04 The outside front page of the document bears in red ink, the caption "Preliminary Offering Document," the date of its issuance, and the following statement printed in bold type:

"A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE DIRECTOR OF THE DEPARTMENT OF BANKING AND FINANCE OF THE STATE OF NEBRASKA, BUT HAS NOT YET BECOME EFFECTIVE. INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. THESE SECURITIES MAY NOT BE SOLD

NOR MAY OFFERS TO BUY BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION STATEMENT BECOMES EFFECTIVE. THIS PRELIMINARY DOCUMENT SHALL NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY; NOR SHALL THERE BE ANY SALE OF THESE SECURITIES IN NEBRASKA SINCE SUCH OFFER, SOLICITATION, OR SALE WOULD BE UNLAWFUL PRIOR TO QUALIFICATION UNDER SECTION 8-1107 OF THE SECURITIES ACT OF NEBRASKA.”

003 OFFERINGS OF FEDERAL COVERED SECURITIES. For purposes of Section 8-1101(13) of the Act, the term “offer” ~~shall~~**does** not include the circulation of a preliminary offering document for a federal covered security provided:

003.01 The document complies with the provisions of Regulation S-K, 17 CFR Part 229; and

003.02 The document is circulated by a broker-dealer registered in Nebraska or by an issuer exempt from such registration pursuant to Section 8-1101(2)(b).

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 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 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 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 <https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations>

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 ~~006007~~, below, and 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). The financial statements prepared in accordance with Section 003, below;~~

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 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 FINANCIAL STATEMENTS. The financial statements shall be:

003.01 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), if such report has been filed with FINRA; or

003.02 In the event that the firm does not have audited financial statements, the Director may accept unaudited financial statements that are accompanied by an affirmative representation by the firm, 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 firm and are true and accurate to the best of the signer's knowledge and belief.

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

0054 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.

0065 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.

0076 FORMS SUBMISSIONS.

0076.01 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 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 is deemed filed with the Department when the record is transmitted to the Department for review.

~~0076.02~~ 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.

~~0076.03~~ 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 constitutes irrefutable evidence of legal signature by any individual whose name is typed on the filing.

~~0087~~ SUPERVISORS AND COMPLIANCE PRINCIPALS.

~~0087.01~~ A broker-dealer, which is not a member of FINRA, shall designate in writing a compliance principal and conform with this section during all registration periods.

~~0078.01A~~ 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.

~~0078.01B~~ 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.

~~0087.01C~~ Failure to designate a compliance principal constitutes grounds for denial or suspension of a broker-dealer registration.

~~0087.01D~~ The designated compliance principal for Nebraska shall be registered as an agent of the broker-dealer in Nebraska and have taken and passed a qualifying examination, as set forth below:

~~0078.01D1~~ The examinations required by FINRA pursuant to FINRA Rule 1220;

~~008.01D2~~ The Uniform Securities Agent State Law Examination (Series 63) or the Uniform Combined State Law Examination (Series 66); and

~~0087.01D32~~ One of the following examinations:

~~0078.01D32a~~ The General Securities Principal Examination (Series 24 examination);

~~0087.01D32b~~ The Investment Company Products Principal Examination (Series 26 examination), if

the broker-dealer's registration is or will be limited to investment company products;

0087.01D32c 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

0087.01D32d The General Securities Representative Examination (Series 7 examination), if the broker-dealer's registration is or will be limited to:

0087.01D32d(i) Securities of one issuer or associated issuers (other than mutual funds),

0087.01D32d(ii) Interests in mortgages or other receivables, or

0087.01D32d(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.

0087.02 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.

0087.02A Such supervisor shall have taken and passed the appropriate supervisory examination administered by FINRA.

0087.02B 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 have taken and passed the appropriate supervisory examination administered by FINRA.

0087.02C For purposes of this subsection "office of supervisory jurisdiction" means any office of a broker-dealer at which any one or more of the following functions take place:

0087.02C1 Order execution or market making;

0087.02C2 Structuring of public offerings or private placements;

0087.02C3 Maintaining custody of customers' funds or securities;

0078.02C4 Final acceptance (approval) of new accounts on behalf of the member;

0087.02C5 Review and endorsement of customer orders;

0087.02C6 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

0087.02C7 Responsibility for supervising the activities of persons associated with the broker-dealer located at one or more other offices of the broker-dealer.

0098 **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.

01009 **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.

0110 **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).

0124 **MINIMUM FINANCIAL REQUIREMENTS AND FINANCIAL REPORTING REQUIREMENTS.**

0124.01 Each broker-dealer which is a member of FINRA registered or required to be registered under the Act shall:

0124.01A 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

0124.01B Comply with the financial reporting requirements established in SEC Rule 17a-11 (17 C.F.R. 240.17a-11) and provide copies of notices and reports required by such SEC Rules to the Director upon request.

0124.02 Each broker-dealer which is not a member of FINRA registered or required to be registered under the Act shall:

0124.02A Maintain a net capital of not less than twenty-five thousand dollars (\$25,000.00).

0124.02A1 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.

0124.02A2 Net capital means total assets minus total liabilities.

0124.02B 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:

0124.02B1 Examined in accordance with generally accepted auditing standards and prepared in conformity with generally accepted accounting principles;

0124.02B2 Audited by an independent public accountant or an independent certified public accountant; and

0124.02B3 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.

0123 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.

0123.01 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.

0132.02 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 is deemed an application for registration filed by the predecessor and adopted by the successor.

0143 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.

0143.01 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.

0143.02 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.

0154 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:

0154.01 The Internet Communications contain a disclosure statement in which it is clearly stated that:

0154.01A The broker-dealer in question may only transact business in this state if first registered, excluded, or exempted from the broker-dealer registration requirements of the Act; and

0154.01B 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.

0154.02 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.

0154.02A Nothing in this paragraph shall be construed to relieve a broker-dealer from any applicable securities registration requirement in this state.

0154.03 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.

0165 DISHONEST AND UNETHICAL BUSINESS PRACTICES.

0165.01 The conduct set forth in 48 NAC 12.002 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.

| 0165.02 The conduct set forth in 48 NAC 12.003 and 48 NAC 12.004 constitutes a “dishonest or unethical business practice” by a broker-dealer for purposes of Section 8-1103(9)(a)(vii) of the Act.

| 0165.03 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 9 - INVESTMENT ADVISER REPRESENTATIVES

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 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 ~~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 the Rule is attached hereto.~~ 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 an investment adviser representative pursuant to Section 8-1103(3) of the Act shall be filed as directed in Section 008, below, and ~~shall~~ contain the following information:

002.01 Uniform Application for Securities Industry Registration or Transfer ("Form U4"), complete, accurate, and current;

002.02 Proof of passage of a qualifying examination set forth in Section 0034, below;

002.03 A copy of Form ADV Part 2B;

002.03A An investment adviser representative affiliated with a federal covered adviser is responsible for ensuring that Form ADV Part 2B is filed with the Director.

002.04 A fee in the amount of forty dollars (\$40.00); and

002.05 Any other information the Director may require.

~~003 RENEWAL.~~

~~003.01 All investment adviser representative registrations automatically expire annually on December 31. An investment adviser's registration must be renewed on or prior to that date.~~

~~003.02 The application for renewal of registration as an investment adviser representative pursuant to Section 8-1103(5) of the Act shall be filed as directed in Section 008 below, and shall contain the following information:~~

~~003.02A Amendments (if any) to the investment adviser representative's Form U4;~~

~~003.02B A copy of Form ADV Part 2B supplement for the investment adviser representative;~~

~~003.02B1 An investment adviser representative affiliated with a federal covered adviser is responsible for ensuring that the Form ADV Part 2B is filed with the Director.~~

~~003.02C A fee in the amount of forty dollars (\$40.00); and~~

~~003.02D Any other information the Director may require.~~

0034 EXAMINATION REQUIREMENTS.

0034.01 The investment adviser representative shall have taken and passed the following qualifying examinations administered by the Financial Industry Regulatory Authority:

0034.01A The Uniform Investment Adviser Licensing Examination (Series 65 examination) after January 1, 2000; or

0034.01B The Uniform Combined State Law Examination (Series 66 examination) after January 1, 2000 and the General Securities Representative Examination (Series 7).

0034.02 The examination requirement ~~shall~~does not apply to an individual who currently holds, and who maintains, one of the following professional designations:

0034.02A Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.;

0034.02B Chartered Financial Consultant (ChFC) awarded by The American College of Financial Services;

0034.02C Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;

0034.02D Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; or

0034.02E Chartered Investment Counselor (CIC) awarded by the Investment Adviser Association.

0034.03 Any individual who was registered as an investment adviser or investment adviser representative in any jurisdiction in the United States on January 1, 2000, and who has no subsequent gap in registration longer than two years, ~~shall not be~~ is not required to satisfy the examination requirements for continued registration.

0034.04 An individual who has a gap in registration of two years or less between the date of the termination of ~~his or her~~ the individual's most recent registration in Nebraska and the date of application for registration ~~shall not be~~ is not required to comply with the examination requirements of this Rule.

0034.05 The Director may require additional examinations for any individual found to have violated any state or federal securities, commodities, banking, insurance, or real estate laws.

0034.06 The Director may waive the requirements of this section if the Director finds the waiver is consistent with investor protection and is in the public interest.

004 RENEWAL.

004.01 All investment adviser representative registrations automatically expire annually on December 31. An investment adviser's registration must be renewed on or prior to that date.

004.02 The application for renewal of registration as an investment adviser representative pursuant to Section 8-1103(5) of the Act shall be filed as directed in Section 008 below, and contain the following information:

004.02A Amendments (if any) to the investment adviser representative's Form U4;

004.02B A copy of Form ADV Part 2B supplement for the investment adviser representative;

004.02B1 An investment adviser representative affiliated with a federal covered adviser is responsible for ensuring that the Form ADV Part 2B is filed with the Director.

004.02C A fee in the amount of forty dollars (\$40.00); and

004.02D Any other information the Director may require.

005 AMENDMENT OF DOCUMENTS.

005.01 If the information contained in any document filed with the Director is or becomes inaccurate or incomplete in any material respect, the investment adviser representative shall file a correcting amendment.

005.02 Any amendment required by this Section for an investment adviser representative shall be made on Form U4 in the manner prescribed by that form, or as otherwise designated by the Director.

005.03 All amendments shall be filed as directed in Section 008, below.

006 WITHDRAWAL. The application for withdrawal of registration as an investment adviser representative pursuant to Section 8-1103(9)(d) of the Act shall be filed upon Form U5, Uniform Notice of Withdrawal of Securities Industry Registration, as directed in Section 008, below.

007 DUAL REGISTRATION. Registration as an investment adviser representative with more than one investment adviser or federal covered adviser at the same time is prohibited unless except when the investment adviser representative is in the process of transferring his or her registration or when the investment advisers or federal covered advisers are affiliates.

007.01 Dual registration pending transfer is permitted only if the following conditions are satisfied:

007.01A The investment adviser representative's new investment adviser or federal covered adviser notifies the Director about the transfer within seven days after the investment adviser representative's termination with his or her former investment adviser or federal covered adviser.

007.01B The investment adviser representative's new investment adviser or federal covered adviser submits the agent's Form U4 to the Director within twenty-one days after the notice of termination has been submitted.

007.01C The investment adviser representative does not have a disciplinary history that must be disclosed on Form U4.

007.02 An investment adviser representative may be registered with more than one investment adviser or federal covered adviser if the investment advisers or federal covered advisers involved are affiliates.

007.02A Affiliate means a person who, directly or indirectly, controls, is controlled by, or is under common control with, another person.

007.02B For purposes of this section, control is defined as ownership, directly or beneficially, of eighty percent or more of the outstanding voting securities of another company.

008 FORMS SUBMISSION.

008.01 All investment adviser representative applications, amendments, related filings and fees required to be filed with the Director pursuant to the rules promulgated under this Act, shall be filed electronically with, and transmitted to, the

Central Registration Depository/Investment Advisers Registration Depository (“CRD/IARD”).

008.02 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, the applicant 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 constitute~~s irrefutable evidence of legal signature by any individuals whose names are typed on the filing.

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

009 REGISTRATION OF INVESTMENT ADVISER REPRESENTATIVES OF FEDERAL COVERED ADVISERS. An investment adviser representative of a federal covered adviser is required to register pursuant to Neb. Rev. Stat. § 8-1103(3) only if he or she satisfies the following conditions:

009.01 The investment adviser representative has an office in Nebraska at which the investment adviser representative regularly provides, or has a location in Nebraska which the investment adviser holds out to the general public as a location at which the investment adviser representative provides, investment advisory services, solicits, meets with, or otherwise communicates with clients.

009.02 The investment adviser representative is a partner, officer, director, or other person occupying a similar status or performing similar functions, or employee of a federal covered adviser, or other person who provides investment advice on behalf of the federal covered adviser and is subject to the supervision and control of the federal covered adviser (“supervised person”) who:

009.02A Has more than five clients who are natural persons and more than ten percent of whose clients are natural persons (other than excepted persons as defined in Section 009.02C1, below); and

009.02B On a regular basis solicits, meets with, or otherwise communicates with clients of a federal covered adviser, or does not provide only “impersonal investment advice,” as defined in Section 010.02C3, below.

009.02C For purposes of this Section:

009.02C1 “Excepted person” means a natural person who immediately after entering into the investment advisory contract with the investment adviser has at least seven hundred fifty thousand dollars (\$750,000.00) under management with the investment adviser, or who the investment adviser reasonably believes, immediately prior to entering into the advisory contract, has a net worth, together with assets held jointly with a spouse, at the time the contract is entered into of more than one million five hundred thousand dollars (\$1,500,000.00).

009.02C2 The supervised person may rely on the definition of client in 17 C.F.R. 275.202(a)(30)-1 to identify clients for purposes of this Section, except that a supervised person need not count clients who are not residents of the United States.

009.02C3 Impersonal investment advice means investment advisory services provided by means of written material or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts.

009.03 Notwithstanding Section 009.02, above, a person who solicits, offers or negotiates for the sale of, or sells, investment advisory services on behalf of a federal covered adviser shall register as an investment adviser representative even if he or she is not a supervised person.

010 BROCHURE SUPPLEMENT DELIVERY.

010.01 An investment adviser shall disclose, on the Form ADV Part 2B supplement, any alternate name under which the investment adviser representative conducts business.

010.02 An investment adviser representative of a federal covered adviser shall provide a copy of the investment adviser representative's Form ADV Part 2B supplement in accordance with 48 NAC 7.010.

011 USING THE INTERNET FOR GENERAL DISSEMINATION OF INFORMATION ON PRODUCTS AND SERVICES. Investment adviser representatives ~~shall not be~~ not 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, the world wide web, and similar proprietary or common carrier electronic systems (hereinafter the "Internet") to distribute information on available 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:

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

011.01A The investment adviser representative in question may only transact business in this state if first registered or excluded or exempted from the investment adviser representative registration requirements of the Act; and

011.01B The investment adviser representative 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 representative has complied with, or has qualified for an applicable exemption or exclusion from, the investment adviser representative registration requirements of the Act.

011.02 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 investment adviser representative is first registered in this state or qualifies for an exemption or exclusion from such requirement.

011.02A Nothing in this subsection shall be construed to relieve an investment adviser representative from any applicable securities registration requirement in this state;

011.03 The Internet Communications do 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.

011.04 The Internet Communications meet the following requirements:

011.04A The affiliation with the investment adviser or federal covered adviser of the investment adviser representative is disclosed, in a non-italicized font of at least ten points, within the Internet Communications;

011.04B The investment adviser or federal covered adviser with whom the investment adviser representative is associated retains responsibility for reviewing and approving the content of any Internet Communications by the investment adviser representative;

011.04C The investment adviser or federal covered adviser with whom the investment adviser representative is associated first authorizes the distribution of information on the particular products through the Internet Communications; and

011.04D In disseminating information through the Internet Communications, the investment adviser representative acts within the scope of the authority granted by the investment adviser or federal covered adviser.

012 DISHONEST OR UNETHICAL BUSINESS PRACTICES.

012.01 The conduct set forth in 48 NAC 12.005 ~~shall~~ constitutes “an act, practice or course of business which operates, or would operate, as a fraud or deceit upon another person,” for purposes of Section 8-1102(2)(b) of the Act and “dishonest or unethical business practices” for purposes of Section 8-1102(2)(d) and Section 8-1103(9)(a)(vii) of the Act by an investment adviser representative.

012.02 The delineation of certain acts and practices is not intended to be all inclusive. Acts or practices not enumerated therein 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 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 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 <https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations>.

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 A 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. A file containing all the information required to be retained pursuant to 275 CFR 204-2(a)(11) related to advertisements.~~

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;

002.12E2 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.~~

002.15DE 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 07.18. In addition to the investment adviser's recordkeeping requirements pursuant to ~~sSections (e) and (g) 003.06 and 003.07, below, 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 07.18 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 07.18, 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-Subsections~~ 002.03, 002.07 through 002.10, 002.14, 002.15, and 002.17 through 002.19. and ~~Sections-Subsections~~ 003 and 004 ~~inclusive, above, and (B) the records or copies required under the provision of SectionsSubsections~~ 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 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 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 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 <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~~ 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 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 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 of 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 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 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 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” 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 Lending money to a client unless the adviser is a financial institution engaged in the business of lending funds, the client is an affiliate of the adviser, or the client is a member of the investment adviser representative’s immediate family, as defined in subsection 006.06A of this section.

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~~7.010.04A, 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 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 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.

006.22 Including 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.

006.24 Engaging 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 ~~006.26F1~~ were purchased.

~~006.26F3~~—The date or range of dates during which the securities listed in response to subsection ~~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.

006.26 Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940, 17 CFR § 275.206(4)-1.

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 investment adviser is affiliated.

006.27A For purposes of this subsection, “seminar” 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.

006.30 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 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 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 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 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 <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 two hundred fifty thousand dollars ~~(\$1,000,000.00)-(\$1,250,000.00).~~

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 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 1934, 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 filing fee of two hundred dollars (\$200.00).

003.02 Every notice and disclosure document filed with the Director shall be signed by a person duly authorized by the issuer.

003.03 The Director may require the filing of additional information if ~~he or she~~the Director 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~~may 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, an event occurs ~~which would~~that materially affects the issuer, its prospects or properties, or otherwise materially affects 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. The exemption provided by this Rule 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 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 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 19 - REQUESTS FOR ORDERS CURING LATE NOTICE FILINGS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to the 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 requests to cure late filings of an exemption notice pursuant to Sections ~~8-1110(5)~~, 8-1111(9), 8-1111(16), 8-1111(20), ~~8-1111(21)~~, ~~and~~ 8-1111(23), ~~and 8-1108.02(2)(b)~~ under the Act 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 this Rule, unless otherwise specified.

001.05 For purposes of this Rule, the term "seller" ~~shall~~ includes any issuer or other person on whose behalf a notice of exemption from registration under Sections ~~8-1110(5)~~, 8-1111(9), 8-1111(16), 8-1111(20), ~~8-1111(21)~~, ~~and~~ 8-1111(23), ~~and 8-1108.02(2)(b)~~ is filed with the Director.

002 FILING REQUIREMENT. A seller that does not file an exemption notice within the time period specified in the above applicable statutory provisions of the Act, or any Rule promulgated thereunder, shall file a written request with the Director for an Order curing the late filing of the exemption notice.

002.01 The request shall be signed and dated by an officer, director, general partner, managing member or legal counsel of the seller.

002.02 The request shall accompany the exemption notice.

003 CONTENTS OF REQUEST.

003.01 If the exemption notice is filed thirty days or less after the time period specified for the exemption claimed, the request shall include:

003.01A The date (day, month, year) of the first Nebraska sale in reliance on the applicable exemption, ~~and dates of any subsequent sales;~~

003.01B An explanation as to why the filing was late;

003.01C A representation that the conditions of the exemption have been met, except for the timely filing of the notice;

003.01D A representation that there have been no adverse material changes in the financial condition of the issuer since the original date of the offering or first sale;

003.01E A representation that there have been no civil suits or complaints filed by investors against the seller, or investor complaints since the date of the first Nebraska sale; and

003.01F A representation that no administrative actions or investigations have been initiated by any state or federal regulatory authority in connection with the offering or any other investment-related activity by the issuer. For purposes of this Rule, investment-related shall mean pertaining to securities, commodities, banking, insurance, or real estate, including, but not limited to, acting as, or being associated with, a broker-dealer, issuer, investment company, investment adviser, futures sponsor, or depository institution.

003.02 If the exemption notice is filed thirty-one to sixty days after the time period specified for the exemption claimed, the request shall include:

003.02A The information required by Section 003.01, above;

003.02B The names and addresses of all Nebraska investors as of the filing date;

003.02C The date of each Nebraska investor's investment; and

003.02D A statement by the seller(s), and its officers, managers and selling agents, in which they, in their individual and corporate capacity, discuss their prior securities offering experience, if any.

003.03 If the exemption notice is filed more than sixty days after the time period specified for the exemption claimed, the request shall include:

003.03A The information by Section 003.02, above; and

003.03B If represented by counsel, the date counsel was retained by the seller, and the date when discussions on the Nebraska offering began.

004 INVESTIGATIONS. If an exemption notice is filed more than ninety days after the time period specified for the exemption claimed, the Department may commence an independent investigation of the matter. The Department specifically reserves the right to assess the expense of its investigation to the seller pursuant to Section 8-1115(1) of the Act or to assess a fine pursuant to Section 8-1108.01(4) of the Act.

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 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 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 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 <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 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 is effective for a period of one year from the date the notice is received by the Director, unless the issuer 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 takes effect upon the expiration of the previous notice filing and 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) of the Securities Act of 1933, 15 U.S.C. §77r(b)(4)(F) 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.;

003.0~~2~~1B A consent to service of process; and

003.0~~3~~1C A filing fee of two hundred dollars (\$200.00).-

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 Form 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.

003.05 If the notice required pursuant to this section is not filed within fifteen days of the first sale made in reliance on this exemption, the issuer shall file the information required by 48 NAC 19 and pay an additional late filing fee of two hundred dollars (\$200.00).

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 filing fee of two hundred dollars (\$200.00).

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 filing fee of two hundred dollars (\$200.00).

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 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 38 - INFORMATION REQUIREMENTS FOR THE SECTION 8-1111(23)

~~NOTICE~~EXEMPTION

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120 and Section 8-1111(23) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule regarding securities 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 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 means 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 available as an appendix at www.ndbf.nebraska.gov.

002 ADJUSTMENT OF EXEMPTION AMOUNT. The exemption amount in Section 8-1111(23) of the Act is adjusted to \$811,500.00.

~~0023~~ CONDITIONS OF EXEMPTION. Transactions meeting the following conditions will be deemed exempt from the registration provisions of the Act:

~~0023.01~~ The proceeds from all sales of securities by the issuer in any two year period do not exceed ~~seven hundred fifty thousand dollars (\$750,000.00)~~ eight hundred eleven five hundred dollars (\$811,500.00) and at least eighty percent of the proceeds are used in Nebraska;

~~0032.02~~ No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer except to a registered agent of a registered broker-dealer;

~~0032.03~~ The issuer is not disqualified under Section ~~0076~~, below;

~~0032.04~~ The issuer shall file a notice, as specified in Section ~~0034~~, below, with the Department of Banking and Finance, P.O. Box 95006, Lincoln, Nebraska 68509-5006, no later than fifteen business days prior to any sales for which an exemption under this Rule is claimed; ~~and~~

00~~32~~.05 The issuer shall, within thirty days after the completion of the offering, file with the Director a statement setting forth the number of investors, the total dollar amount raised, and disclosure of the use of proceeds: ~~and~~

00~~32~~.06 The offering shall be conducted in compliance with the federal "Intrastate Offers and Sales" exemption, 17 CFR 230.147, or the federal "Intrastate Offering Exemption", 17 CFR 230.147A.

00~~34~~ CONTENTS OF NOTICE. The notice submitted prior to making any sales in reliance on this exemption shall include the following information:

00~~43~~.01 The name, address, telephone number, and email address of the issuer;

00~~43~~.02 The name and address of each person holding direct or indirect ownership or beneficial interest in the issuer;

00~~43~~.03 The dollar amount of the offering;

00~~43~~.04 The type of security being offered;

00~~43~~.05 The manner in which purchasers will be solicited; and

00~~43~~.06 A statement that the conditions of this exemption will be met, signed under oath or affirmation by an authorized representative of the issuer.

00~~43~~.07 Every notice and disclosure document filed with the Director shall be ~~manually~~ signed by a person duly authorized by the issuer.

00~~43~~.08 The Director may require the filing of additional information if ~~he or she~~ the Director deems it material to the offering.

00~~54~~ DELIVERY OF DISCLOSURE DOCUMENT. The issuer shall give each prospective investor a copy of the offering disclosure document at least twenty-four hours prior to the investor signing any agreement to purchase the securities or paying any consideration for the securities. The offering disclosure document shall include:

00~~45~~.01 A description of the proposed use of the proceeds of the offering;

00~~54~~.02 The name of each partner or limited liability company member of the issuer, officer, director, or person occupying a similar status of the issuer or performing similar functions for the issuer; and

00~~54~~.03 The financial condition of the issuer.

00~~65~~ LIMITATIONS ON AVAILABILITY. The exemption provided by this Rule is available only to an issuer of the securities. The exemption is not available for:

00~~65~~.01 Affiliates of the issuer or any other person for resale of the issuer's securities;

00~~65~~.02 Transactions by existing security holders of the issuer;

0065.03 Offerings, including “blind pool offerings”, for which the specific business to be engaged in, the specific property to be acquired, or the specific use of the offering proceeds by the issuer is not identified.

0076 DISQUALIFICATION FACTORS. This exemption is not ~~be~~ available for use by an issuer if the issuer, or any partner or limited liability company member of the issuer, any officer, director, or any person occupying a similar status of the issuer, any person performing similar functions for the issuer, or any person holding a direct or indirect ownership interest in the issuer or in any way a beneficial interest in such sale of securities of the issuer is subject to a disqualification factor enumerated in Section 8-1111(23)(c) of the Act.

0087 DISCLOSURE. Nothing in this Rule 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.

0098 AVAILABILITY OF EXEMPTION.

0098.01 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.

0098.02 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.

0109 EFFECTIVENESS. A notice of exemption filed pursuant to Section 8-1111(23) of the Act remains effective until the earliest of the following events:

0109.01 ~~Seven hundred fifty thousand dollars (\$750,000.00)~~ Eight hundred eleven thousand five hundred dollars (\$811,500.00) in proceeds is raised;

0109.02 Two years from the date of the first sale; or

0109.03 The issuer files the statement required by Section 002.05, above.

0101 BURDEN OF PROOF. In any proceeding involving this Rule, the burden of proving the exemption from registration is upon the person claiming the exemption.

0142 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 41 identifies the factors that will be considered in determining whether offers and sales should be integrated.

| 01~~32~~ CURE ORDER. An issuer which fails to file the notice at least fifteen business 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 39 - CONDITIONS AND INFORMATION REQUIREMENTS FOR THE SECTION 8-1111(24) CROWDFUNDING EXEMPTION

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120 and Section 8-1111(24) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule regarding securities 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 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 means 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~~ available as an appendix to this rule at www.ndbf.nebraska.gov <https://ndbf.nebraska.gov/about/legal/administrative-rules-and-regulations>.

002 DEFINITIONS. For purposes of this Rule:

002.01 Accredited investor means a bank, a savings institution, a trust company, an insurance company, an investment company as defined in the Investment Company Act of 1940, a pension or profit-sharing trust or other financial institution or institutional buyer, an individual accredited investor, or a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

002.02 Funding portal means an internet web site that is operated by a portal operator for the offer and sale of securities pursuant to this Rule;

002.03 Individual accredited investor means (A) any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer, (B) any manager of a limited liability company that is the issuer of the securities being offered or sold, (C) any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his or her purchase, exceeds one million dollars (\$1,000,000.00), excluding the value of the primary residence of such person, or (D) any natural person who had an individual income in excess of two hundred thousand dollars (\$200,000.00) in each of the two most recent years or joint income with that person's spouse in excess of three hundred thousand dollars (\$300,000.00) in each

of those years and has a reasonable expectation of reaching the same income level in the current year; and

002.04 Portal operator means an entity authorized to do business in this state which operates a funding portal and has registered with the Department.

003 ISSUER QUALIFICATION. An issuer offering securities pursuant to this exemption shall meet the following requirements:

003.01 The issuer shall be a business entity that is organized pursuant to the laws of the State of Nebraska and is properly registered with the Nebraska Secretary of State;

003.02 The issuer derived at least eighty percent of its gross revenue during its most recent fiscal year prior to the offering from the operation of a business in Nebraska;

003.03 The issuer had at least eighty percent of its assets located in Nebraska at the end of its most recent semiannual period prior to the offering;

003.04 The issuer will use at least eighty percent of the net proceeds of this offering in connection with the operation of its business or real property in Nebraska or the purchase of real property located in, or the rendering of services within Nebraska; and

003.05 The issuer's principal office is located in Nebraska.

004 LIMITATIONS ON AVAILABILITY. The exemption provided by this Rule is available only to an issuer of the securities. The exemption is not available for:

004.01 Affiliates of the issuer or any other person for resale of the issuer's securities;

004.02 Transactions by existing security holders of the issuer;

004.03 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);

004.04 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; and

004.05 Offerings in which the issuer plans to engage in a merger or acquisition with an unspecified business entity.

005 DISQUALIFICATION. The exemption in this Rule is not available for the securities of any issuer, if the issuer or any director, executive officer, general partner, managing

member, or other person with management authority over the issuer, has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933, 17 C.F.R. 230.506(d)(1), that would disqualify an issuer under Rule 506(d) adopted under the Securities Act of 1933, 17 C.F.R. 230.506(d), from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933, 17 C.F.R. 230.506(a) to 17 C.F.R. 230.506(c). However, this subdivision does not apply if both of the following are met:

005.01 On a showing of good cause and without prejudice to any other action by the Director, the Director determines that it is not necessary under the circumstances that an exemption is denied; and

005.02 The issuer establishes that it made a factual inquiry into whether any disqualification existed under this subdivision but did not know, and in the exercise of reasonable care, could not have known, that a disqualification existed under this subdivision. The nature and scope of the requisite inquiry will vary based on the circumstances of the issuer and the other offering participants.

006 AGGREGATE OFFERING AMOUNT. Except as provided in subsection 006.03 below, the sum of all cash and other consideration to be received for all sales of the security in reliance on the exemption under this subdivision, excluding sales to any accredited investor, does not exceed the following amount:

006.01 If the issuer has not undergone, and made available to each prospective investor and the Director the documentation resulting from, a financial audit of its most recently completed fiscal year that complies with generally accepted accounting principles, one million dollars (\$1,000,000.00), less the aggregate amount received for all sales of securities by the issuer within the twelve months before the first offer or sale made in reliance on the exemption under this subdivision; or

006.02 If the issuer has undergone, and made available to each prospective investor and the Director the documentation resulting from, a financial audit of its most recently completed fiscal year that complies with generally accepted accounting principles, two million dollars (\$2,000,000.00), less the aggregate amount received for all sales of securities by the issuer within the twelve months before the first offer or sale made in reliance on the exemption under this subsection.

006.03 An offer or a sale to an officer, director, partner, trustee or individual occupying similar status or performing similar functions with respect to the issuer, or to a person owning ten percent or more of the outstanding shares of any class or classes of securities of the issuer does not count towards the monetary limitations in subsections 006.01 and 006.02. above.

007 PURCHASER OFFERING LIMIT. The issuer shall not accept more than five thousand dollars (\$5,000.00) from any single purchaser, except that such limitation does not apply to sales to an accredited investor. There is no limitation on the amount that an accredited investor may invest in offerings conducted pursuant to this Rule.

008 NOTICE FILING.

008.01 The notice filed by an issuer pursuant to Section 8-1111(24) shall be signed by a person duly authorized by the issuer and shall include the following information:

008.01A A Form NCF containing such information as the Department requires;

008.01B The disclosure document to be provided to investors pursuant to Neb. Rev. Stat. § 8-1111(24)(a)(xi);

008.01C The financial statements prepared in accordance with Section ~~009~~, below;

008.01D The escrow agreement required by Section ~~010~~, below;

008.01E A copy of the issuer's articles of incorporation or other documents which indicate the form of organization, and a Certificate of Good Standing issued by the Nebraska Secretary of State within the preceding thirty days;

008.01F A representation stating that all of the conditions of Section 8-1111(24) have been or will be met by the issuer; and

008.01G A ~~check or money order in the amount of filing fee~~ of two hundred dollars (\$200.00) ~~payable to the "Nebraska Department of Banking and Finance."~~

008.02 The notice shall be filed at least ten days prior to the commencement of the offering, except that the Director may waive this requirement for good cause shown.

008.03 An issuer shall not commence offering or selling such security until it has received written or electronic confirmation from the Department that its notice filing has been accepted by the Department.

008.04 The Director may require the filing of corrected or additional information if ~~he or she~~ the Director deems it material to the offering.

008.05 If at any time while the offering is ongoing there is a material change that would affect the accuracy of the information contained in notice filing, the issuer shall file amended information within thirty days. All amendments must first be filed with the Department and be accepted by the Department prior to their use by the issuer.

009 FINANCIAL STATEMENTS. The issuer shall provide the following financial statements for itself and its consolidated subsidiaries, if applicable:

009.01 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

009.02 An income statement for the immediate past fiscal year or such shorter period as the issuer, including predecessors, has been in existence.

009.03 If the issuer has not conducted significant operations, a statement of receipts and disbursements shall be included in lieu of a statement of income.

009.04 The financial statements shall be:

009.04A Prepared in accordance with generally accepted accounting principles and audited by an independent accountant;

009.04B Reviewed by an independent accountant within one hundred twenty days before the first sale; or

009.04C In the event that the issuer does not have audited or reviewed financial statements, the financial statements shall 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.

009.05 The issuer shall provide the financial statement required by subsection 009.01, 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.

010 ESCROW AGREEMENT. All funds received from investors shall be deposited into a bank, regulated trust company, savings bank, savings and loan association or a credit union authorized to do business in Nebraska ("financial institution", collectively) in accordance with the terms of an escrow agreement.

010.01 The financial institution shall not be affiliated with the issuer, any portal operator assisting with the offering, or any officers, director, managing member, or affiliate of the issuer or any portal operator assisting with the offering.

010.02 The escrow agreement shall provide as follows:

010.02A The investor funds will be deposited into an escrow account with the financial institution acting as escrow agent;

010.02B For each investment, the issuer shall provide to the financial institution a copy of the subscription agreement with the names, addresses and respective amounts paid by each investor whose funds comprise each deposit;

010.02C The issuer must raise the minimum offering amount as stated in the disclosure document before the financial institution may release the offering proceeds to the issuer. Such proceeds shall be released to the issuer upon joint written notice from the issuer and the portal operator that the minimum offering amount has been met; and

010.02D If the issuer does not raise the minimum offering amount by the offering deadline, the financial institution shall return all subscription funds, plus any interest earned on the subscription funds, to the investors.

010.02E The escrow agent shall notify the Director in writing no later than five days after the release of proceeds to the issuer, or the return ~~of~~ of proceeds to the investors.

010.03 The financial institution may contract with the issuer to collect reasonable fees for its escrow services regardless of whether the minimum target offering amount is reached.

011 METHOD OF OFFERING. All offers and sales of securities pursuant to this Rule shall be made through one or more funding portals operated by a portal operator, subject to the following:

011.01 The portal operator shall, prior to offering securities on its funding portal, conduct a reasonable investigation of the background and regulatory history of each issuer whose securities are to be offered on the funding portal and of each of the issuer's directors, executive officers, general partners, managing members, or other persons with management authority over the issuer. The portal operator must deny an issuer access to its funding portal if the portal operator has a reasonable basis for believing that:

011.01A The issuer does not meet the requirements of Section 003, above, or the exemption is not available for the issuer pursuant to Section 004, above;

011.01B The issuer or any of its directors, executive officers, general partners, managing members, or other persons with management authority over the issuer, is subject to a disqualification under Section 005, above;

011.01C The issuer has engaged in, is engaging in, or the offering involves any act, practice, or course of business that will, directly or indirectly, operate as a fraud or deceit upon any person; or

011.01D It cannot adequately or effectively assess the risk of fraud by the issuer or its potential offering.

011.02 The portal operator shall establish and maintain, during the time that the offering appears on the funding portal, a secure method of communication through the funding portal itself that will permit potential and actual investors to communicate with one another and with representatives of the issuer about the offering. Further, the foregoing communications must be made visible and accessible, at all times during the time the offering appears on the qualified portal, to all those with access to the offering materials of issuer.

011.03 The portal operator shall obtain, either in writing or electronically, an affirmative declaration from a potential purchaser that the potential purchaser is a Nebraska resident before allowing such person any access to any information concerning an offering conducted pursuant to this subsection. In the event that

portal operator has knowledge or reason to believe that a potential investor is not a Nebraska resident, the portal operator shall deny or revoke the potential investor's access to such information.

011.04 The portal operator shall make available to potential investors via the funding portal, the disclosure document prescribed by Neb. Rev. Stat. § 8-1111(24)(a)(xi). The disclosure document shall be in a format that reasonably permits a person accessing the funding portal to print, save, download, or otherwise store the disclosure document.

011.05 The portal operator shall in connection with a sale of a security listed on the funding portal:

011.05A Obtain the certification from the investor prescribed by Neb. Rev. Stat. § 8-1111(24)(a)(viii).

011.05B Obtain certification from the investor that the investor qualifies as an accredited investor as defined in this subdivision, if the investor is investing more than five thousand dollars (\$5,000.00).

011.05C Obtain an affirmative representation, in writing or electronically, that the investor is a resident of Nebraska along with documentation evidencing such residence. ~~Any of the~~ following documents are acceptable to prove residence in the state of Nebraska:

011.05C1 A valid driver's license or identification card issued by the State of Nebraska;

011.05C2 A valid Nebraska voter registration card; ~~and/or~~

011.05C3 Property tax records showing that the investor owns and occupies property in this state as his or her principal residence.

011.05D Provide to the issuer a copy of the signed subscription agreement and all documents collected from the investor pursuant to subsections 011.05A through 011.05C, above.

012 ADVERTISING.

012.01 A general announcement by an issuer or funding portal regarding an issuer's offering being made in reliance on this subdivision shall not be considered an offer of a security so long as only the following are included:

012.01A A statement that the issuer is conducting an offering, the name of the portal operator conducting the offering and a link directing the potential investor to the funding portal;

012.01B The maximum amount of the offering; and

012.01C Factual information about the legal identity and business location of the issuer, limited to the name of the issuer of the security, the address, and a brief description of the business of the issuer.

012.02 Any general announcement regarding an issuer's offering being made in reliance on this subdivision must contain a statement making it clear that the offering is directed only to residents of Nebraska.

013 RESTRICTIONS ON RESALE. While the securities are being offered pursuant to this Rule and for a period of nine months from the date of the last sale by the issuer of such securities, all resales by any person shall be made only to residents of Nebraska.

014 REPORTS TO INVESTORS. An issuer shall provide a report to investors which meets the following requirements:

014.01 The report shall contain the following information:

014.01A Compensation received by each director and executive officer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received; and

014.01B An analysis by management of the issuer of the business operations and financial condition of the issuer.

014.02 The report shall be prepared and delivered no later than forty-five days after the end of each fiscal quarter.

014.03 In lieu of delivering a report to each investor, the issuer may post the report on a funding portal, subject to the following:

014.03A The issuer has notified each investor in writing that it intends to post the report on the funding portal, provided such notice contains the following:

014.03A1 The Uniform Resource Locator for the funding portal on which the report will be posted; and

014.03A2 A statement that the investor can elect to receive the report in writing, and information as to how the investor can make such election.

014.03B The report shall be posted no later than forty-five days after the end of each fiscal quarter;

014.03C The report shall remain on the funding portal until the report for the succeeding quarter is posted; and

014.03D The issuer shall provide a written copy to any investor who elects to receive a written copy.

014.04 A copy of the report shall be filed with the Department no later than forty-five days after the close of each fiscal quarter.

015 RECORDS. An issuer shall maintain and preserve for a period of five years from either the date of the document or communication or the date of the closing or termination of the securities offering, whichever is later, records related to offers and sales made pursuant to this exemption.

015.01 The records that shall be maintained include, but are not limited to, the following:

015.01A The disclosure document provided to prospective investors;

015.01B The signed investor certification prescribed by Neb. Rev. Stat. § 8-1111(24)(a)(viii);

015.01B All subscription agreements;

015.01C All information used to establish that an issuer, prospective purchaser, or investor is a Nebraska resident;

015.01D All information used to establish that a prospective purchaser or investor is an accredited investor as defined in subsection 002.01, above;

015.01E All agreements and/or contracts between the issuer and the portal operator;

015.01F All escrow agreements between the issuer and a financial institution pursuant to section 010, above;

015.01G All correspondence or other communications with portal operators, financial institutions acting as escrow agents, prospective purchasers, and/or investors;

015.01H Each quarterly report prepared pursuant to section 014, above; and

015.01I All other records relating to the offers and/or sales of securities made through the funding portal.

015.02 An issuer shall, upon written request of the Director, furnish to the Director any records required to be maintained and preserved under this subdivision.

015.03 The records required to be kept and preserved under this Rule must be maintained in a manner, including by any electronic storage media, that will permit the immediate location of any particular document so long as such records are available for immediate and complete access by representatives of the Director. Any electronic storage system must preserve the records exclusively in a nonrewriteable,

nonerasable format; verify automatically the quality and accuracy of the storage media recording process; serialize the original and, if applicable, duplicate units storage media, and time-date for the required period of retention the information placed on such electronic storage media; and be able to download indexes and records preserved on electronic storage media to an acceptable medium. In the event that a records retention system commingles records required to be kept under this subdivision with records not required to be kept, representatives of the Director may review all commingled records.

016 DISCLOSURE. Nothing in this Rule 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.

017 AVAILABILITY OF EXEMPTION.

017.01 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.

017.02 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.

018 BURDEN OF PROOF. In any proceeding involving this Rule, the burden of proving the exemption from registration is upon the person claiming the exemption.