

NEBRASKA ADMINISTRATIVE CODE

Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 20 - FEDERAL COVERED SECURITIES

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Sections 8-1108.02 and 8-1120~~(3)~~ of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to filing requirements for issuers of federal covered securities is consistent with investor protection and is in the public interest.

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

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

002 OFFERINGS BY INVESTMENT COMPANIES.

002.01 Prior to the offer or sale of any security by an investment company registered under the Investment Company Act of 1940, the issuer shall file the following information with the Director:

002.01A A notice, on a uniform form, acceptable to the Director, which shall contain:

002.01A1 The name and address of the issuer; and

002.01A2 The dollar amount of securities which the issuer intends to offer in this state; and

002.01B A consent to service of process, which may incorporate by reference any consent to service of process previously filed with the Director by such issuer;

002.01C ~~A check payable to "Nebraska Department of Banking and Finance" for fees, which shall be~~ A filing fee calculated in accordance with Section 8-1108.03 of the Act; and

002.01D Any other information which the Director may require, subject to the limitations of Section 18 of the Securities Act of 1933, 15 USC § 77r .

002.02 Such notice ~~shall be~~ effective for a period of one year from the date the notice is received by the Director, unless the issuer ~~shall notify~~ the Director of a later date of effectiveness of the notice.

002.03 A notice filing may be renewed by filing the information specified in Section 002.01, above, with the Director before the expiration of the effectiveness of the previous notice filing, along with any sales report required by Section 8-1108.03 of the Act. A notice filing received pursuant to this subsection ~~shall take~~ effect upon the expiration of the previous notice filing and ~~shall be~~ 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)(~~EE~~) of the Securities Act of 1933, 15 U.S.C. §77r(b)(4)(~~EE~~) shall file the following information with the Director no later than fifteen days after the first sale of such security in this state:

003.01A A copy of the issuer's SEC Form D, ~~including all parts and appendices~~;

003.02B A consent to service of process; and

003.03C A ~~check in the amount~~ filling fee of two hundred dollars (\$200.00), ~~payable to "Nebraska Department of Banking and Finance."~~

003.02 An issuer may file an amendment to a previously filed notice of sales on SEC Form D at any time.

003.03 An issuer shall file an amendment to a previously filed notice of sales on SEC Form D for an offering:

003.03A To correct a material mistake of fact or error in the previously filed notice of sales on SEC Form D, as soon as practicable after discovery of the mistake or error.

003.03B To reflect a change in the information provided in the previously filed notice of sales on SEC Form D, as soon as practicable after the change, except that no amendment is required to reflect a change that occurs after the offering terminates or a change that occurs solely in the following information:

003.03B1 The address or relationship of the issuer or a related person identified in the SEC Form D;

003.03B2 An issuer's revenues or aggregate net asset value;

003.03B3 The minimum investment amount, if the change is an increase, or if the change, together with all other changes in that amount since the previously filed notice of sales on SEC Form D, does not result in a decrease of more than ten percent;

003.03B4 Any address or state(s) of solicitation shown on the notice of sales on SEC Form D;

003.03B5 The total offering amount, if the change is a decrease, or if the change, together with all other changes in that amount since the previously filed notice of sales on SEC Form D, does not result in an increase of more than ten percent;

003.03B6 The amount of securities sold in the offering or the amount remaining to be sold;

003.03B7 The number of nonaccredited investors who have invested in the offering, as long as the change does not increase the number to more than thirty-five;

003.03B8 The total number of investors who have invested in the offering; and

003.03B9 The amount of sales commissions, finders' fees or use of proceeds for payments to executive officers, directors or promoters, if the change is a decrease, or if the change, together with all other changes in that amount since the previously filed notice of sales on SEC Form D, does not result in an increase of more than ten percent.

003.03C Annually, on or before the first anniversary of the filing of the notice of sales on SEC Form D or the filing of the most recent amendment to the notice of sales on SEC 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.

004 OFFERINGS BY AGRICULTURAL CO-OPERATIVES. An issuer offering a security which is a covered security pursuant to Section 18(b)(4)(C) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(4)(C) and which is exempt from federal registration pursuant to Section 3(a)(5)(B), 15 U.S.C. § 77c(a)(5)(B), thereof, shall file the following information with the Director prior to the issuance of such security in this state:

004.01 The name and address of the issuer;

004.02 The place and date of incorporation;

004.03 The type of security being issued;

004.04 The total amount of securities to be sold by the issuer, both in Nebraska and nationwide;

004.05 An indication as to whom sales will be made: present members, patrons, or the general public;

004.06 A description of the method by which the securities will be sold;

004.07 The name and address of the registered broker-dealer who will be selling the securities;

004.08 A balance sheet and income statement for the past two years;

004.09 A description of the intended use of the proceeds;

004.10 The interest rate to be paid, if the offering involves debt securities;

004.11 Evidence of sufficient financial resources to service its debts for the next two years; and

004.12 A ~~check in the amount~~ filing fee of two hundred dollars (\$200.00), ~~payable to "Nebraska Department of Banking and Finance."~~

005 OFFERINGS PURSUANT TO REGULATION A, TIER 2. An issuer offering a security which is a covered security pursuant to Section 18(b)(3) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(3) and which is exempt from federal registration pursuant to Tier 2 of federal Regulation A, 17 CFR 230.251(a) shall submit the following prior to the initial offer and/or sale in this state:

005.01 A completed Regulation A – Tier 2 notice filing form or copies of all documents filed with the Securities and Exchange Commission;

005.02 A consent to service of process on Form U-2 if not filing on the Regulation A – Tier 2 notice filing form; and

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

006 RESTRICTION ON SALES. All sales of federal covered securities must be effected through a Nebraska-registered agent of a Nebraska-registered broker-dealer, except that this Section ~~shall not~~ does not apply to sales of securities covered by Sections 003 and 005, above, provided no commissions or other remuneration are paid directly or indirectly for soliciting any prospective buyer.