

NOTICE OF RULEMAKING HEARING
NEBRASKA DEPARTMENT OF BANKING AND FINANCE

Notice is hereby given that the Nebraska Department of Banking and Finance will hold a rulemaking hearing on August 10, 2016, commencing at 9:30 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 Title 48, Chapter 1.
- 2) The proposed revision of Title 48, Chapter 2.
- 3) The proposed revision of Title 48, Chapter 3.
- 4) The proposed revision of Title 48, Chapter 4.
- 5) The proposed revision of Title 48, Chapter 5.
- 6) The proposed revision of Title 48, Chapter 6.
- 7) The proposed revision of Title 48, Chapter 7.
- 8) The proposed revision of Title 48, Chapter 8.
- 9) The proposed revision of Title 48, Chapter 9.
- 10) The proposed revision of Title 48, Chapter 10.
- 11) The proposed revision of Title 48, Chapter 11.
- 12) The proposed revision of Title 48, Chapter 12.
- 13) The proposed revision of Title 48, Chapter 13.
- 14) The proposed revision of Title 48, Chapter 15.
- 15) The proposed revision of Title 48, Chapter 16.
- 16) The proposed revision of Title 48, Chapter 17.
- 17) The proposed revision of Title 48, Chapter 18.
- 18) The proposed revision of Title 48, Chapter 19.
- 19) The proposed revision of Title 48, Chapter 20.
- 20) The proposed revision of Title 48, Chapter 21.
- 21) The proposed revision of Title 48, Chapter 22.
- 22) The proposed revision of Title 48, Chapter 24.
- 23) The proposed revision of Title 48, Chapter 25.
- 24) The proposed revision of Title 48, Chapter 27.
- 25) The proposed revision of Title 48, Chapter 28.
- 26) The proposed revision of Title 48, Chapter 29.
- 27) The proposed revision of Title 48, Chapter 30.
- 28) The proposed revision of Title 48, Chapter 32.
- 29) The proposed revision of Title 48, Chapter 33.
- 30) The proposed revision of Title 48, Chapter 34.
- 31) The proposed repeal of Title 48, Chapter 35.
- 32) The proposed revision of Title 48, Chapter 36.
- 34) The proposed revision of Title 48, Chapter 37.

48 NAC 1 - General Provisions: The purpose of the proposed revision of 48 NAC 1 is to update the Department's forms under the Securities Act of Nebraska and to correct references to federal laws and regulations.

48 NAC 2 - Definitions: The purpose of the proposed revision of 48 NAC 2 is to update the definitions of terms used in Title 48.

48 NAC 3 - Definition of an Offer: The purpose of the proposed revision of 48 NAC 3 is to revise a cross-reference to federal regulations.

48 NAC 4 - Broker-Dealers: The purpose of the proposed revision of 48 NAC 4 is to update provisions governing broker-dealers. The proposal includes provisions for verification of lawful status and provisions for the designation of Offices of Supervisory Jurisdiction. The proposal also updates references from the National Association of Securities Dealers ("NASD") to its successor organization the Financial Industry Regulatory Authority ("FINRA"), and provides guidance concerning solicitations done on the internet.

48 NAC 5 - Issuer Dealers: The purpose of the proposed revision of 48 NAC 5 is to update provisions governing issuer-dealers. The proposal includes provisions for verification of lawful status, and updates references from NASD to FINRA.

48 NAC 6 - Agents: The purpose of the proposed revision of 48 NAC 6 is to update provisions governing broker-dealer agents. The proposal includes provisions for verification of lawful status, and updates references from NASD to FINRA. The proposal also provides guidance concerning solicitations done on the internet.

48 NAC 7 - Investment Advisers: The purpose of the proposed revision of 48 NAC 7 is to update provisions governing investment advisers. The proposal adopts requirements concerning brochures. It also modifies requirements concerning custody of client funds. The proposal also requires investment advisers to develop written procedures to comply with the Securities Act of Nebraska. The rule also contains requirements for business continuity plans. The proposal includes provisions for verification of lawful status, and provides guidance concerning solicitations done on the internet.

48 NAC 8 - Federal Covered Advisers: The purpose of the proposed revision of 48 NAC 8 is to update provisions governing federal covered advisers. The rule updates the forms to be used and includes provisions for verification of lawful status.

48 NAC 9 - Investment Adviser Representatives: The purpose of the proposed revision of 48 NAC 9 is to update provisions governing investment adviser representatives. The rule requires the disclosure of any alternative name being used to conduct business, and provides guidance concerning solicitations done on the internet.

48 NAC 10 - Investment Adviser Records: The purpose of the proposed revision of 48 NAC 10 is to update the requirements related to records which must be maintained by Investment Advisers. The proposal includes new requirements for records that must be maintained by investment advisers who have custody of client funds.

48 NAC 11 - Performance Based Compensation: The purpose of the proposed revision of 48 NAC 11 is to update requirements concerning performance based compensation for investment advisers. The proposal includes incorporating the federal definition of “qualified client.”

48 NAC 12 - Fraudulent, Dishonest and Unethical Business Practices: The purpose of the proposed revision of 48 NAC 12 is to update the provisions prescribing fraudulent, dishonest, and unethical business practices by entities and individuals registered with the Department under the Securities Act of Nebraska.

48 NAC 13 - Information Requirements for the Section 8-1110(5) Notice: The purpose of the proposed revision of 48 NAC 13 is to update the Department’s address.

48 NAC 15 - Information Requirements for the Section 8-1111(9) Notice: The purpose of the proposed revision of 48 NAC 15 is to clarify provisions governing the filing of audited financial statements and a sales report.

48 NAC 16 - Information Requirements for the Section 8-1111(15) Notice: The purpose of the proposed revision of 48 NAC 16 is to update the Department’s address.

48 NAC 17 - Conditions and Information Requirements for the Section 8-1111(16) Uniform Limited Offering Exemption: The purpose of the proposed revision of 48 NAC 17 is to eliminate the current restriction limiting the exemption to corporations.

48 NAC 18 - Nebraska Intrastate Issuer Exemption: The purpose of the proposed revision of 48 NAC 18 is to raise the maximum amount that can be raised pursuant to the exemption to \$1 million.

48 NAC 19 - Requests to Cure Late Notice Filings: The purpose of the proposed revision of 48 NAC 19 is to update the requirements for requesting an Order Curing Late Notice to include disclosure of enforcement actions by other agencies.

48 NAC 20 - Federal Covered Securities: The purpose of the proposed revision of 48 NAC 20 is to update the filing requirements for federal covered securities. The proposal includes procedures for filing amendments to filings made pursuant to federal Rule 506, and provides notice filing requirements for federal Regulation A, Tier 2 offerings.

48 NAC 21 - Underwriting Expenses, Selling Expenses and Selling Security Holders: The purpose of the proposed revision of 48 NAC 21 is to adopt the North American Securities Administrators Association (“NASAA”) “Statement of Policy Regarding Underwriting Expenses, Underwriter’s Warrants, Selling Expenses and Selling Securities Holders.”

48 NAC 22 - Promotional Shares: The purpose of the proposed revision of 48 NAC 22 is to adopt the NASAA “Statement of Policy Regarding Promotional Shares.”

48 NAC 24 - Loans and Other Material Affiliated Transactions: The purpose of the proposed revision of 48 NAC 24 is to adopt the current version of the NASAA "Statement of Policy Regarding Loans and Other Material Transactions."

48 NAC 25 - Impoundment of Proceeds: The purpose of the proposed revision of 48 NAC 25 is to adopt the current version of the NASAA "Statement of Policy Regarding the Impoundment of Proceeds."

48 NAC 27 - Specificity Regarding Use of Proceeds: The purpose of the proposed revision of 48 NAC 27 is to adopt the current version of the NASAA "Statement of Policy Regarding Specificity in the Use of Proceeds."

48 NAC 28 - Unsound Financial Condition: The purpose of the proposed revision of 48 NAC 28 is to update requirements relating to the financial condition of the issuer. The amendment increases the suitability standards to account for inflation.

48 NAC 29 - Debt Securities: The purpose of the proposed revision of 48 NAC 29 is to revise a cross reference to the federal Trust Indentures Act of 1939.

48 NAC 30 - Preferred Stock: The purpose of the proposed revision of 48 NAC 30 is to adopt the current version of the NASAA "Statement of Policy Regarding Preferred Stock."

48 NAC 32 - Real Estate Investment Trusts: The purpose of the proposed revision of 48 NAC 32 is to adopt the current version of the NASAA "Statement of Policy Regarding Real Estate Investment Trusts."

48 NAC 33 - Limited Partnership: The purpose of the proposed revision of 48 NAC 33 is to adopt the current versions of NASAA Statements of Policy, including the "Statement of Policy Regarding Real Estate Programs," the "Statement of Policy for the Registration of Oil and Gas Programs," the "Statement of Policy for the Registration of Publicly Offered Cattle Feeding Programs," the "Statement of Policy for the Registration of Commodity Pool Programs." The proposed rule also adds the "Statement of Policy for Omnibus Guidelines."

48 NAC 34 - Registration of Asset-Backed Securities: The purpose of the proposed revisions of 48 NAC 34 is to adopt the current version of the NASAA "Statement of Policy on Asset Backed Securities."

48 NAC 35 - Debt Securities Issued by a Church or Congregation: The purpose of the proposed repeal of 48 NAC 35 is to repeal the specific requirements for registration of church bonds.

48 NAC 36 - General Obligation Financing by Religious Denominations: The purpose of the proposed revisions of 48 NAC 36 is to adopt the current version of the NASAA "Statement of Policy Regarding Church Extension Fund Securities."

48 NAC 37 - Sale of Securities at Financial Institutions: The purpose of the proposed revisions of 48 NAC 37 is to replace an obsolete cross-reference to a NASD rule with the current reference to a FINRA rule.

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, State Capitol Building, Lincoln, Nebraska 68509. In addition, the proposed rules are available on the Department of Banking and Finance's website at www.ndbf.ne.gov, and the Secretary of State's website www.sos.ne.gov.

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

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

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

Dated at Lincoln, Nebraska, this 29th day of June, 2016.

Mark Quandahl, Director
Nebraska Department of Banking and Finance