DRAFT ONLY
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HOUSE BILL NO. [BILL NUMBER]

Uniform securities act.

Sponsored by: Joint Corporations, Elections & Political Subdivisions Interim Committee

A BILL

for

AN ACT relating to the Uniform Securities Act; adopting uniform revisions relating to general provisions, exemptions from registration of securities, registration of securities, notice filing of federal covered securities, broker-deals, agents, investment advisers, investment adviser representatives, federal covered investment advisers, fraud, liabilities, administration, judicial review and transition to the Act; conforming related provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 17-4-101 through 17-4-132 are repealed and recreated as 17-4-101 through 17-4-701 to read:

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STAFF COMMENT

Highlighted language is language not present in the current Wyoming Securities Act. Please see the handout from the Corporations Committee Meeting Materials of September 8, 2015 for a more detailed side-by-side comparison of the current Wyoming law and the New Model Securities Act.

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ARTICLE 1

GENERAL PROVISIONS

17-4-101. Short title.

(a) This act may be cited as the Wyoming Uniform Securities Act

17-4-102. Definitions.

(a) In this act, unless the context otherwise requires:

(i) "Administrator" means the secretary of state;

(ii) "Agent" means an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities. But a partner, officer, or director of a broker-dealer or issuer, or an individual having a similar status or performing similar functions is an agent only if the individual otherwise comes within the term. The term does not include an individual excluded by rule adopted or order issued under this act;

(iii) "Bank" means:

(A) A banking institution organized under the laws of the United States;

(B) A member bank of the federal reserve system;

(C) Any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary

powers similar to those permitted to be exercised by national banks under the authority of the comptroller of the currency pursuant to section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this act; and

(D) A receiver, conservator, or other liquidating agent of any institution or firm included in subparagraph (A), (B), or (C) of this paragraph.

(iv) "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account. The term does not include:

(A) An agent;

(B) An issuer;

(C) A bank or savings institution if its activities as a broker-dealer are limited to those specified in subsections 3(a)(4)(B)(i) through (vi), (viii) through (x), and

(xi) if limited to unsolicited transactions; 3(a)(5)(B); and 3(a)(5)(C) of the Securities Exchange Act of 1934 (15 U.S.C. Sections 78c(a)(4) and (5)) or a bank that satisfies the conditions described in subsection 3(a)(4)(E) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78c(a)(4));

(D) An international banking institution; or

(E) A person excluded by rule adopted or order issued under this act.

(v) "Depository institution" means:

(A) A bank; or

(B) A savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the federal deposit insurance corporation, the national

credit union share insurance fund, or a successor authorized by federal law. The term does not include:

(I) An insurance company or other organization primarily engaged in the business of insurance;

(II) A morris plan bank; or

(III) An industrial loan company that is not an "insured depository institution" as defined in Section 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c)(2), or any successor federal statute.

(vi) "Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940;

(vii) "Federal covered security" means a security that is, or upon completion of a transaction will be, a covered security under Section 18(b) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)) or rules or regulations adopted pursuant to that provision;

(viii) "Filing" means the receipt under this act of a record by the secretary of state or a designee of the secretary of state;

(ix) "Fraud," "deceit," and "defraud" are not limited to common law deceit;

(x) "Guaranteed" means guaranteed as to payment of all principal and all interest;

(xi) "Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity:

(A) A depository institution or international banking institution;

(B) An insurance company;

(C) A separate account of an insurance company;

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

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

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

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

investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this act, a depository institution, or an insurance company;

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

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

(K) A small business investment company licensed by the small business administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. Section 681(c))

with total assets in excess of ten million dollars ($10,000,000.00);

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

(N) A federal covered investment adviser acting for its own account;

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

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

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

(R) Any other person specified by rule adopted or order issued under this act.

(xii) "Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state;

(xiii) "Insured" means insured as to payment of all principal and all interest;

(xiv) "International banking institution" means an international financial institution of which the United States is a member and whose securities are exempt from registration under the Securities Act of 1933;

(xv) "Investment adviser" means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a

regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation. The term does not include:

(A) An investment adviser representative;

(B) A lawyer, accountant, engineer, or teacher whose performance of investment advice is solely incidental to the practice of the person's profession;

(C) A broker-dealer or its agents whose performance of investment advice is solely incidental to the conduct of business as a broker-dealer and that does not receive special compensation for the investment advice;

(D) A publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(E) A federal covered investment adviser;

(F) A bank or savings institution;

(G) Any other person that is excluded by the Investment Advisers Act of 1940 from the definition of investment adviser; or

(H) Any other person excluded by rule adopted or order issued under this act.

(xvi) "Investment adviser representative" means an individual employed by or associated with an investment adviser or federal covered investment adviser and who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds himself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing. The term does not include an individual who:

(A) Performs only clerical or ministerial acts;

(B) Is an agent whose performance of investment advice is solely incidental to the individual acting as an agent and who does not receive special compensation for investment advisory services;

(C) Is employed by or associated with a federal covered investment adviser, unless the individual has a "place of business" in this state as that term is defined by rule adopted under section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a) and is:

(I) An "investment adviser representative" as that term is defined by rule adopted under section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a); or

(II) Not a "supervised person" as that term is defined in section 202(a)(25) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(25)).

(D) Is excluded by rule adopted or order issued under this act.

(xvii) "Issuer" means a person that issues or proposes to issue a security, subject to the following:

(A) The issuer of a voting trust certificate, collateral trust certificate, certificate of deposit for a security, or share in an investment company without a board of directors or individuals performing similar functions is the person performing the acts and assuming the duties of depositor or manager pursuant to the trust or other agreement or instrument under which the security is issued;

(B) The issuer of an equipment trust certificate or similar security serving the same purpose is the person by which the property is or will be used or to which the property or equipment is or will be leased or conditionally sold or that is otherwise contractually responsible for assuring payment of the certificate;

(C) The issuer of a fractional undivided interest in an oil, gas, or other mineral lease or in payments

out of production under a lease, right, or royalty is the owner of an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale.

(xviii) "Nonissuer transaction" or "nonissuer distribution" means a transaction or distribution not directly or indirectly for the benefit of the issuer;

(xix) "Offer to purchase" includes an attempt or offer to obtain, or solicitation of an offer to sell, a security or interest in a security for value. The term does not include a tender offer that is subject to section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d));

(xx) "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity;

(xxi) "Place of business" of a broker-dealer, an investment adviser, or a federal covered investment adviser means:

(A) An office at which the broker-dealer, investment adviser, or federal covered investment adviser regularly provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients; or

(B) Any other location that is held out to the general public as a location at which the broker-dealer, investment adviser, or federal covered investment adviser provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients.

(xxii) "Predecessor act" means the act repealed and replaced by this act;

(xxiii) "Price amendment" means the amendment to a registration statement filed under the Securities Act of 1933 or, if an amendment is not filed, the prospectus or prospectus supplement filed under the Securities Act of 1933 that includes

a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price;

(xxiv) "Principal place of business" of a broker-dealer or an investment adviser means the executive office of the broker-dealer or investment adviser from which the officers, partners, or managers of the broker-dealer or investment adviser direct, control, and coordinate the activities of the broker-dealer or investment adviser;

(xxv) "Record," except in the phrases "of record," "official record," and "public record," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(xxvi) "Sale" includes every contract of sale, contract to sell, or disposition of, a security or interest in a security for value, and "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to purchase,

a security or interest in a security for value. Both terms include:

(A) A security given or delivered with, or as a bonus on account of, a purchase of securities or any other thing constituting part of the subject of the purchase and having been offered and sold for value;

(B) A gift of assessable stock involving an offer and sale; and

(C) A sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer and a sale or offer of a security that gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, including an offer of the other security.

(xxvii) "Securities and exchange commission" means the United States securities and exchange commission;

(xxviii) "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of

indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. The term:

(A) Includes both a certificated and an uncertificated security;

(B) Does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or other specified period;

(C) Does not include an interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974;

(D) Includes as an "investment contract" an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor and a "common enterprise" means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors; and

(E) Includes as an "investment contract," among other contracts, an interest in a limited partnership and a limited liability company and an investment in a viatical settlement or similar agreement.

(xxix) "Self-regulatory organization" means a national securities exchange registered under the Securities Exchange Act of 1934, a national securities association of broker-dealers registered under the Securities Exchange Act of 1934, a clearing agency registered under the Securities Exchange

Act of 1934, or the municipal securities rulemaking board established under the Securities Exchange Act of 1934;

(xxx) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach or logically associate with the record an electronic symbol, sound, or process.

(xxi) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

17-4-103. References to federal statutes.

As used in this act: "Securities Act of 1933" (15 U.S.C. Section 77a et seq.), "Securities Exchange Act of 1934" (15 U.S.C. Section 78a et seq.), "Public Utility Holding Company Act of 1935"(15 U.S.C. Section 79 et seq.), "Investment Company Act of 1940" (15 U.S.C. Section 80a-1 et seq.), "Investment Advisers

Act of 1940" (15 U.S.C. Section 80b-1 et seq.), "Employee Retirement Income Security Act of 1974" (29 U.S.C. Section 1001 et seq.), "National Housing Act" (12 U.S.C. Section 1701 et seq.), "Commodity Exchange Act" (7 U.S.C. Section 1 et seq.), "Internal Revenue Code" (26 U.S.C. Section 1 et seq.), "Securities Investor Protection Act of 1970" (15 U.S.C. Section 78aaa et seq.), "Securities Litigation Uniform Standards Act of 1998" (112 Stat. 3227), "Small Business Investment Act of 1958" (15 U.S.C. Section 661 et seq.), and "Electronic Signatures in Global and National Commerce Act" (15 U.S.C. Section 7001 et seq.) mean those statutes and the rules and regulations adopted under those statutes, as in effect on the date of enactment of this act.

17-4-104. References to federal agencies.

A reference in this act to an agency or department of the United States is also a reference to a successor agency or department.

17-4-105. Electronic records and signatures.

This act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. Section 7003(b)). This act authorizes the filing of records and signatures, when specified by provisions of this act or by a rule adopted or order issued under this act, in a manner consistent with section 104(a) of that act (15 U.S.C. Section 7004(a)).

ARTICLE 2

EXEMPTIONS FROM REGISTRATION OF SECURITIES

17-4-201. Exempt securities.

(a) The following securities are exempt from the requirements of W.S. 17-4-301 through 17-4-306 and 17-4-504:

(i) A security, including a revenue obligation or a separate security as defined in rule 131 (17 C.F.R. 230.131) adopted under the Securities Act of 1933, issued, insured, or guaranteed by the United States; by a state; by a political

subdivision of a state; by a public authority, agency, or instrumentality of one (1) or more states; by a political subdivision of one (1) or more states; or by a person controlled or supervised by and acting as an instrumentality of the United States under authority granted by the congress; or a certificate of deposit for any of the foregoing;

(ii) A security issued, insured or guaranteed by a foreign government with which the United States maintains diplomatic relations, or any of its political subdivisions, if the security is recognized as a valid obligation by the issuer, insurer, or guarantor;

(iii) A security issued by and representing or that will represent an interest in or a direct obligation of, or be guaranteed by:

(A) An international banking institution;

(B) A banking institution organized under the laws of the United States; a member bank of the federal reserve system; or a depository institution a substantial portion of the business of which consists or will consist of receiving deposits

or share accounts that are insured to the maximum amount authorized by statute by the federal deposit insurance corporation, the national credit union share insurance fund, or a successor authorized by federal law or exercising fiduciary powers that are similar to those permitted for national banks under the authority of the comptroller of currency pursuant to section 1 of Public Law 87-722 (12 U.S.C. Section 92a); or

(C) Any other depository institution, unless by rule or order the secretary of state proceeds under W.S. 17-4-205.

(iv) A security issued by and representing an interest in, or a debt of, or insured or guaranteed by, an insurance company authorized to do business in this state;

(v) A security issued or guaranteed by a railroad, other common carrier, public utility, or public utility holding company that is:

(A) Regulated in respect to its rates and charges by the United States or a state;

(B) Regulated in respect to the issuance or guarantee of the security by the United States, a state, Canada, or a Canadian province or territory; or

(C) A public utility holding company registered under the Public Utility Holding Company Act of 1935 or a subsidiary of such a registered holding company within the meaning of that act.

(vi) A federal covered security specified in section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)) or by rule adopted under that provision or a security listed or approved for listing on another securities market specified by rule under this act; a put or a call option contract; a warrant; a subscription right on or with respect to such securities; or an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under the Securities Exchange Act of 1934 and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934 or an offer or sale, of the underlying security in connection

with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written or issued; or an option or a derivative security designated by the securities and exchange commission under Section 9(b) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78i(b));

(vii) A security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, social, athletic, or reformatory purposes, or as a chamber of commerce, and not for pecuniary profit, no part of the net earnings of which inures to the benefit of a private stockholder or other person, or a security of a company that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940 (15 U.S.C. Section 80a-3(c)(10)(B)); except that with respect to the offer or sale of a note, bond, debenture, or other evidence of indebtedness issued by such a person, a rule may be adopted under this act limiting the availability of this exemption by classifying securities, persons, and transactions, imposing different requirements for different classes, specifying with respect to subparagraph (B) the scope of the exemption and the grounds for denial or suspension, and requiring an issuer:

(A) To file a notice specifying the material terms of the proposed offer or sale and copies of any proposed sales and advertising literature to be used and provide that the exemption becomes effective if the secretary of state does not disallow the exemption within the period established by the rule;

(B) To file a request for exemption authorization for which a rule under this act may specify the scope of the exemption, the requirement of an offering statement, the filing of sales and advertising literature, the filing of consent to service of process complying with W.S. 17-4-611, and grounds for denial or suspension of the exemption; or

(C) To register under W.S. 17-4-304.

(viii) A member's or owner's interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of a state, but not a member's or owner's

interest, retention certificate, or like security sold to persons other than bona fide members of the cooperative; and

(ix) An equipment trust certificate with respect to equipment leased or conditionally sold to a person, if any security issued by the person would be exempt under this section or would be a federal covered security under section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)).

17-4-202. Exempt transactions.

(a) The following transactions are exempt from the requirements of W.S. 17-4-301 through 17-4-306 and 17-4-504:

(i) An isolated nonissuer transaction, whether effected by or through a broker-dealer or not;

(ii) A nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this act, and a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of

the public for at least ninety (90) days, if, at the date of the transaction:

(A) The issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(B) The security is sold at a price reasonably related to its current market price;

(C) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;

(D) A nationally recognized securities manual or its electronic equivalent designated by rule adopted or order issued under this act or a record filed with the securities and exchange commission that is publicly available and contains:

(I) A description of the business and operations of the issuer; and

(II) The names of the issuer's executive officers and the names of the issuer's directors, if any; and

(III) An audited balance sheet of the issuer as of a date within eighteen (18) months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization; and

(IV) An audited income statement for each of the issuer's two (2) immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement.

(E) Any one (1) of the following requirements is met:

(I) The issuer of the security has a class of equity securities listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or designated for trading on the national association of securities dealers automated quotation system;

(II) The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940;

(III) The issuer of the security, including its predecessors, has been engaged in continuous business for at least three (3) years; or

(IV) The issuer of the security has total assets of at least two million dollars ($2,000,000.00) based on an audited balance sheet as of a date within eighteen (18) months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had such an audited balance sheet, a pro forma balance sheet for the combined organization.

(iii) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the board of governors of the federal reserve system;

(iv) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in an outstanding security if the guarantor of the security files reports with the securities and exchange commission under the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d));

(v) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in a security that:

(A) Is rated at the time of the transaction by a nationally recognized statistical rating organization in one (1) of its four (4) highest rating categories; or

(B) Has a fixed maturity or a fixed interest or dividend, if:

(I) A default has not occurred during the current fiscal year or within the three (3) previous fiscal years or during the existence of the issuer and any predecessor if less than three (3) fiscal years, in the payment of principal, interest, or dividends on the security; and

(II) The issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous twelve (12) months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person.

(vi) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act effecting an unsolicited order or offer to purchase;

(vii) A nonissuer transaction executed by a bona fide pledgee without the purpose of evading this act;

(viii) A nonissuer transaction by a federal covered investment adviser with investments under management in excess of one hundred million dollars ($100,000,000.00) acting in the exercise of discretionary authority in a signed record for the account of others;

(ix) A transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one (1) or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the secretary of state after a hearing;

(x) A transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(xi) A transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if:

(A) The note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;

(B) A general solicitation or general advertisement of the transaction is not made; and

(C) A commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this act as a broker-dealer or as an agent.

(xii) A transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(xiii) A sale or offer to sell to:

(A) An institutional investor;

(B) A federal covered investment adviser; or

(C) Any other person exempted by rule adopted or order issued under this act.

(xiv) A sale or an offer to sell securities of an issuer, if the transaction is part of a single issue in which:

(A) Not more than twenty five (25) purchasers are present in this state during any twelve (12) consecutive months, other than those designated in paragraph (xiii) of this subsection;

(B) A general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities;

(C) A commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this act or an agent registered under this act for soliciting a prospective purchaser in this state; and

(D) The issuer reasonably believes that all the purchasers in this state, other than those designated in paragraph (xiii) of this subsection, are purchasing for investment.

(xv) A transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state;

(xvi) An offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933 if:

(A) A registration or offering statement or similar record as required under the Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance with rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165); and

(B) A stop order of which the offeror is aware has not been issued against the offeror by the secretary of state or the securities and exchange commission, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending.

(xvii) An offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933 if:

(A) A registration statement has been filed under this act, but is not effective;

(B) A solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the secretary of state under this act; and

(C) A stop order of which the offeror is aware has not been issued by the secretary of state under this act and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending.

(xviii) A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties;

(xix) A rescission offer, sale, or purchase under W.S. 17-4-510;

(xx) An offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this act;

(xxi) Employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees including offers or sales of such securities to:

(A) Directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisors;

(B) Family members who acquire such securities from those persons through gifts or domestic relations orders;

(C) Former employees, directors, general partners, trustees, officers, consultants, and advisors if those individuals were employed by or providing services to the issuer when the securities were offered; and

(D) Insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than fifty percent (50%) of their annual income from those organizations.

(xxii) A transaction involving:

(A) A stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or

other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock;

(B) An act incident to a judicially approved reorganization in which a security is issued in exchange for one (1) or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash; or

(C) The solicitation of tenders of securities by an offeror in a tender offer in compliance with rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162).

(xxiii) A nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this act, if the issuer is a reporting issuer in a foreign jurisdiction designated by this paragraph or by rule adopted or order issued under this act; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than one hundred eighty (180) days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this paragraph or by rule adopted or order issued under this act, or is a security of the same issuer that is of senior or

substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this paragraph, Canada, together with its provinces and territories, is a designated foreign jurisdiction and the Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with the Wyoming Administrative Procedure Act, the secretary of state, by rule adopted or order issued under this act, may revoke the designation of a securities exchange under this paragraph, if the secretary of state finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

17-4-203. Intrastate crowdfunding exemption.

(a) Except as otherwise provided in this act, an offer or sale of a security by an issuer is exempt from the requirements of sections W.S. 17-4-301 through 17-4-306 and 17-4-504 if the offer or sale meets all of the following requirements:

(i) The issuer of the security is an entity that is incorporated or organized under the laws of this state and is authorized to do business in this state;

(ii) The transaction meets the requirements for the federal exemption for intrastate offerings under section 3(a)(11) of the Securities Act of 1933, 15 USC 77c(a)(11), and securities and exchange commission rule 147, 17 CFR 230.147, including, but not limited to, the requirements for determining whether an offeree or purchaser is a resident of this state. All of the following apply concerning these requirements:

(A) Each of the following is prima facie evidence that an individual is a resident of this state:

(I) A valid operator's license, chauffeur's license, or official personal identification card issued by this state;

(II) A current Wyoming voter registration;

(III) Is a resident of this state as defined by W.S 22-1-102(a)(xxx); or

(IV) Any other record or documents issued by this state that establishes that the purchaser's principal residence is in this state.

(B) The provisions of securities and exchange commission rule 147, 17 CFR 230.147, apply in determining the residency of an offeree or purchaser that is a corporation, partnership, trust, or other form of business organization;

(C) If a purchaser of a security that is exempt under this section resells that security within nine (9) months after the closing of the particular offering in which the purchaser obtained that security to a person that is not a resident of this state, the original investment agreement between the issuer and the purchaser is void. If an agreement to purchase, or the purchase of, a security is void under this subparagraph, the issuer may recover damages from the misrepresenting offeree or purchaser. These damages include, but are not limited to, the issuer's expenses in resolving the misrepresentation. However, damages described in this subparagraph shall not exceed the amount of the person's investment in the security.

(iii) The sum of all cash and other consideration to be received for all sales of the security in reliance on this exemption does not exceed the following amounts:

(A) One million dollars ($1,000,000.00), less the aggregate amount received for all sales of securities by the issuer within the twelve (12) months before the first offer or sale made in reliance on this exemption, if the issuer has not made available to each prospective purchaser and the secretary of state audited financial statements or reviewed financial statements for the issuer's most recently completed fiscal year, prepared by a certified public accountant, holding a certificate pursuant to W.S. 33-3-109, in accordance with the statements on auditing standards of the American institute of certified public accountants or the statements on standards for accounting and review services of the American institute of certified public accountants, as applicable;

(B) Two million dollars ($2,000,000.00), less the aggregate amount received for all sales of securities by the issuer within the twelve (12) months before the first offer or sale made in reliance on this exemption, if the issuer has made available to each prospective purchaser and the secretary of

state audited financial statements or reviewed financial statements for the issuer's most recently completed fiscal year, prepared by a certified public accountant, holding a certificate pursuant to W.S. 33-3-109, in accordance with the statements on auditing standards of the American institute of certified public accountants or the statements on standards for accounting and review services of the American institute of certified public accountants, as applicable.

(iv) The issuer has not accepted more than five thousand dollars ($5,000.00) from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of securities and exchange commission regulation D, 17 CFR 230.501. The issuer may rely on confirmation that the purchaser is an accredited investor from a licensed broker-dealer or another third party in making a determination that the purchaser is an accredited investor;

(v) At least ten (10) days before an offer of securities is made in reliance on this exemption or the use of any publicly available website in connection with an offering of securities in reliance on this exemption, the issuer files a notice with the secretary of state, in writing or in electronic

form as specified by the secretary of state, that contains all of the following:

(A) A notice of claim of exemption from registration, specifying that the issuer intends to conduct an offering in reliance on this exemption, accompanied by the filing fee specified in this section;

(B) A copy of the disclosure statement to be provided to prospective investors in connection with the offering. The disclosure statement must contain all of the following:

(I) A description of the issuer, including its type of entity, the address and telephone number of its principal office, its formation history, its business plan, and the intended use of the offering proceeds, including any amounts to be paid, as compensation or otherwise, to any owner, executive officer, director, managing member, or other person occupying a similar status or performing similar functions on behalf of the issuer;

(II) The identity of each person that owns more than ten percent (10%) of the ownership interests of any class of securities of the issuer;

(III) The identity of the executive officers, directors, and managing members of the issuer, and any other individuals who occupy similar status or perform similar functions in the name of and on behalf of the issuer, including their titles and their prior experience;

(IV) The terms and conditions of the securities being offered and of any outstanding securities of the issuer, the minimum and maximum amount of securities being offered, if any, and either the percentage ownership of the issuer represented by the offered securities or the valuation of the issuer implied by the price of the offered securities;

(V) The identity of any person that the issuer has or intends to retain to assist the issuer in conducting the offering and sale of the securities, including the owner of any websites, if known, but excluding any person acting solely as an accountant or attorney and any employees whose primary job responsibilities involve the operating

business of the issuer rather than assisting the issuer in raising capital, and for each person identified in response to this subdivision, a description of the consideration being paid to that person for that assistance;

(VI) A description of any litigation or legal proceedings involving the issuer or its management;

(VII) The name and address of any website that the issuer intends to use in connection with the offering, including its uniform resource locator (URL). If the issuer has not engaged a website described in this subdivision at the time the issuer files the disclosure statement described in this subparagraph with the secretary of state under this paragraph but subsequently does engage a website for use in connection with the offering, the issuer shall provide the information described in this subdivision to the secretary of state by filing a supplemental notice.

(C) An escrow agreement with a bank or other depository institution located in this state, in which the purchaser funds will be deposited, that provides that all offering proceeds will be released to the issuer only when the

aggregate capital raised from all purchasers is equal to or greater than the minimum target offering amount specified in the disclosure statement as necessary to implement the business plan and that all purchasers will receive a return of their subscription funds if that target offering amount is not raised by the time stated in the disclosure statement. The bank or other depository institution may contract with the issuer to collect reasonable fees for its escrow services regardless of whether the target offering amount is reached.

(vi) The issuer is not, either before or as a result of the offering, an investment company, as defined in section 3 of the Investment Company Act of 1940, 15 USC 80a-3, or an entity that would be an investment company but for the exclusions provided in subsection (c) of that section, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 USC 78m and 78o(d);

(vii) The issuer informs each prospective purchaser that the securities are not registered under federal or state securities laws and that the securities are subject to limitations on transfer or resale and displays the following

legend conspicuously on the cover page of the disclosure statement:

"IN MAKING AN INVESTMENT DECISION, PURCHASERS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (E) OF SEC RULE 147, 17 CFR 230.147(E), AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. PURCHASERS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.".

(viii) The issuer requires each purchaser to certify in writing, and to include as part of that certification his signature, and his initials next to each paragraph of the certification, as follows:

"I understand and acknowledge that:

I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment. This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and that no regulatory authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.

The securities I am acquiring in this offering are illiquid, that the securities are subject to possible dilution, that there is no ready market for the sale of those securities, that it may be difficult or impossible for me to sell or otherwise dispose of this investment, and that, accordingly, I may be required to hold this investment indefinitely.

I may be subject to tax on my share of the taxable income and losses of the issuer, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the issuer.

By entering into this transaction with the issuer, I am affirmatively representing myself as being a Wyoming resident at the time that this contract is formed, and if this representation is subsequently shown to be false, the contract is void.

If I resell any of the securities I am acquiring in this offering to a person that is not a Wyoming resident, within nine (9) months after the closing of the offering, my contract with the issuer for the purchase of these securities is void.”.

(ix) If the offer and sale of securities under this section is made through an internet website, all of the following requirements must be met:

(A) Before any offer of an investment opportunity to residents of this state through the use of a website, the issuer provides to the website and to the secretary of state evidence that the issuer is organized under the laws of this state and that it is authorized to do business in this state;

(B) The issuer obtains from each purchaser of a security under this section evidence that the purchaser is a resident of this state and, if applicable, an accredited investor;

(C) The website operator files a written notice with the secretary of state that includes the website operator's name, business address, and contact information and states that it is authorized to do business in this state and is being utilized to offer and sell securities under this exemption. Beginning twelve (12) months after the date of the written notice, a website operator that has filed a written notice under this subparagraph shall annually notify the secretary of state in writing of any changes in the information provided to the secretary of state under this subparagraph and shall pay a renewal fee;

(D) The issuer and the website keep and maintain records of the offers and sales of securities made through the website and provide ready access to the records to the secretary of state on request. The secretary of state may access, inspect, and review any website described in this subdivision and its records.

(x) All payments for the purchase of securities are directed to and held by the bank or depository institution subject to the provisions of subparagraph (v)(C) of this subsection;

(xi) Offers or sales of a security are not made through an internet website unless the website has filed the written notice required under subparagraph (ix)(C) of this subsection with the secretary of state;

(xii) The issuer does not pay, directly or indirectly, any commission or remuneration to an executive officer, director, managing member, or other individual who has a similar status or performs similar functions in the name of and on behalf of the issuer for offering or selling the securities unless he or she is registered as a broker-dealer, investment adviser, or investment adviser representative under article 4 of this act. An executive officer, director, managing member, or other individual who has a similar status or performs similar functions in the name of and on behalf of the issuer is exempt from the registration requirements under article 4 if he or she does not receive, directly or indirectly, any commission

or remuneration for offering or selling securities of the issuer that are exempt from registration under this section;

(xiii) The issuer provides a copy of the disclosure statement provided to the secretary of state under subparagraph (v)(B) of this subsection to each prospective purchaser at the time the offer of securities is made to the prospective purchaser. In addition to the information described in subdivision (v)(B) of this subsection, the disclosure statement provided to the secretary of state and to prospective purchasers shall include additional information material to the offering, including, where appropriate, a discussion of significant factors that make the offering speculative or risky. This discussion must be concise and organized logically and should not present risks that could apply to any issuer or any offering;

(xiv) The term of the offering does not exceed twelve (12) months after the date of the first offer.

(b) If the offer and sale of a security of an issuer is exempt under this section, the issuer shall provide a quarterly report to the issuer's purchasers until none of the securities

issued under this section are outstanding. All of the following apply to the quarterly report described in this subsection:

(i) The issuer shall provide the report free of charge to the purchasers;

(ii) An issuer may satisfy the report requirement under this subsection by making the information available on an internet website if the information is made available within forty five (45) days after the end of each fiscal quarter and remains available until the next quarterly report is issued;

(iii) The issuer shall file each report with the secretary of state and must provide a written copy of the report to any purchaser on request;

(iv) The report must include all of the following:

(A) The compensation received by each director and executive officer of the issuer, 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;

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

(c) The exemption provided in this section shall not be used in conjunction with any other exemption under this article, except offers and sales to controlling persons shall not count toward the limitation in paragraph (a)(iii) of this section.

(d) The exemption described in this section does not apply if an issuer or person that is affiliated with the issuer or offering is subject to any disqualification established by the secretary of state by rule or contained in rule 262 as promulgated under the Securities Act of 1933, 17 CFR 230.262. However, this subsection does not apply if both of the following are met:

(i) On a showing of good cause and without prejudice to any other action by the secretary of state, the secretary of state determines that it is not necessary under the circumstances that an exemption be denied; and

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

(e) The secretary of state may adopt rules to implement the provisions of this section and to protect purchasers that purchase securities that are exempt from registration under this section.

(f) The secretary of state shall charge a nonrefundable filing fee for filing an exemption notice required under subsection (a) of this section according to the following conditions:

(i) If the offering is being made by the issuer the filing fee is two hundred dollars ($200.00);

(ii) Internet websites filing written notice shall pay a filing fee of one hundred dollars ($100.00), for a period of twelve (12) consecutive months following the date of written notice. Internet websites may file renewal notices every twelve (12) months accompanied by a one hundred dollar ($100.00) renewal fee.

(g) A website through which an offer or sale of securities under this section is made is not subject to the broker-dealer, investment adviser, or investment adviser representative registration requirements under article 4 of this act if the website meets all of the following conditions:

(i) It does not offer investment advice or recommendations;

(ii) It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the website;

(iii) It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the website;

(iv) It does not hold, manage, possess, or otherwise handle purchaser funds or securities;

(v) It does not engage in any other activities that the secretary of state by rule determines are inappropriate for an exemption from the registration requirements under article 4 of this act.

(h) Except for W.S. 17-4-504, article 5 of this act applies to a violation of this section, including a violation concerning website operation.

(j) As used in this section, "controlling person" means an officer, director, partner, or trustee, or another individual who has similar status or performs similar functions, of or for the issuer or to a person that owns ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.

(k) The exemption described in this section may be referred to as the "Wyoming Invests Now (WIN) exemption".

17-4-204. Additional exemptions and waivers.

A rule adopted or order issued under this act may exempt a security, transaction, or offer; a rule under this act may exempt a class of securities, transactions, or offers from any or all of the requirements of W.S. 17-4-301 through 17-4-306 and 17-4-504; and an order under this act may waive, in whole or in part, any or all of the conditions for an exemption or offer under W.S. 17-4-201 through 17-4-203.

17-4-205. Denial, suspension, revocation, condition, or limitation of exemptions.

(a) Except with respect to a federal covered security or a transaction involving a federal covered security, an order under this act may deny, suspend application of, condition, limit, or revoke an exemption created under W.S. 17-4-201(a)(iii)(C), (vii) or (viii), or W.S. 17-4-202 and 17-4-203, or an exemption or waiver created under W.S. 17-4-204 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in W.S. 17-4-306(d) or W.S. 17-4-604 and only prospectively.

(b) A person does not violate W.S. 17-4-301, 17-4-303 through 17-4-306, 17-4-504, or 17-4-510 by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order.

ARTICLE 3

REGISTRATION OF SECURITIES AND NOTICE FILING OF FEDERAL COVERED SECURITIES

17-4-301. Securities registration requirement.

(a) It is unlawful for a person to offer or sell a security in this state unless:

(i) The security is a federal covered security;

(ii) The security, transaction, or offer is exempted from registration under W.S. 17-4-201 through 17-4-204; or

(iii) The security is registered under this act.

17-4-302. Notice filing.

(a) With respect to a federal covered security, as defined in section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(2)), that is not otherwise exempt under W.S. 17-4-201 through 17-4-204, a rule adopted or order issued under this act may require the filing of any or all of the following records:

(i) Before the initial offer of a federal covered security in this state, all records that are part of a federal registration statement filed with the securities and exchange commission under the Securities Act of 1933 and a consent to service of process complying with W.S. 17-4-611 signed by the issuer and the payment of a fee of two hundred dollars ($200.00);

(ii) After the initial offer of the federal covered security in this state, all records that are part of an amendment to a federal registration statement filed with the securities and exchange commission under the Securities Act of 1933; and

(iii) To the extent necessary or appropriate to compute fees, a report of the value of the federal covered securities sold or offered to persons present in this state, if the sales data are not included in records filed with the securities and exchange commission and payment of a fee as set by rule.

(b) A notice filing under subsection (a) of this section is effective for one (1) year commencing on the later of the notice filing or the effectiveness of the offering filed with the securities and exchange commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the securities and exchange commission that are required by rule or order under this act to be filed and by paying a renewal fee as set by rule. A previously filed consent to service of process complying with W.S. 17-4-611 may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

(c) With respect to a security that is a federal covered security under section 18(b)(4)(D) of the Securities Act of 1933(15 U.S.C. Section 77r(b)(4)(D)), a rule under this act may

require a notice filing by or on behalf of an issuer to include a copy of Form D, including the appendix, as promulgated by the securities and exchange commission, and a consent to service of process complying with W.S. 17-4-611 signed by the issuer not later than fifteen (15) days after the first sale of the federal covered security in this state and the payment of a fee as set by rule; and the payment of a fee for any late filing as set by rule.

(d) Except with respect to a federal security under section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)), if the secretary of state finds that there is a failure to comply with a notice or fee requirement of this section, the secretary of state may issue a stop order suspending the offer and sale of a federal covered security in this state. If the deficiency is corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by the secretary of state.

17-4-303. Securities registration by coordination.

(a) A security for which a registration statement has been filed under the Securities Act of 1933 in connection with the

same offering may be registered by coordination under this section.

(b) A registration statement and accompanying records under this section must contain or be accompanied by the following records in addition to the information specified in W.S. 17-4-305 and a consent to service of process complying with W.S. 17-4-611:

(i) A copy of the latest form of prospectus filed under the Securities Act of 1933;

(ii) A copy of the articles of incorporation and bylaws or their substantial equivalents currently in effect; a copy of any agreement with or among underwriters; a copy of any indenture or other instrument governing the issuance of the security to be registered; and a specimen, copy, or description of the security that is required by rule adopted or order issued under this act;

(iii) Copies of any other information or any other records filed by the issuer under the Securities Act of 1933 requested by the secretary of state; and

(iv) An undertaking to forward each amendment to the federal prospectus, other than an amendment that delays the effective date of the registration statement, promptly after it is filed with the securities and exchange commission.

(c) A registration statement under this section becomes effective simultaneously with or subsequent to the federal registration statement when all the following conditions are satisfied:

(i) A stop order under subsection (d) of this section or W.S 17-4-306 or issued by the securities and exchange commission is not in effect and a proceeding is not pending against the issuer under W.S. 17-4-306; and

(ii) The registration statement has been on file for at least twenty (20) days or a shorter period provided by rule adopted or order issued under this act.

(d) The registrant shall promptly notify the secretary of state in a record of the date when the federal registration statement becomes effective and the content of any price

amendment and shall promptly file a record containing the price amendment. If the notice is not timely received, the secretary of state may issue a stop order, without prior notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this section. The secretary of state shall promptly notify the registrant of an order by telegram, telephone, or electronic means and promptly confirm this notice by a record. If the registrant subsequently complies with the notice requirements of this section, the stop order is void as of the date of its issuance.

(e) If the federal registration statement becomes effective before each of the conditions in this section is satisfied or is waived by the secretary of state, the registration statement is automatically effective under this act when all the conditions are satisfied or waived. If the registrant notifies the secretary of state of the date when the federal registration statement is expected to become effective, the secretary of state shall promptly notify the registrant by telegram, telephone, or electronic means and promptly confirm this notice by a record, indicating whether all the conditions are satisfied or waived and whether the secretary of state

intends the institution of a proceeding under W.S. 17-4-306. The notice by the secretary of state does not preclude the institution of such a proceeding.

17-4-304. Securities registration by qualification.

(a) A security may be registered by qualification under this section.

(b) A registration statement under this section must contain the information or records specified in W.S. 17-4-305, a consent to service of process complying with W.S.17-4-611, and, if required by rule adopted under this act, the following information or records:

(i) With respect to the issuer and any significant subsidiary, its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;

(ii) With respect to each director and officer of the issuer, and other person having a similar status or performing similar functions, the person's name, address, and principal occupation for the previous five (5) years; the amount of securities of the issuer held by the person as of the thirtieth (30th) day before the filing of the registration statement; the amount of the securities covered by the registration statement to which the person has indicated an intention to subscribe; and a description of any material interest of the person in any material transaction with the issuer or a significant subsidiary effected within the previous three (3) years or proposed to be effected;

(iii) With respect to persons covered by paragraph (ii) of this subsection, the aggregate sum of the remuneration paid to those persons during the previous twelve (12) months and estimated to be paid during the next twelve (12) months, directly or indirectly, by the issuer, and all predecessors, parents, subsidiaries, and affiliates of the issuer;

(iv) With respect to a person owning of record or owning beneficially, if known, ten percent (10%) or more of the outstanding shares of any class of equity security of the

issuer, the information specified in paragraph (ii) of this subsection other than the person's occupation;

(v) With respect to a promoter, if the issuer was organized within the previous three (3) years, the information or records specified in paragraph (ii) of this subsection, any amount paid to the promoter within that period or intended to be paid to the promoter, and the consideration for the payment;

(vi) With respect to a person on whose behalf any part of the offering is to be made in a nonissuer distribution, the person's name and address; the amount of securities of the issuer held by the person as of the date of the filing of the registration statement; a description of any material interest of the person in any material transaction with the issuer or any significant subsidiary effected within the previous three (3) years or proposed to be effected; and a statement of the reasons for making the offering;

(vii) The capitalization and long term debt, on both a current and pro forma basis, of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the

amount and kind of consideration, whether in the form of cash, physical assets, services, patents, goodwill, or anything else of value, for which the issuer or any subsidiary has issued its securities within the previous two (2) years or is obligated to issue its securities;

(viii) The kind and amount of securities to be offered; the proposed offering price or the method by which it is to be computed; any variation at which a proportion of the offering is to be made to a person or class of persons other than the underwriters, with a specification of the person or class; the basis on which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of each underwriter and each recipient of a finder's fee; a copy of any underwriting or selling group agreement under which the distribution is to be

made or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities that are to be offered otherwise than through an underwriter;

(ix) The estimated monetary proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the estimated amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated; the sources of the funds; and, if a part of the proceeds is to be used to acquire property, including goodwill, otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons that have received commissions in connection with the acquisition, and the amounts of the commissions and other expenses in connection with the acquisition, including the cost of borrowing money to finance the acquisition;

(x) A description of any stock options or other security options outstanding, or to be created in connection with the offering, and the amount of those options held or to be

held by each person required to be named in paragraph (ii), (iv), (v), (vi), or (viii) of this subsection and by any person that holds or will hold ten percent (10%) or more in the aggregate of those options;

(xi) The dates of, parties to, and general effect concisely stated of each managerial or other material contract made or to be made otherwise than in the ordinary course of business to be performed in whole or in part at or after the filing of the registration statement or that was made within the previous two (2) years, and a copy of the contract;

(xii) A description of any pending litigation, action, or proceeding to which the issuer is a party and that materially affects its business or assets, and any litigation, action, or proceeding known to be contemplated by governmental authorities;

(xiii) A copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering and any solicitation of interest used in compliance with W.S. 17-4-202(a)(xvii)(B);

(xiv) A specimen or copy of the security being registered, unless the security is uncertificated; a copy of the issuer's articles of incorporation and bylaws or their substantial equivalents, in effect; and a copy of any indenture or other instrument covering the security to be registered;

(xv) A signed or conformed copy of an opinion of counsel concerning the legality of the security being registered, with an English translation if it is in a language other than English, which states whether the security when sold will be validly issued, fully paid, and nonassessable and, if a debt security, a binding obligation of the issuer;

(xvi) A signed or conformed copy of a consent of any accountant, engineer, appraiser, or other person whose profession gives authority for a statement made by the person, if the person is named as having prepared or certified a report or valuation, other than an official record, that is public, which is used in connection with the registration statement;

(xvii) A balance sheet of the issuer as of a date within four (4) months before the filing of the registration

statement; a statement of income and a statement of cash flows for each of the three (3) fiscal years preceding the date of the balance sheet and for any period between the close of the immediately previous fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessor's existence if less than three (3) years; and, if any part of the proceeds of the offering is to be applied to the purchase of a business, the financial statements that would be required if that business were the registrant; and

(xviii) Any additional information or records required by rule adopted or order issued under this act.

(c) A registration statement under this section becomes effective when the secretary of state so orders.

(d) A rule adopted or order issued under this act may require as a condition of registration under this section that a prospectus containing a specified part of the information or record specified in subsection (b) of this section be sent or given to each person to which an offer is made, before or concurrently, with the earliest of:

(i) The first offer made in a record to the person otherwise than by means of a public advertisement, by or for the account of the issuer or another person on whose behalf the offering is being made or by an underwriter or broker-dealer that is offering part of an unsold allotment or subscription taken by the person as a participant in the distribution;

(ii) The confirmation of a sale made by or for the account of the person;

(iii) Payment pursuant to such a sale; or

(iv) Delivery of the security pursuant to such a sale.

17-4-305. Securities registration filings.

(a) A registration statement may be filed by the issuer, a person on whose behalf the offering is to be made, or a broker-dealer registered under this act.

(b) A person filing a registration statement shall pay a filing fee of one fiftieth (1/50) of one percent(1%), (two ten

thousandths (.0002)) of the total dollar offering amount to be offered in this state, but the fee shall in no case be less than two hundred dollars ($200.00) nor more than six hundred dollars ($600.00) when filing an initial registration statement or renewing a previously filed registration statement. If a registration statement is withdrawn before the effective date or a preeffective stop order is issued under W.S. 17-4-306 the secretary of state shall retain one hundred dollars ($100.00) of the fee.

(c) A registration statement filed under W.S. 17-4-303 or 17-4-304 must specify:

(i) The amount of securities to be offered in this state;

(ii) The states in which a registration statement or similar record in connection with the offering has been or is to be filed; and

(iii) Any adverse order, judgment, or decree issued in connection with the offering by a state securities regulator, the securities and exchange commission, or a court.

(d) A record filed under this act or the predecessor act within five (5) years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the record is currently accurate.

(e) In the case of a nonissuer distribution, information or a record may not be required under subsection (j) of this section or W.S. 17-4-304, unless it is known to the person filing the registration statement or to the person on whose behalf the distribution is to be made or unless it can be furnished by those persons without unreasonable effort or expense.

(f) A rule adopted or order issued under this act may require as a condition of registration that a security issued within the previous five (5) years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited in escrow; and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The conditions of any escrow or

impoundment required under this subsection may be established by rule adopted or order issued under this act, but the secretary of state may not reject a depository institution solely because of its location in another state.

(g) A rule adopted or order issued under this act may require as a condition of registration that a security registered under this act be sold only on a specified form of subscription or sale contract and that a signed or conformed copy of each contract be filed under this act or preserved for a period specified by the rule or order, which may not be longer than five (5) years.

(h) Except while a stop order is in effect under W.S. 17-4-306, a registration statement is effective for one (1) year after its effective date, or for any longer period designated in an order under this act during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by an underwriter or broker-dealer that is still offering part of an unsold allotment or subscription taken as a participant in the distribution. For the purposes of a nonissuer transaction, all outstanding securities

of the same class identified in the registration statement as a security registered under this act are considered to be registered while the registration statement is effective. If any securities of the same class are outstanding, a registration statement may not be withdrawn until one (1) year after its effective date. A registration statement may be withdrawn only with the approval of the secretary of state.

(j) While a registration statement is effective, a rule adopted or order issued under this act may require the person that filed the registration statement to file reports, not more often than quarterly, to keep the information or other record in the registration statement reasonably current and to disclose the progress of the offering.

(k) A registration statement may be amended after its effective date. The posteffective amendment becomes effective when the secretary of state so orders. If a posteffective amendment is made to increase the number of securities specified to be offered or sold, the person filing the amendment shall pay a registration fee specified in subsection (b) of this section. A posteffective amendment relates back to the date of the offering of the additional securities being registered if,

within one (1) year after the date of the sale, the amendment is filed and the additional registration fee is paid.

17-4-306. Denial, suspension, and revocation of securities registration.

(a) The secretary of state may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, a registration statement if the secretary of state finds that the order is in the public interest and that:

(i) The registration statement as of its effective date or before the effective date in the case of an order denying effectiveness, an amendment under W.S. 17-4-305(k) as of its effective date, or a report under W.S. 17-4-305(j), is incomplete in a material respect or contains a statement that, in the light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(ii) This act or a rule adopted or order issued under this act or a condition imposed under this act has been willfully violated, in connection with the offering, by the person filing the registration statement; by the issuer, a

partner, officer, or director of the issuer or a person having a similar status or performing a similar function; a promoter of the issuer; or a person directly or indirectly controlling or controlled by the issuer; but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or by an underwriter;

(iii) The security registered or sought to be registered is the subject of a permanent or temporary injunction of a court of competent jurisdiction or an administrative stop order or similar order issued under any federal, foreign, or state law other than this act applicable to the offering, but the secretary of state may not institute a proceeding against an effective registration statement under this paragraph more than one (1) year after the date of the order or injunction on which it is based, and the secretary of state may not issue an order under this paragraph on the basis of an order or injunction issued under the securities act of another state unless the order or injunction was based on conduct that would constitute, as of the date of the order, a ground for a stop order under this section;

(iv) The issuer's enterprise or method of business includes or would include activities that are unlawful where performed;

(v) With respect to a security sought to be registered under W.S. 17-4-303, there has been a failure to comply with the undertaking required by W.S. 17-4-303(b)(iv);

(vi) The applicant or registrant has not paid the filing fee, but the secretary of state shall void the order if the deficiency is corrected; or

(vii) The offering:

(A) Will work or tend to work a fraud upon purchasers or would so operate;

(B) Has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participations, or unreasonable amounts or kinds of options; or

(C) Is being made on terms that are unfair, unjust, or inequitable.

(b) To the extent practicable, the secretary of state by rule adopted or order issued under this act shall publish standards that provide notice of conduct that violates paragraph (a)(vii) of this section.

(c) The secretary of state may not institute a stop order proceeding against an effective registration statement on the basis of conduct or a transaction known to the secretary of state when the registration statement became effective unless the proceeding is instituted within thirty (30) days after the registration statement became effective.

(d) The secretary of state may summarily revoke, deny, postpone, or suspend the effectiveness of a registration statement pending final determination of an administrative proceeding. Upon the issuance of the order, the secretary of state shall promptly notify each person specified in subsection (e) of this section that the order has been issued, the reasons for the revocation, denial, postponement, or suspension, and that within fifteen (15) days after the receipt of a request in

a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the secretary of state, within thirty (30) days after the date of service of the order, the order becomes final. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing for each person subject to the order, may modify or vacate the order or extend the order until final determination.

(e) A stop order may not be issued under this section without:

(i) Appropriate notice to the applicant or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered;

(ii) An opportunity for hearing; and

(iii) Findings of fact and conclusions of law in a record in accordance with the Wyoming Administrative Procedure Act.

(f) The secretary of state may modify or vacate a stop order issued under this section if the secretary of state finds that the conditions that caused its issuance have changed or that it is necessary or appropriate in the public interest or for the protection of investors.

17-4-307. Waiver and modification.

(a) The secretary of state may waive or modify, in whole or in part, any or all of the requirements of W,S, 17-4-302, 17-4-303, and 17-4-304(b) or the requirement of any information or record in a registration statement or in a periodic report filed pursuant to W.S. 17-4-305(j).

ARTICLE 4

BROKER-DEALERS, AGENTS, INVESTMENT ADVISERS,INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL COVERED INVESTMENT ADVISERS

17-4-401. Broker-dealers registration requirement and exemptions.

(a) It is unlawful for a person to transact business in this state as a broker-dealer unless the person is registered

under this act as a broker-dealer or is exempt from registration as a broker-dealer under subsection (b) or (d) of this section.

(b) The following persons are exempt from the registration requirement of subsection (a):

(i) A broker-dealer without a place of business in this state if its only transactions effected in this state are exclusively with or through:

(A) The issuer of the securities involved in the transactions;

(B) A broker-dealer registered as a broker-dealer under this act or not required to be registered as a broker-dealer under this act;

(C) An institutional investor;

(D) A nonaffiliated federal covered investment adviser with investments under management in excess of one hundred million dollars ($100,000,000.00) acting for the account

of others pursuant to discretionary authority in a signed record;

(E) A bona fide preexisting customer whose principal place of residence is not in this state and the person is registered as a broker-dealer under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities act of the state in which the customer maintains a principal place of residence;

(F) A bona fide preexisting customer whose principal place of residence is in this state but was not present in this state when the customer relationship was established, if:

(I) The broker-dealer is registered under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities laws of the state in which the customer relationship was established and where the customer had maintained a principal place of residence; and

(II) Within forty-five (45) days after the customer's first transaction in this state, the person files an application for registration as a broker-dealer in this state and a further transaction is not effected more than seventy-five (75) days after the date on which the application is filed, or, if earlier, the date on which the secretary of state notifies the person that the secretary of state has denied the application for registration or has stayed the pendency of the application for good cause.

(G) Not more than one (1) customer in this state during the previous twelve (12) months, in addition to those customers specified in subparagraphs (A) through (F) and under subparagraph (H) of this paragraph, if the broker-dealer is registered under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities act of the state in which the broker-dealer has its principal place of business; and

(H) any other person exempted by rule adopted or order issued under this act.

(ii) A person that deals solely in United States government securities and is supervised as a dealer in government securities by the board of governors of the federal reserve system, the comptroller of the currency, the federal deposit insurance corporation, or the office of thrift supervision.

(c) It is unlawful for a broker-dealer, or for an issuer engaged in offering, offering to purchase, purchasing, or selling securities in this state, directly or indirectly, to employ or associate with an individual to engage in an activity related to securities transactions in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with a broker-dealer, an issuer, an investment adviser, or a federal covered investment adviser by an order of the secretary of state under this act, the securities and exchange commission, or a self-regulatory organization. A broker-dealer or issuer does not violate this subsection if the broker-dealer or issuer did not know and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from a broker-dealer or issuer and for good cause, an order under this act may modify or waive, in whole or in part, the

application of the prohibitions of this subsection to the broker-dealer.

(d) A rule adopted or order issued under this act may permit:

(i) A broker-dealer that is registered in Canada or other foreign jurisdiction and that does not have a place of business in this state to effect transactions in securities with or for, or attempt to effect the purchase or sale of any securities by:

(A) An individual from Canada or other foreign jurisdiction who is temporarily present in this state and with whom the broker-dealer had a bona fide customer relationship before the individual entered the United States;

(B) An individual from Canada or other foreign jurisdiction who is present in this state and whose transactions are in a self-directed tax advantaged retirement plan of which the individual is the holder or contributor in that foreign jurisdiction; or

(C) An individual who is present in this state, with whom the broker-dealer customer relationship arose while the individual was temporarily or permanently resident in Canada or the other foreign jurisdiction.

(ii) An agent who represents a broker-dealer that is exempt under this subsection to effect transactions in securities or attempt to effect the purchase or sale of securities in this state as permitted for a broker-dealer described in paragraph (i) of this subsection.

17-4-402. Agent registration requirement and exemptions.

(a) It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection (b) of this section.

(b) The following individuals are exempt from the registration requirement of subsection (a) of this section:

(i) An individual who represents a broker-dealer in effecting transactions in this state limited to those described

in section 15(h)(2) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78(o)(2));

(ii) An individual who represents a broker-dealer that is exempt under W.S. 17-4-401(b) or (d);

(iii) An individual who represents an issuer with respect to an offer or sale of the issuer's own securities or those of the issuer's parent or any of the issuer's subsidiaries, and who is not compensated in connection with the individual's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;

(iv) An individual who represents an issuer and who effects transactions in the issuer's securities exempted by W.S. 17-4-202, other than paragraphs (xi) and (xiv) of this subsection;

(v) An individual who represents an issuer that effects transactions solely in federal covered securities of the issuer, but an individual who effects transactions in a federal covered security under section 18(b)(3) or 18(b)(4)(D) of the

Securities Act of 1933 (15 U.S.C. Section 77r(b)(3) or 77r(b)(4)(D)) is not exempt if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;

(vi) An individual who represents a broker-dealer registered in this state under W.S. 17-4-401(a) or exempt from registration under W.S. 17-4-401(b) in the offer and sale of securities for an account of a nonaffiliated federal covered investment adviser with investments under management in excess of one hundred million dollars ($100,000,000.00) acting for the account of others pursuant to discretionary authority in a signed record;

(vii) An individual who represents an issuer in connection with the purchase of the issuer's own securities;

(viii) An individual who represents an issuer and who restricts participation to performing clerical or ministerial acts; or

(ix) Any other individual exempted by rule adopted or order issued under this act.

(c) The registration of an agent is effective only while the agent is employed by or associated with a broker-dealer registered under this act or an issuer that is offering, selling, or purchasing its securities in this state.

(d) It is unlawful for a broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection (a) or exempt from registration under subsection (b) of this section.

17-4-403. Investment adviser registration requirement.

(a) It is unlawful for a person to transact business in this state as an investment adviser unless the person is registered under this act as an investment adviser or is exempt from registration as an investment adviser under subsection (b) of this section.

(b) The following persons are exempt from the registration requirement of subsection (a) of this section:

(i) A person without a place of business in this state that is registered under the securities act of the state in which the person has its principal place of business if its only clients in this state are:

(A) Federal covered investment advisers, investment advisers registered under this act, or broker-dealers registered under this act;

(B) Institutional investors;

(C) Bona fide preexisting clients whose principal places of residence are not in this state if the investment adviser is registered under the securities act of the state in which the clients maintain principal places of residence; or

(D) Any other client exempted by rule adopted or order issued under this act.

(ii) A person without a place of business in this state if the person has had, during the preceding twelve (12) months, not more than five (5) clients that are resident in this state in addition to those specified under paragraph (i) of this subsection; or

(iii) Any other person exempted by rule adopted or order issued under this act.

(c) It is unlawful for an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to investment advice in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with an investment adviser, federal covered investment adviser, or broker-dealer by an order under this act, the securities and exchange commission, or a self-regulatory organization, unless the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from the investment adviser and for good cause, the secretary of state, by order, may waive, in whole or in part, the application of the prohibitions of this subsection to the investment adviser.

(d) It is unlawful for an investment adviser to employ or associate with an individual required to be registered under this act as an investment adviser representative who transacts business in this state on behalf of the investment adviser unless the individual is registered under W.S. 17-4-404(a) or is exempt from registration under W.S. 17-4-404(b).

17-4-404. Investment adviser representative registration requirement and exemptions.

(a) It is unlawful for an individual to transact business in this state as an investment adviser representative unless the individual is registered under this act as an investment adviser representative or is exempt from registration as an investment adviser representative under subsection (b) of this section.

(b) The following individuals are exempt from the registration requirement of subsection (a) of this section:

(i) An individual who is employed by or associated with an investment adviser that is exempt from registration under W.S. 17-4-403(b) or a federal covered investment adviser

that is excluded from the notice filing requirements of W.S. 17-4-405; and

(ii) Any other individual exempted by rule adopted or order issued under this act.

(c) The registration of an investment adviser representative is not effective while the investment adviser representative is not employed by or associated with an investment adviser registered under this act or a federal covered investment adviser that has made or is required to make a notice filing under W.S. 17-4-405.

(d) An individual may transact business as an investment adviser representative for more than one (1) investment adviser or federal covered investment adviser unless a rule adopted or order issued under this act prohibits or limits an individual from acting as an investment adviser representative for more than one (1) investment adviser or federal covered investment adviser.

(e) It is unlawful for an individual acting as an investment adviser representative, directly or indirectly, to

conduct business in this state on behalf of an investment adviser or a federal covered investment adviser if the registration of the individual as an investment adviser representative is suspended or revoked or the individual is barred from employment or association with an investment adviser or a federal covered investment adviser by an order under this act, the securities and exchange commission, or a self-regulatory organization. Upon request from a federal covered investment adviser and for good cause, the secretary of state, by order issued, may waive, in whole or in part, the application of the requirements of this subsection to the federal covered investment adviser.

(f) An investment adviser registered under this act, a federal covered investment adviser that has filed a notice under W.S. 17-4-405, or a broker-dealer registered under this act is not required to employ or associate with an individual as an investment adviser representative if the only compensation paid to the individual for a referral of investment advisory clients is paid to an investment adviser registered under this act, a federal covered investment adviser who has filed a notice under W.S. 17-4-405, or a broker-dealer registered under this act with

which the individual is employed or associated as an investment adviser representative.

17-4-405. Federal covered investment adviser notice filing requirement.

(a) Except with respect to a federal covered investment adviser described in subsection (b), it is unlawful for a federal covered investment adviser to transact business in this state as a federal covered investment adviser unless the federal covered investment adviser complies with subsection (c) of this section.

(b) The following federal covered investment advisers are not required to comply with subsection (c) of this section:

(i) A federal covered investment adviser without a place of business in this state if its only clients in this state are:

(A) Federal covered investment advisers, investment advisers registered under this act, and broker-dealers registered under this act;

(B) Institutional investors;

(C) Bona fide preexisting clients whose principal places of residence are not in this state; or

(D) Other clients specified by rule adopted or order issued under this act.

(ii) A federal covered investment adviser without a place of business in this state if the person has had, during the preceding twelve (12) months, not more than five (5) clients that are resident in this state in addition to those specified under paragraph (i) of this subsection; and

(iii) Any other person excluded by rule adopted or order issued under this act.

(c) A person acting as a federal covered investment adviser, not excluded under subsection (b) of this section, shall file a notice, a consent to service of process complying with W.S. 17-4-611, and such records as have been filed with the securities and exchange commission under the Investment Advisers

Act of 1940 required by rule adopted or order issued under this act and pay the fees specified in W.S. 17-4-410(e).

(d) The notice under subsection (c) of this section becomes effective upon its filing.

17-4-406. Registration by broker-dealer, agent, investment adviser, and investment adviser representative.

(a) A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application and a consent to service of process complying with W.S. 17-4-611, and paying the fee specified in W.S. 17-4-410 and any reasonable fees charged by the designee of the secretary of state for processing the filing. The application must contain:

(i) The information or record required for the filing of a uniform application; and

(ii) Upon request by the secretary of state, any other financial or other information or record that the secretary of state determines is appropriate.

(b) If the information or record contained in an application filed under subsection (a) of this section is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) If an order is not in effect and a proceeding is not pending under W.S. 17-4-412, registration becomes effective at noon on the forty-fifth (45th) day after a completed application is filed, unless the registration is denied. A rule adopted or order issued under this act may set an earlier effective date or may defer the effective date until noon on the forty-fifth (45th) day after the filing of any amendment completing the application.

(d) A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under W.S. 17-4-412, a registration may be automatically renewed each year by filing such records as are required by rule adopted or order issued under this act, by paying the fee specified in W.S. 17-4-410, and by paying costs charged by the designee of the secretary of state for processing the filings.

(e) A rule adopted or order issued under this act may impose such other conditions, not inconsistent with the National Securities Markets Improvement Act of 1996. An order issued under this act may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

17-4-407. Succession and change in registration of broker-dealer or investment adviser.

(a) A broker-dealer or investment adviser may succeed to the current registration of another broker-dealer or investment adviser or a notice filing of a federal covered investment adviser, and a federal covered investment adviser may succeed to the current registration of an investment adviser or notice filing of another federal covered investment adviser, by filing as a successor an application for registration pursuant to W.S. 17-4-401 or 17-4-403 or a notice pursuant to W.S. 17-4-405 for the unexpired portion of the current registration or notice filing.

(b) A broker-dealer or investment adviser that changes its form of organization or state of incorporation or organization may continue its registration by filing an amendment to its registration if the change does not involve a material change in its financial condition or management. The amendment becomes effective when filed or on a date designated by the registrant in its filing. The new organization is a successor to the original registrant for the purposes of this act. If there is a material change in financial condition or management, the broker-dealer or investment adviser shall file a new application for registration. A predecessor registered under this act shall stop conducting its securities business other than winding down transactions and shall file for withdrawal of broker-dealer or investment adviser registration within forty-five (45) days after filing its amendment to effect succession.

(c) A broker-dealer or investment adviser that changes its name may continue its registration by filing an amendment to its registration. The amendment becomes effective when filed or on a date designated by the registrant.

(d) A change of control of a broker-dealer or investment adviser may be made in accordance with a rule adopted or order issued under this act.

17-4-408. Termination of employment or association of agent and investment adviser representative and transfer of employment or association.

(a) If an agent registered under this act terminates employment by or association with a broker-dealer or issuer, or if an investment adviser representative registered under this act terminates employment by or association with an investment adviser or federal covered investment adviser, or if either registrant terminates activities that require registration as an agent or investment adviser representative, the broker-dealer, issuer, investment adviser, or federal covered investment adviser shall promptly file a notice of termination. If the registrant learns that the broker-dealer, issuer, investment adviser, or federal covered investment adviser has not filed the notice, the registrant may do so.

(b) If an agent registered under this act terminates employment by or association with a broker-dealer registered

under this act and begins employment by or association with another broker-dealer registered under this act; or if an investment adviser representative registered under this act terminates employment by or association with an investment adviser registered under this act or a federal covered investment adviser that has filed a notice under W.S. 17-4-405 and begins employment by or association with another investment adviser registered under this act or a federal covered investment adviser that has filed a notice under W.S. 17-4-405; then upon the filing by or on behalf of the registrant, within thirty (30) days after the termination, of an application for registration that complies with the requirement of W.S. 17-4-406(a) and payment of the filing fee required under W.S. 17-4-410, the registration of the agent or investment adviser representative is:

(i) Immediately effective as of the date of the completed filing, if the agent's central registration depository record or successor record or the investment adviser representative's investment adviser registration depository record or successor record does not contain a new or amended disciplinary disclosure within the previous twelve (12) months; or

(ii) Temporarily effective as of the date of the completed filing, if the agent's central registration depository record or successor record or the investment adviser representative's investment adviser registration depository record or successor record contains a new or amended disciplinary disclosure within the preceding twelve (12) months.

(c) The secretary of state may withdraw a temporary registration if there are or were grounds for discipline as specified in W.S. 17-4-412 and the secretary of state does so within thirty (30) days after the filing of the application. If the secretary of state does not withdraw the temporary registration within the thirty (30) day period, registration becomes automatically effective on the thirty-first (31st) day after filing.

(d) The secretary of state may prevent the effectiveness of a transfer of an agent or investment adviser representative under paragraph (b)(i) or (ii) of this section based on the public interest and the protection of investors.

(e) If the secretary of state determines that a registrant or applicant for registration is no longer in existence or has ceased to act as a broker-dealer, agent, investment adviser, or investment adviser representative, or is the subject of an adjudication of incapacity or is subject to the control of a committee, conservator, or guardian, or cannot reasonably be located, a rule adopted or order issued under this act may require the registration be canceled or terminated or the application denied. The secretary of state may reinstate a canceled or terminated registration, with or without hearing, and may make the registration retroactive.

17-4-409. Withdrawal of registration of broker-dealer, agent, investment adviser, and investment adviser representative.

(a) Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective sixty (60) days after the filing of the application to withdraw or within any shorter period as provided by rule adopted or order issued under this act unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when

and upon such conditions as required by rule adopted or order issued under this act. The secretary of state may institute a revocation or suspension proceeding under W.S. 17-4-412 within one (1) year after the withdrawal became effective automatically and issue a revocation or suspension order as of the last date on which registration was effective if a proceeding is not pending.

17-4-410. Filing fees.

(a) A person shall pay a fee of two hundred dollars ($200.00) when initially filing an application for registration as a broker-dealer and a fee of two hundred dollars ($200.00) when filing a renewal of registration as a broker-dealer. If the filing results in a denial or withdrawal, the secretary of state shall retain the entire fee.

(b) The fee for an individual is thirty-five dollars ($35.00) when filing an application for registration as an agent, a fee of thirty-five dollars ($35.00) when filing a renewal of registration as an agent, and a fee of thirty-five dollars ($35.00) when filing for a change of registration as an

agent. If the filing results in a denial or withdrawal, the secretary of state shall retain the entire fee.

(c) A person shall pay a fee of two hundred dollars ($200.00) when filing an application for registration as an investment adviser and a fee of two hundred dollars ($200.00) when filing a renewal of registration as an investment adviser. If the filing results in a denial or withdrawal, the secretary of state shall retain the entire fee.

(d) The fee for an individual is thirty-five dollars ($35.00) when filing an application for registration as an investment adviser representative, a fee of thirty-five dollars ($35.00) when filing a renewal of registration as an investment adviser representative, and a fee of thirty-five dollars ($35.00) when filing a change of registration as an investment adviser representative. If the filing results in a denial or withdrawal, the secretary of state shall retain the entire fee.

(e) A federal covered investment adviser required to file a notice under W.S 17-4-405 shall pay an initial fee of two hundred dollars ($200.00) and an annual notice fee of two hundred dollars ($200.00).

(f) A person required to pay a filing or notice fee under this section may transmit the fee through or to a designee as a rule or order provides under this act.

(g) An investment adviser representative who is registered as an agent under W.S. 17-4-402 and who represents a person that is both registered as a broker-dealer under 17-4-401 and registered as an investment adviser under 17-4-403 or required as a federal covered investment adviser to make a notice filing under 17-4-405 is not required to pay an initial or annual registration fee for registration as an investment adviser representative.

17-4-411. Postregistration requirements.

(a) Subject to section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(h)) or section 222 of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-22), a rule adopted or order issued under this act may establish minimum financial requirements for broker-dealers registered or required to be registered under this act and investment advisers registered or required to be registered under this act.

(b) Subject to section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(h)) or section 222(b) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-22), a broker-dealer registered or required to be registered under this act and an investment adviser registered or required to be registered under this act shall file such financial reports as are required by a rule adopted or order issued under this act. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) Subject to section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(h)) or section 222 of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-22):

(i) A broker-dealer registered or required to be registered under this act and an investment adviser registered or required to be registered under this act shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this act;

(ii) Broker-dealer records required to be maintained under paragraph (i) of this subsection may be maintained in any form of data storage acceptable under section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78q(a)) if they are readily accessible to the secretary of state; and

(iii) Investment adviser records required to be maintained under paragraph (i) of this subsection may be maintained in any form of data storage required by rule adopted or order issued under this act.

(d) The records of a broker-dealer registered or required to be registered under this act and of an investment adviser registered or required to be registered under this act are subject to such reasonable periodic, special, or other audits or inspections by a representative of the secretary of state, within or without this state, as the secretary of state considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The secretary of state may copy, and remove for audit or inspection copies of, all records the secretary of state reasonably considers

necessary or appropriate to conduct the audit or inspection. The secretary of state may assess a reasonable charge for conducting an audit or inspection under this subsection.

(e) Subject to section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(h)) or section 222 of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-22), a rule adopted or order issued under this act may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount as set by rule. The secretary of state may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this act whose net capital exceeds, or of an investment adviser registered under this act whose minimum financial requirements exceed, the amounts required by rule or order under this act. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in W.S. 17-4-509(k)(ii).

(f) Subject to section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(h)) or section 222 of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-22), an agent may not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser representative may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this act may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

(g) With respect to an investment adviser registered or required to be registered under this act, a rule adopted or order issued under this act may require that information or other record be furnished or disseminated to clients or prospective clients in this state as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

(h) A rule adopted or order issued under this act may require an individual registered under W.S 17-4-402 or 17-4-404 to participate in a continuing education program approved by the securities and exchange commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this act may require continuing education for an individual registered under W.S. 17-4-404.

17-4-412. Denial, revocation, suspension, withdrawal, restriction, condition, or limitation of registration.

(a) If the secretary of state finds that the order is in the public interest and subsection (d) of this section authorizes the action, an order issued under this act may deny an application, or may condition or limit registration of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative, and, if the applicant is a broker-dealer or investment adviser, of a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

(b) If the secretary of state finds that the order is in the public interest and subsection (d) of this section authorizes the action, an order issued under this act may revoke, suspend, condition, or limit the registration of a registrant and, if the registrant is a broker-dealer or investment adviser, of a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser. However, the secretary of state may not:

(i) Institute a revocation or suspension proceeding under this subsection based on an order issued under a law of another state that is reported to the secretary of state or a designee of the secretary of state more than one (1) year after the date of the order on which it is based; or

(ii) Under subparagraph (d)(v)(A) or (B) of this section, issue an order on the basis of an order issued under the securities act of another state unless the other order was based on conduct for which subsection (d) would authorize the action had the conduct occurred in this state.

(c) If the secretary of state finds that the order is in the public interest and paragraph (d)(i) through (vi), (viii), (ix), (x), or (xii) and (xiii) of this section authorizes the action, an order under this act may censure, impose a bar or impose a civil penalty in an amount not to exceed a maximum of five thousand dollars ($5,000.00) for a single violation or fifty thousand dollars ($50,000.00) for more than one (1) violation, on a registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

(d) A person may be disciplined under subsections (a) through (c) of this section if the person:

(i) Has filed an application for registration in this state under this act or the predecessor act within the previous ten (10) years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under

which it was made, was false or misleading with respect to a material fact;

(ii) Willfully violated or willfully failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous ten (10) years;

(iii) Has been convicted of a felony or within the previous ten (10) years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

(iv) Is enjoined or restrained by a court of competent jurisdiction in an action instituted by the secretary of state under this act or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

(v) Is the subject of an order, issued after notice and opportunity for hearing by:

(A) The securities, depository institution, insurance, or other financial services regulator of a state or by the securities and exchange commission or other federal agency denying, revoking, barring, or suspending registration as a broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative;

(B) The securities regulator of a state or the securities and exchange commission against a broker-dealer, agent, investment adviser, investment adviser representative, or federal covered investment adviser;

(C) The securities and exchange commission or a self-regulatory organization suspending or expelling the registrant from membership in the self-regulatory organization;

(D) A court adjudicating a United States postal service fraud order;

(E) The insurance regulator of a state denying, suspending, or revoking registration as an insurance agent; or

(F) A depository institution regulator suspending or barring the person from the depository institution business.

(vi) Is the subject of an adjudication or determination, after notice and opportunity for hearing, by the securities and exchange commission, the commodity futures trading commission; the federal trade commission; a federal depository institution regulator, or a depository institution, insurance, or other financial services regulator of a state that the person willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act, the securities or commodities law of a state, or a federal or state law under which a business involving investments, franchises, insurance, banking, or finance is regulated;

(vii) Is insolvent, either because the person's liabilities exceed the person's assets or because the person

cannot meet the person's obligations as they mature, but the secretary of state may not enter an order against an applicant or registrant under this paragraph without a finding of insolvency as to the applicant or registrant;

(viii) Refuses to allow or otherwise impedes the secretary of state from conducting an audit or inspection under W.S. 17-4-411(d) or refuses access to a registrant's office to conduct an audit or inspection under W.S. 17-4-411(d);

(ix) Has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous ten (10) years;

(x) Has not paid the proper filing fee within thirty (30) days after having been notified by the secretary of state of a deficiency, but the secretary of state shall vacate an order under this paragraph when the deficiency is corrected;

(xi) After notice and opportunity for a hearing, has been found within the previous ten (10) years:

(A) By a court of competent jurisdiction to have willfully violated the laws of a foreign jurisdiction under which the business of securities, commodities, investment, franchises, insurance, banking, or finance is regulated;

(B) To have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser representative, or similar person; or

(C) To have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction.

(xii) Is the subject of a cease and desist order issued by the securities and exchange commission or issued under the securities, commodities, investment, franchise, banking, finance, or insurance laws of a state;

(xiii) Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous ten (10) years; or

(xiv) Is not qualified on the basis of factors such as training, experience, and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by subsection (e) of this section. The secretary of state may require an applicant for registration under W.S. 17-4-402 or 17-4-404 who has not been registered in a state within the two (2) years preceding the filing of an application in this state to successfully complete an examination.

(e) A rule adopted or order issued under this act may require that an examination, including an examination developed or approved by an organization of securities regulators, be

successfully completed by a class of individuals or all individuals. An order issued under this act may waive, in whole or in part, an examination as to an individual and a rule adopted under this act may waive, in whole or in part, an examination as to a class of individuals if the secretary of state determines that the examination is not necessary or appropriate in the public interest and for the protection of investors.

(f) The secretary of state may suspend or deny an application summarily; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before final determination of an administrative proceeding. Upon the issuance of an order, the secretary of state shall promptly notify each person subject to the order that the order has been issued, the reasons for the action, and that within fifteen (15) days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the secretary of state within thirty (30) days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing to each

person subject to the order, may modify or vacate the order or extend the order until final determination.

(g) An order issued may not be issued under this section, except under subsection (f), without:

(i) Appropriate notice to the applicant or registrant;

(ii) Opportunity for hearing; and

(iii) Findings of fact and conclusions of law in a record in accordance with the Wyoming Administrative Procedure Act.

(h) A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the secretary of state under subsections (a) through (c) of this section to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

(j) The secretary of state may not institute a proceeding under subsection (a), (b), or (c) of this section based solely on material facts actually known by the secretary of state unless an investigation or the proceeding is instituted within one (1) year after the secretary of state actually acquires knowledge of the material facts.

ARTICLE 5

FRAUD AND LIABILITIES

17-4-501. General fraud.

(a) It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

(i) To employ a device, scheme, or artifice to defraud;

(ii) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(iii) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

17-4-502. Prohibited conduct in providing investment advice.

(a) It is unlawful for a person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities:

(i) To employ a device, scheme, or artifice to defraud another person; or

(ii) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

(b) A rule adopted under this act may define an act, practice, or course of business of an investment adviser or an investment adviser representative, other than a supervised person of a federal covered investment adviser, as fraudulent, deceptive, or manipulative, and prescribe means reasonably designed to prevent investment advisers and investment adviser representatives, other than supervised persons of a federal covered investment adviser, from engaging in acts, practices, and courses of business defined as fraudulent, deceptive, or manipulative.

(c) A rule adopted under this act may specify the contents of an investment advisory contract entered into, extended, or renewed by an investment adviser.

17-4-503. Evidentiary burden.

(a) In a civil action or administrative proceeding under this act, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the claim.

(b) In a criminal proceeding under this act, a person claiming an exemption, exception, preemption, or exclusion has the burden of going forward with evidence of the claim.

17-4-504. Filing of sales and advertising literature.

(a) Except as otherwise provided in subsection (b) of this section, a rule adopted or order issued under this act may require the filing of a prospectus, pamphlet, circular, form letter, advertisement, sales literature, or other advertising record relating to a security or investment advice, addressed or intended for distribution to prospective investors, including clients or prospective clients of a person registered or required to be registered as an investment adviser under this act.

(b) This section does not apply to sales and advertising literature specified in subsection (a) of this section which relates to a federal covered security, a federal covered investment adviser, or a security or transaction exempted by W.S. 17-4-201 through 17-4-204 except as required pursuant to 17-4-201(a)(vii).

17-4-505. Misleading filings.

(a) It is unlawful for a person to make or cause to be made, in a record that is used in an action or proceeding or filed under this act, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading in a material respect, or, in connection with the statement, to omit to state a material fact necessary to make the statement made, in the light of the circumstances under which it was made, not false or misleading.

17-4-506. Misrepresentations concerning registration or exemption.

(a) The filing of an application for registration, a registration statement, a notice filing under this act, the registration of a person, the notice filing by a person, or the registration of a security under this act does not constitute a finding by the secretary of state that a record filed under this act is true, complete, and not misleading. The filing or registration or the availability of an exemption, exception, preemption, or exclusion for a security or a transaction does not mean that the secretary of state has passed upon the merits

or qualifications of, or recommended or given approval to, a person, security, or transaction.

(b) It is unlawful to make, or cause to be made, to a purchaser, customer, client, or prospective customer or client a representation inconsistent with this section.

17-4-507. Qualified immunity.

(a) A broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative is not liable to another broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative for defamation relating to a statement that is contained in a record required by the secretary of state, or designee of the secretary of state, the securities and exchange commission, or a self-regulatory organization, unless the person knew, or should have known at the time that the statement was made, that it was false in a material respect or the person acted in reckless disregard of the statement's truth or falsity.

17-4-508. Criminal penalties.

(a) A person that willfully violates this act, or a rule adopted or order issued under this act, except W.S. 17-4-504 or the notice filing requirements of W.S. 17-4-302 or 17-4-405, or that willfully violates 17-4-505 knowing the statement made to be false or misleading in a material respect, upon conviction, shall be fined not more than five thousand dollars ($5,000) or imprisoned not more than three (3) years, or both. An individual convicted of violating a rule or order under this act may be fined, but may not be imprisoned, if the individual did not have knowledge of the rule or order.

(b) The attorney general or prosecuting attorney with or without a reference from the secretary of state, may institute criminal proceedings under this act.

(c) This act does not limit the power of this state to punish a person for conduct that constitutes a crime under other laws of this state.

17-4-509. Civil Liability.

(a) Enforcement of civil liability under this section is subject to the Securities Litigation Uniform Standards Act of 1998.

(b) A person is liable to the purchaser if the person sells a security in violation of W.S 17-4-301 or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission. An action under this subsection is governed by the following:

(i) The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at six percent (6%) per year from the date of the purchase, costs, and reasonable attorneys' fees determined by the court, upon the tender of the security, or for actual damages as provided in paragraph (iii) of this subsection;

(ii) The tender referred to in paragraph (i) of this subsection may be made any time before entry of judgment. Tender requires only notice in a record of ownership of the security and willingness to exchange the security for the amount specified. A purchaser that no longer owns the security may recover actual damages as provided in paragraph (iii) of this subsection;

(iii) Actual damages in an action arising under this subsection are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, and interest at six percent (6%) per year from the date of the purchase, costs and reasonable attorneys' fees determined by the court.

(c) A person is liable to the seller if the person buys a security by means of an untrue statement of a material fact or omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the seller not knowing of the untruth or omission, and the purchaser not sustaining the burden of proof that the purchaser did not know, and in the exercise of reasonable care, could not have known of the untruth or

omission. An action under this subsection is governed by the following:

(i) The seller may maintain an action to recover the security, and any income received on the security, costs, and reasonable attorneys' fees determined by the court, upon the tender of the purchase price, or for actual damages as provided in paragraph (iii) of this subsection;

(ii) The tender referred to in paragraph (i) of this subsection may be made any time before entry of judgment. Tender requires only notice in a record of the present ability to pay the amount tendered and willingness to take delivery of the security for the amount specified. If the purchaser no longer owns the security, the seller may recover actual damages as provided in paragraph (iii) of this subsection.

(iii) Actual damages in an action arising under this subsection are the difference between the price at which the security was sold and the value the security would have had at the time of the sale in the absence of the purchaser's conduct causing liability, and interest at six percent (6%) per year

from the date of the sale of the security, costs, and reasonable attorneys' fees determined by the court.

(d) A person acting as a broker-dealer or agent that sells or buys a security in violation of W.S. 17-4-401(a), 17-4-402(a), or 17-4-506 is liable to the customer. The customer, if a purchaser, may maintain an action for recovery of actual damages as specified in paragraphs (b)(i) through (iii) of this section, or, if a seller, for a remedy as specified in paragraphs (c)(i) through (iii) of this section.

(e) A person acting as an investment adviser or investment adviser representative that provides investment advice for compensation in violation of W.S. 17-4-403(a), 17-4-404(a), or 17-4-506 is liable to the client. The client may maintain an action to recover the consideration paid for the advice, interest six percent (6%) per year from the date of payment, costs, and reasonable attorneys' fees determined by the court.

(f) A person that receives directly or indirectly any consideration for providing investment advice to another person and that employs a device, scheme, or artifice to defraud the other person or engages in an act, practice, or course of

business that operates or would operate as a fraud or deceit on the other person, is liable to the other person. An action under this subsection is governed by the following:

(i) The person defrauded may maintain an action to recover the consideration paid for the advice and the amount of any actual damages caused by the fraudulent conduct, interest at six percent (6%) per year from the date of the fraudulent conduct, costs, and reasonable attorneys' fees determined by the court, less the amount of any income received as a result of the fraudulent conduct;

(ii) This subsection does not apply to a broker-dealer or its agents if the investment advice provided is solely incidental to transacting business as a broker-dealer and no special compensation is received for the investment advice.

(g) The following persons are liable jointly and severally with and to the same extent as persons liable under subsections (b) through (f) of this section:

(i) A person that directly or indirectly controls a person liable under subsections (b) through (f), unless the

controlling person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct by reason of which the liability is alleged to exist;

(ii) An individual who is a managing partner, executive officer, or director of a person liable under subsections (b) through (f), including an individual having a similar status or performing similar functions, unless the individual sustains the burden of proof that the individual did not know and, in the exercise of reasonable care could not have known, of the existence of conduct by reason of which the liability is alleged to exist;

(iii) An individual who is an employee of or associated with a person liable under subsections (b) through (f) and who materially aids the conduct giving rise to the liability, unless the individual sustains the burden of proof that the individual did not know and, in the exercise of reasonable care could not have known, of the existence of conduct by reason of which the liability is alleged to exist; and

(iv) A person that is a broker-dealer, agent, investment adviser, or investment adviser representative that materially aids the conduct giving rise to the liability under subsections (b) through (f), unless the person sustains the burden of proof that the person did not know and, in the exercise of reasonable care could not have known, of the existence of conduct by reason of which liability is alleged to exist.

(h) A person liable under this section has a right of contribution as in cases of contract against any other person liable under this section for the same conduct.

(j) A cause of action under this section survives the death of an individual who might have been a plaintiff or defendant.

(k) A person may not obtain relief:

(i) Under subsection (b) of this section for violation of W.S. 17-4-301, or under subsection (d) or (e) of this section, unless the action is instituted within one (1) year after the violation occurred; or

(ii) Under subsection (b) of this section, other than for violation of W.S. 17-4-301, or under subsection (c) or (f) of this section, unless the action is instituted within the earlier of two (2) years after discovery of the facts constituting the violation or five (5) years after the violation.

(m) A person that has made, or has engaged in the performance of, a contract in violation of this act or a rule adopted or order issued under this act, or that has acquired a purported right under the contract with knowledge of conduct by reason of which its making or performance was in violation of this act, may not base an action on the contract.

(n) A condition, stipulation, or provision binding a person purchasing or selling a security or receiving investment advice to waive compliance with this act or a rule adopted or order issued under this act is void.

(o) The rights and remedies provided by this act are in addition to any other rights or remedies that may exist, but

this act does not create a cause of action not specified in this section or W.S. 17-4-411(e).

17-4-510. Rescission offers.

(a) A purchaser, seller, or recipient of investment advice may not maintain an action under W.S. 17-4-509 if:

(i) The purchaser, seller, or recipient of investment advice receives in a record, before the action is instituted:

(A) An offer stating the respect in which liability under W.S. 17-4-509 may have arisen and fairly advising the purchaser, seller, or recipient of investment advice of that person's rights in connection with the offer, and any financial or other information necessary to correct all material misrepresentations or omissions in the information that was required by this act to be furnished to that person at the time of the purchase, sale, or investment advice;

(B) If the basis for relief under this section may have been a violation of W.S. 17-4-509(b), an offer to repurchase the security for cash, payable on delivery of the

security, equal to the consideration paid, and interest at six percent (6%) per year from the date of the purchase, less the amount of any income received on the security, or, if the purchaser no longer owns the security, an offer to pay the purchaser upon acceptance of the offer damages in an amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it, and interest at six percent (6%) per year from the date of the purchase in cash equal to the damages computed in the manner provided in this subsection;

(C) If the basis for relief under this section may have been a violation of W.S. 17-4-509(c), an offer to tender the security, on payment by the seller of an amount equal to the purchase price paid, less income received on the security by the purchaser and interest at six percent (6%) per year from the date of the sale; or if the purchaser no longer owns the security, an offer to pay the seller upon acceptance of the offer, in cash, damages in the amount of the difference between the price at which the security was purchased and the value the security would have had at the time of the purchase in the absence of the purchaser's conduct that may have caused

liability and interest at six percent (6%) per year from the date of the sale;

(D) If the basis for relief under this section may have been a violation of W.S. 17-4-509(d); and if the customer is a purchaser, an offer to pay as specified in subparagraph (B) of this paragraph; or, if the customer is a seller, an offer to tender or to pay as specified in subparagraph (C) of this paragraph;

(E) If the basis for relief under this section may have been a violation of W.S. 17-4-509(e), an offer to reimburse in cash the consideration paid for the advice and interest at six percent (6%) per year from the date of payment; or

(F) If the basis for relief under this section may have been a violation of W.S. 17-4-509(f), an offer to reimburse in cash the consideration paid for the advice, the amount of any actual damages that may have been caused by the conduct, and interest at six percent (6%) per year from the date of the violation causing the loss.

(ii) The offer under paragraph (i) of this subsection states that it must be accepted by the purchaser, seller, or recipient of investment advice within thirty (30) days after the date of its receipt by the purchaser, seller, or recipient of investment advice or any shorter period, of not less than three (3) days, that the secretary of state, by order, specifies;

(iii) The offeror has the present ability to pay the amount offered or to tender the security under paragraph (i) of this subsection;

(iv) The offer under paragraph (i) of this subsection is delivered to the purchaser, seller, or recipient of investment advice, or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice; and

(v) The purchaser, seller, or recipient of investment advice that accepts the offer under paragraph (i) of this subsection in a record within the period specified under paragraph (ii) of this subsection is paid in accordance with the terms of the offer.

ARTICLE 6

ADMINISTRATION AND JUDICIAL REVIEW

17-4-601. Administration.

(a) The secretary of state shall administer this act.

(b) It is unlawful for the secretary of state or an officer, employee, or designee of the secretary of state to use for personal benefit or the benefit of others records or other information obtained by or filed with the secretary of state that are not public under W.S. 17-4-607(b). This act does not authorize the secretary of state or an officer, employee, or designee of the secretary of state to disclose the record or information, except in accordance with W.S. 17-4-602, 17-4-607(c), or 17-4-608.

(c) This act does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

(d) The secretary of state may develop and implement investor education initiatives to inform the public about investing in securities, with particular emphasis on the

prevention and detection of securities fraud. In developing and implementing these initiatives, the secretary of state may collaborate with public and nonprofit organizations with an interest in investor education. The secretary of state may accept a grant or donation from a person that is not affiliated with the securities industry or from a nonprofit organization, regardless of whether the organization is affiliated with the securities industry, to develop and implement investor education initiatives. This subsection does not authorize the secretary of state to require participation or monetary contributions of a registrant in an investor education program.

17-4-602. Investigations and subpoenas.

(a) The secretary of state may:

(i) Conduct public or private investigations within or outside of this state which the secretary of state considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this act or a rule adopted or order issued under this act, or to aid in the enforcement of this act or in the adoption of rules and forms under this act;

(ii) Require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the secretary of state determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and

(iii) Publish a record concerning an action, proceeding, or an investigation under, or a violation of, this act or a rule adopted or order issued under this act if the secretary of state determines it is necessary or appropriate in the public interest and for the protection of investors.

(b) For the purpose of an investigation under this act, the secretary of state or his designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the secretary of state considers relevant or material to the investigation.

(c) If a person does not appear or refuses to testify, file a statement, produce records, or otherwise does not obey a subpoena as required by the secretary of state under this act,

the secretary of state may refer the matter to the attorney general or district attorney, who may apply to the Wyoming district court or a court of another state to enforce compliance. The court may:

(i) Hold the person in contempt;

(ii) Order the person to appear before the—secretary of state;

(iii) Order the person to testify about the matter under investigation or in question;

(iv) Order the production of records;

(v) Grant injunctive relief, including restricting or prohibiting the offer or sale of securities or the providing of investment advice;

(vi) Impose a civil penalty of not less than—five thousand dollars ($5,000.00) and not greater than fifty thousand ($50,000.00) for each violation; and

(vii) Grant any other necessary or appropriate relief.

(d) This section does not preclude a person from applying to Wyoming district court or a court of another state for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

(e) An individual is not excused from attending, testifying, filing a statement, producing a record or other evidence, or obeying a subpoena of the secretary of state under this act or in an action or proceeding instituted by the secretary of state under this act on the ground that the required testimony, statement, record, or other evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If the individual refuses to testify, file a statement, or produce a record or other evidence on the basis of the individual's privilege against self-incrimination, the secretary of state may apply to the Wyoming district court to compel the testimony, the filing of the statement, the production of the record, or the giving of other evidence. The testimony, record, or other evidence compelled under such an

order may not be used, directly or indirectly, against the individual in a criminal case, except in a prosecution for perjury or contempt or otherwise failing to comply with the order.

(f) At the request of the securities regulator of another state or a foreign jurisdiction, the secretary of state may provide assistance if the requesting regulator states that it is conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to securities matters that the requesting regulator administers or enforces. The secretary of state may provide the assistance by using the authority to investigate and the powers conferred by this section as the secretary of state determines is necessary or appropriate. The assistance may be provided without regard to whether the conduct described in the request would also constitute a violation of this act or other law of this state if occurring in this state. In deciding whether to provide the assistance, the secretary of state may consider whether the requesting regulator is permitted and has agreed to provide assistance reciprocally within its state or foreign jurisdiction to the secretary of state on securities matters when requested;

whether compliance with the request would violate or prejudice the public policy of this state; and the availability of resources and employees of the secretary of state to carry out the request for assistance.

17-4-603. Civil enforcement.

(a) If the secretary of state believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has, is, or is about to engage in an act, practice, or course of business that materially aids a violation of this act or a rule adopted or order issued under this act, the secretary of state may maintain an action in the Wyoming district court to enjoin the act, practice, or course of business and to enforce compliance with this act or a rule adopted or order issued under this act.

(b) In an action under this section and on a proper showing, the court may:

(i) Issue a permanent or temporary injunction, restraining order, or declaratory judgment;

(ii) Order other appropriate or ancillary relief, which may include:

(A) An asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver or conservator, that may be the secretary of state, for the defendant or the defendant's assets;

(B) Ordering the secretary of state to take charge and control of a defendant's property, including investment accounts and accounts in a depository institution, rents, and profits; to collect debts; and to acquire and dispose of property;

(C) Imposing a civil penalty up to five thousand dollars ($5,000.00) for a single violation or up to fifty thousand dollars ($50,000.00) for more than one (1) violation; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this act or the predecessor

act or a rule adopted or order issued under this act or the predecessor act; and

(D) Ordering the payment of prejudgment and postjudgment interest.

(iii) Order such other relief as the court considers appropriate.

(c) The secretary of state may not be required to post a bond in an action or proceeding under this act.

17-4-604. Administrative enforcement.

(a) If the secretary of state determines that a person has engaged, is engaging or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act, the secretary of state may:

(i) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this act;

(ii) Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under W.S. 17-4-401(b)(i)(D) or (F) or an investment adviser under 17-4-403(b)(i)(C); or

(iii) Issue an order under W.S. 17-4-205.

(b) An order under subsection (a) of this section is effective on the date of issuance. Upon issuance of the order, the secretary of state shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement whether the secretary of state will seek a civil penalty or costs of the investigation, a statement of the reasons for the order, and notice that, within fifteen (15) days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the secretary of

state within thirty (30) days after the date of service of the order, the order, which may include a civil penalty or costs of the investigation if a civil penalty or costs were sought in the statement accompanying the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered pursuant to subsection (b) of this section, a hearing must be held pursuant to the Wyoming Administrative Procedure Act. A final order may not be issued unless the secretary of state makes findings of fact and conclusions of law in a record in accordance with the Wyoming Administrative Procedure Act. The final order may make final, vacate, or modify the order issued under subsection (a) of this section.

(d) In a final order under subsection (c) of this section, the secretary of state may impose a civil penalty up to five thousand dollars ($5,000.00) for a single violation or up to fifty thousand dollars ($50,000.00) for more than one violation.

(e) In a final order, the secretary of state may charge the actual cost of an investigation or proceeding for a violation of this act or a rule adopted or order issued under this act.

(f) If a petition for judicial review of a final order is not filed in accordance with W.S. 17-4-609, the secretary of state may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(g) If a person does not comply with an order under this section, the secretary of state may petition a court of competent jurisdiction to enforce the order. The court may not require the secretary of state to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than five thousand dollars ($5,000.00) but not greater than

fifty thousand dollars ($50,000.00) for each violation and may grant any other relief the court determines is just and proper in the circumstances.

17-4-605. Rules, forms, orders, interpretative opinions, and hearings.

(a) The secretary of state may:

(i) Issue forms and orders and, after notice and comment, may adopt and amend rules necessary or appropriate to carry out this act and may repeal rules, including rules and forms governing registration statements, applications, notice filings, reports, and other records;

(ii) By rule, define terms, whether or not used in this act, but those definitions may not be inconsistent with this act; and

(iii) By rule, classify securities, persons, and transactions and adopt different requirements for different classes.

(b) Under this act, a rule or form may not be adopted or amended, or an order issued or amended, unless the—secretary of state finds that the rule, form, order, or amendment is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes intended by this act. In adopting, amending, and repealing rules and forms, W.S. 17-4-608 applies in order to achieve uniformity among the states and coordination with federal laws in the form and content of registration statements, applications, reports, and other records, including the adoption of uniform rules, forms, and procedures.

(c) Subject to section 15(h) of the Securities Exchange Act and section 222 of the Investment Advisers Act of 1940, the secretary of state may require that a financial statement filed under this act be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule adopted or order issued under this act. A rule adopted or order issued under this act may establish:

(i) Subject to section 15(h) of the Securities Exchange Act and section 222 of the Investment Advisors Act of

1940, the form and content of financial statements required under this act;

(ii) Whether unconsolidated financial statements must be filed; and

(iii) Whether required financial statements must be audited by an independent certified public accountant.

(d) The secretary of state may provide interpretative opinions or issue determinations that the secretary of state will not institute a proceeding or an action under this act against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this act. A rule adopted or order issued under this act may establish a reasonable charge for interpretative opinions or determinations that the secretary of state will not institute an action or a proceeding under this act.

(e) A penalty under this act may not be imposed for, and liability does not arise from conduct that is engaged in or omitted in good faith believing it conforms to a rule, form, or order of the secretary of state under this act.

(f) A hearing in an administrative proceeding under this act must be conducted in public unless the secretary of state for good cause consistent with this act determines that the hearing will not be so conducted.

17-4-606. Administrative files and opinions.

(a) The secretary of state shall maintain, or designate a person to maintain, a register of applications for registration of securities; registration statements; notice filings; applications for registration of broker-dealers, agents, investment advisers, and investment adviser representatives; notice filings by federal covered investment advisers that are or have been effective under this act or the predecessor act; notices of claims of exemption from registration or notice filing requirements contained in a record; orders issued under this act or the predecessor act; and interpretative opinions or no action determinations issued under this act.

(b) The secretary of state shall make all rules, forms, interpretative opinions, and orders available to the public.

(c) The secretary of state shall control the availability and dissemination of records, including the records identified as public records in W.S. 17-4-607, pursuant to the requirements set forth in the Wyoming Public Records Act.

17-4-607. Public records; confidentiality.

(a) Except as otherwise provided in subsection (b) of this section, records obtained by the secretary of state or filed under this act, including a record contained in or filed with a registration statement, application, notice filing, or report, are public records and are available for public examination.

(b) The following records are not public records and are not available for public examination under subsection (a) of this section:

(i) A record obtained by the secretary of state in connection with an audit or inspection under W.S. 17-4- 411(d) or an investigation under 17-4-602;

(ii) A part of a record filed in connection with a registration statement under W.S. 17-4-301 and 17-4-303 through

17-4-305 or a record under 17-4-411(d) that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law;

(iii) A record that is not required to be provided to the secretary of state or filed under this act and is provided to the secretary of state only on the condition that the record will not be subject to public examination or disclosure;

(iv) A nonpublic record received from a person specified in W.S. 17-4-608(a); and

(v) Any social security number, residential address unless used as a business address, and residential telephone number unless used as a business telephone number, contained in a record that is filed; and

(vi) A record obtained by the secretary of state through a designee of the secretary of state that a rule or order under this act determines has been:

(A) Expunged from the secretary of state's records by the designee; or

(B) Determined to be nonpublic or nondisclosable by that designee if the secretary of state finds the determination to be in the public interest and for the protection of investors.

(c) If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in W.S. 17-4-608(a), the secretary of state may disclose a record obtained in connection with an audit or inspection under W.S. 17-4-411(d) or a record obtained in connection with an investigation under 17-4-602.

17-4-608. Uniformity and cooperation with other agencies.

(a) The secretary of state shall, in his discretion, cooperate, coordinate, consult, and, subject to W.S. 17-4-607, share records and information with the securities regulator of another state, Canada, a Canadian province or territory, a foreign jurisdiction, the securities and exchange commission, the United States department of justice, the commodity futures

trading commission, the federal trade commission, the securities investor protection corporation, a self-regulatory organization, a national or international organization of securities regulators, a federal or state banking and insurance regulator, and a governmental law enforcement agency to effectuate greater uniformity in securities matters among the federal government, self-regulatory organizations, states, and foreign governments.

(b) In cooperating, coordinating, consulting, and sharing records and information under this section and in acting by rule, order, or waiver under this act, the secretary of state shall, in its discretion, take into consideration in carrying out the public interest the following general policies:

(i) Maximizing effectiveness of regulation for the protection of investors;

(ii) Maximizing uniformity in federal and state regulatory standards; and

(iii) Minimizing burdens on the business of capital formation, without adversely affecting essentials of investor protection.

(c) The cooperation, coordination, consultation, and sharing of records and information authorized by this section includes:

(i) Establishing or employing one (1) or more designees as a central depository for registration and notice filings under this act and for records required or allowed to be maintained under this act;

(ii) Developing and maintaining uniform forms;

(iii) Conducting a joint examination or investigation;

(iv) Holding a joint administrative hearing;

(v) Instituting and prosecuting a joint civil or administrative proceeding;

(vi) Sharing and exchanging personnel;

(vii) Coordinating registrations under W.S. 17-4-301 and 17-4-401 through 17-4-404 and exemptions under 17-4-204;

(viii) Sharing and exchanging records, subject to W.S. 17-4-607;

(ix) Formulating rules, statements of policy, guidelines, forms, and interpretative opinions and releases;

(x) Formulating common systems and procedures;

(xi) Notifying the public of proposed rules, forms, statements of policy, and guidelines;

(xii) Attending conferences and other meetings among securities regulators, which may include representatives of governmental and private sector organizations involved in capital formation, deemed necessary or appropriate to promote or achieve uniformity; and

(xiii) Developing and maintaining a uniform exemption from registration for small issuers, and taking other steps to

reduce the burden of raising investment capital by small businesses.

17-4-609. Judicial review.

(a) A final order issued by the secretary of state under this act is subject to judicial review in accordance with Wyoming Administrative Procedure Act.

17-4-610. Jurisdiction.

(a) W.S. 17-4-301, 17-4-302, 17-4-401(a), 17-4-402(a), 17-4-403(a), 17-4-404(a), 17-4-501, 17-4-506, 17-4-509, and 17-4-510 do not apply to a person that sells or offers to sell a security unless the offer to sell or the sale is made in this state or the offer to purchase or the purchase is made and accepted in this state.

(b) W.S. 17-4-401(a), 17-4-402(a), 17-4-403(a), 17-4-404(a), 17-4-501, 17-4-506, 17-4-509, and 17-4-510 do not apply to a person that purchases or offers to purchase a security unless the offer to purchase or the purchase is made in this

state or the offer to sell or the sale is made and accepted in this state.

(c) For the purpose of this section, an offer to sell or to purchase a security is made in this state, whether or not either party is then present in this state, if the offer:

(i) Originates from within this state; or

(ii) Is directed by the offeror to a place in this state and received at the place to which it is directed.

(d) For the purpose of this section, an offer to purchase or to sell is accepted in this state, whether or not either party is then present in this state, if the acceptance:

(i) Is communicated to the offeror in this state and the offeree reasonably believes the offeror to be present in this state and the acceptance is received at the place in this state to which it is directed; and

(ii) Has not previously been communicated to the offeror, orally or in a record, outside this state.

(e) An offer to sell or to purchase is not made in this state when a publisher circulates or there is circulated on the publisher's behalf in this state a bona fide newspaper or other publication of general, regular, and paid circulation that is not published in this state, or that is published in this state but has had more than two thirds (2/3) of its circulation outside this state during the previous twelve (12) months or when a radio or television program or other electronic communication originating outside this state is received in this state. A radio or television program, or other electronic communication is considered as having originated in this state if either the broadcast studio or the originating source of transmission is located in this state, unless:

(i) The program or communication is syndicated and distributed from outside this state for redistribution to the general public in this state;

(ii) The program or communication is supplied by a radio, television, or other electronic network with the electronic signal originating from outside this state for redistribution to the general public in this state;

(iii) The program or communication is an electronic communication that originates outside this state and is captured for redistribution to the general public in this state by a community antenna or cable, radio, cable television, or other electronic system; or

(iv) The program or communication consists of an electronic communication that originates in this state, but which is not intended for distribution to the general public in this state.

(f) W.S. 17-4-403(a), 17-4-404(a), 17-4-405(a), 17-4-502, 17-4-505, and 17-4-506 apply to a person if the person engages in an act, practice, or course of business instrumental in effecting prohibited or actionable conduct in this state, whether or not either party is then present in this state.

17-4-611. Service of Process.

(a) A consent to service of process complying with W.S. 17-4-611 required by this act must be signed and filed in the form required by a rule or order under this act. A consent

appointing the secretary of state the person's agent for service of process in a noncriminal action or proceeding against the person, or the person's successor or personal representative under this act or a rule adopted or order issued under this act after the consent is filed, has the same force and validity as if the service were made personally on the person filing the consent. A person that has filed a consent complying with this subsection in connection with a previous application for registration or notice filing need not file an additional consent.

(b) If a person, including a nonresident of this state, engages in an act, practice, or course of business prohibited or made actionable by this act or a rule adopted or order issued under this act and the person has not filed a consent to service of process under subsection (a) of this section, the act, practice, or course of business constitutes the appointment of the secretary of state as the person's agent for service of process in a noncriminal action or proceeding against the person or the person's successor or personal representative.

(c) Service under subsection (a) or (b) of this section may be made by providing a copy of the process to the office of the secretary of state, but it is not effective unless:

(i) The plaintiff, which may be the secretary of state, promptly sends notice of the service and a copy of the process, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if a consent to service of process has not been filed, at the last known address, or takes other reasonable steps to give notice; and

(ii) The plaintiff files an affidavit of compliance with this subsection in the action or proceeding on or before the return day of the process, if any, or within the time that the court, or the secretary of state in a proceeding before the secretary of state, allows.

(d) Service pursuant to subsection (c) of this section may be used in a proceeding before the secretary of state or by the secretary of state in a civil action in which the secretary of state is the moving party.

(e) If process is served under subsection (c) of this section, the court, or the secretary of state in a proceeding before the secretary of state, shall order continuances as are necessary or appropriate to afford the defendant or respondent reasonable opportunity to defend.

17-4-612. Severability clause.

(a) If any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

17-4-613. Securities enforcement and compliance account; purposes.

(a) There is created the securities enforcement and compliance account. Funds within the account shall only be expended by legislative appropriation. All funds within the account shall be invested by the state treasurer and all investment earnings from the account shall be credited to the general fund.

(b) The secretary of state shall credit sixty percent (60%) of all fees collected by the secretary of state under this act to the general fund and the balance to the securities enforcement and compliance account. Annually, on July 1, monies within the account in excess of three hundred fifty thousand dollars ($350,000.00) in the securities enforcement and compliance account shall be credited to the general fund.

(c) The secretary of state may expend money within the account created in subsection (a) of this section as appropriated by the legislature to investigate, prosecute and otherwise ensure compliance with this act and to promote investor awareness which may include investment and antifraud publications and seminars.

(d) The secretary of state shall develop separately identifiable biennial expenditure requests using a base budget, standard budget and exception budget as provided in W.S. 9-2-1002 through 9-2-1014 for the purposes specified in this section and from the account created in subsection (a) of this section.

ARTICLE 7

TRANSITION

17-4-701. Application of act to existing proceeding and existing rights and duties.

(a) The predecessor act exclusively governs all actions or proceedings that are pending on the effective date of this act or may be instituted on the basis of conduct occurring before the effective date of this act, but a civil action may not be maintained to enforce any liability under the predecessor act unless instituted within any period of limitation that applied when the cause of action accrued or within five (5) years after the effective date of this act, whichever is earlier.

(b) All effective registrations under the predecessor act, all administrative orders relating to the registrations, rules, statements of policy, interpretative opinions, declaratory rulings, no action determinations, and conditions imposed on the registrations under the predecessor act remain in effect while they would have remained in effect if this act had not been enacted. They are considered to have been filed, issued, or imposed under this act, but are exclusively governed by the predecessor act.

(c) The predecessor act exclusively applies to an offer or sale made within one (1) year after the effective date of this act pursuant to an offering made in good faith before the effective date of this act on the basis of an exemption available under the predecessor act.

Section 2. W.S. 9-1-308(e), 13-5-101(j)(vii), and 17-11-118 are amended to read:

9-1-308. Powers and duties; refusal to file documents; cease and desist orders.

(e) Any refusal to accept documents under subsection (a) of this section and any order issued under subsection (b) of this section is subject to the notice and appeal provisions of W.S. ~~17-4-123~~ 17-4-609.

13-5-101. Authority to organize; powers; limitations; prohibitions; exemptions.

(j) For the purposes of this act, a person does not engage in the trust business by:

(vii) Engaging in securities transactions as a dealer or salesman registered under W.S. 17-4-101 ~~through 17-4-130~~ 17-4-701;

17-11-118. Exemption from securities registration.

Corporations organized under the provisions of this act shall be exempt from registration under, or compliance with, the Wyoming Uniform Securities Act, ~~(chapter 160, Session Laws of Wyoming, 1965)~~ W.S. 17-4-101 through 17-4-701.

Section 3. There is appropriated two hundred sixty thousand dollars ($260,000.00) from the account created in W.S. 17-4-131(a) of the predecessor act to the secretary of state. This appropriation shall be for the period beginning with the effective date of this section and ending on June 30, 2018. This appropriation shall only be expended for the purpose of rewriting securities computer system software. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2018.

Section 4. The secretary of state is authorized one (1) additional full-time permanent auditor position. There is appropriated one hundred fifty thousand dollars ($150,000.00) from the account created in W.S. 17-4-131(a) of the predecessor act to the secretary of state. This appropriation shall be for the period beginning on the effective date of this section and ending on June 30, 2018. This appropriation shall only be expended for purposes of funding this position. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose. The appropriation and position shall be included in the secretary of state's 2019-2020 standard biennial budget request.

Section 5. Any balance remaining in the account to which fees collected under W.S. 17-4-101 through 17-4-132 of the predecessor act are deposited, other than the general fund, shall be transferred to the securities enforcement and compliance account created under this act on July 1, 2017.

Section 6. Sections 1 and 2 of this act are effective July 1, 2017. Sections 3 through 5 of this act are effective immediately upon completion of all acts necessary for a bill to

become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)