

**TITLE 660. DEPARTMENT OF SECURITIES
CHAPTER 11. OKLAHOMA UNIFORM SECURITIES ACT OF 2004**

RULEMAKING ACTION: Submission of Proposed Rules to the Governor and Cabinet Secretary [amended]

DATE: January 25, 2016

PROPOSED RULES:

Subchapter 5. Broker-Dealers and Agents

Part 3. Licensing Procedures

660:11-5-11. [AMENDED]

Subchapter 11. Exemptions From Securities Registration

Part 5 - Exempt Transactions

660:11-11-49. [REVOKED]

Part 7. Federal Covered Securities

660:11-11-61. [AMENDED]

660:11-11-62. [NEW]

Subchapter 15. Miscellaneous Provisions

660:11-15-2. [NEW]

REGULATORY TEXT:

660:11-5-11. [NEW]

660:11-5-11. Initial registration [AMENDED]

(a) **Broker-dealer.** Each broker-dealer applying for initial registration pursuant to Section 1-406 of the Securities Act:

(1) who is contemporaneously applying for FINRA membership or who is a FINRA member:

(A) shall file with the CRD:

(i) a completed Form BD, including Schedules A-E; and

(ii) the filing fee specified in Section 1-612 of the Securities Act.

(B) shall file with the Department, within 60 days of becoming registered, a list of the addresses, telephone numbers and resident agents of all nonbranch sales offices located within the state of Oklahoma.

(2) who is not a current FINRA member shall file with the Department:

(A) a completed Form BD, including Schedules A-E;

(B) the filing fee specified in Section 1-612 of the Securities Act;

(C) ~~audited~~ financial statements as required by 660:11-5-45;

(D) documentation of compliance with the minimum capital requirement set forth in Section 1-406.E of the Securities Act and 660:11-5-17;

(E) designation, qualification and registration of a principal as defined in 660:11-5-2 pursuant to (c) of this ~~section~~Section;

(F) a list of the addresses, telephone numbers and resident agents of all nonbranch sales offices located within the state of Oklahoma;

(G) a copy of the written supervisory procedures of the broker-dealer; and

(H) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(b) **Broker-dealer agent.**

(1) **Required documents.** Each broker-dealer agent applying for initial registration pursuant to Section 1-406 of the Securities Act shall file:

(A) a completed Form U-4;

(B) the filing fee specified in Section 1-612 of the Securities Act;

(C) proof of successful completion of the applicable examinations specified in 660:11-5-16;

(D) proof of applicant's approved status of registration or licensure in a jurisdiction in which he has an office of employment when such registration is required; and

~~(DE)~~ any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(2) **Where to file.** An agent applying for registration with a FINRA member shall file the documentation required by (1)(A) through (C) of this subsection with the CRD and shall file any additional documentation with the Department. Agents applying for registration with a non-FINRA broker-dealer shall file the required documentation with the Department.

(c) **Broker-dealer principal.**

(1) **Required documents.** Each person applying for initial registration under the Securities Act as a principal of a broker-dealer who is not a member of FINRA shall file with the Department:

- (A) a completed Form U-4;
- (B) a \$50.00 filing fee;
- (C) proof of successful completion of the applicable examinations specified in 660:11-5-16; and
- (D) ~~an executed Applicant/Management Certification for Non-FINRA Principals Form;~~
and
- ~~(E) any additional documentation, supplemental forms and information as the Administrator may deem necessary.~~

(2) **Effect of registration.** Registration under the Securities Act as a principal of a broker-dealer shall constitute registration as an agent.

(d) **Issuer agent.** Agents of issuers applying for initial registration in the state of Oklahoma pursuant to Section 1-406 of the Securities Act shall file the following with the Department:

- (1) a completed Form U-4;
- (2) the fee specified in Section 1-612 of the Securities Act;
- (3) proof of successful completion of the applicable examinations specified in 660:11-5-16;
- (4) an executed Applicant/Management Certification Form; and
- (5) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(e) **Requirement for continued registration.** 660:11-5-42, adopted pursuant to Section Sections 1-411.D.13 and 1-605.A.2. of the Securities Act, sets forth the standards of ethical practices for broker-dealers and their agents. Paragraph (22) of said rule requires that each broker-dealer establish, maintain and enforce written procedures that will enable it to supervise properly the activities of each registered agent to assure compliance with applicable securities laws, rules, regulations and statements of policy. Therefore, the initial and continued registration of a broker-dealer that is not a FINRA member is conditioned upon the designation, qualification and registration of a principal who shall be responsible for the supervision of all agents of the broker-dealer who are registered under the Securities Act. A broker-dealer applicant or registrant may apply for registration of more than one person as a principal of said broker-dealer.

660:11-11-61. Regulation D Rule 506 federal covered security notice filing [AMENDED]

(a) **Notice requirement.** Issuers offering a security in this state in reliance upon Section 1-301.1 of the Securities Act by reason of compliance with Regulation D, Rule 506, adopted by the ~~United States Securities and Exchange Commission~~SEC, shall be required to file a notice with the Administrator pursuant to the authority of Section 1 302.C. of the Securities Act if a sale of a security in this state occurs as a result of such offering. Such notice shall be filed no later than fifteen (15) days after the first sale of a security in this state for which a notice is required.

(b) **Terms Content of notice filing.** ~~The issuer shall file with the Administrator no later than fifteen (15) days after the first sale of a security in this state for which a notice is required under (a) of this section~~ Each required notice shall include the following:

- (1) one copy of the notice of sales on Form D as most recently filed with the SEC, ~~and the Appendix thereto;~~
- (2) ~~a consent to service of process on Form U-2 and (if applicable) Form U-2A; and~~
- ~~(3) the notice filing fee required by Section 1-612.A.19. of the Securities Act.~~

660:11-11-62. Regulation A Tier 2 federal covered security notice filing [NEW]

(a) **Notice requirement.** Issuers offering a security in this state in reliance upon Section 1-301.1 of the Securities Act by reason of compliance with Tier 2 of Regulation A, adopted by the

SEC, shall be required to file a notice with the Administrator pursuant to the authority of Section 1 302.C. of the Securities Act. Such notice shall be filed prior to the first offer of securities in this state that is subsequent to qualification of the offering statement by the SEC.

(b) **Content of notice.** Each required notice shall include the following:

(1) a copy of Part I of Federal Form 1-A in conjunction with a completed Oklahoma Notice of Regulation A - Tier 2 Offering form (or equivalent uniform form), or copies of all documents filed with the SEC;

(2) a consent to service of process (if such is not included in the submitted Notice form); and,

(3) the notice filing fee required by Section 1-612.A.19. of the Securities Act.

660:11-15-2. Protection of vulnerable adults from financial exploitation [NEW]

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Agencies" means the Oklahoma Department of Securities and the Oklahoma Department of Human Services or the adult protective services agency in the state in which the eligible adult resides.

(2) "Eligible adult" means:

(A) an individual 65 years of age or older; or

(B) an incapacitated person or a vulnerable adult as such terms are defined in the Protective Services for Vulnerable Adults Act, 43A O.S., Sections 10-101 through 10-110.

(3) "Financial exploitation" means:

(A) the wrongful or unauthorized taking, withholding, appropriation or use of money, assets or property of an eligible adult; or

(B) any act or omission taken by a person, including through the use of a power of attorney, guardianship, conservatorship or any other authority, regarding an eligible adult, to:

(i) obtain control, through the use of intimidation, undue influence, coercion, harassment, duress, deception, false representation or false pretense, over the eligible adult's money, assets or property to deprive such eligible adult of the ownership, use, benefit of possession of his money, assets or property; or

(ii) convert money, assets or property of the eligible adult to deprive such eligible adult of the ownership, use, benefit or possession of his money, assets or property.

(4) "Qualified individual" means any agent of, investment adviser representative of, or person who serves in a supervisory, compliance or legal capacity for, a broker-dealer or an investment adviser transacting business in this state.

(b) **Governmental Disclosures.** If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, is being attempted, or will be attempted, the qualified individual shall promptly notify the agencies. A qualified individual who, in good faith and exercising reasonable care, makes a disclosure of information pursuant to this subsection shall be immune from administrative or civil liability that might otherwise arise from such disclosure or for any failure to notify the customer of the disclosure or for participation in any judicial proceeding resulting from such disclosure.

(c) **Third-Party Disclosures.** If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, is being attempted, or will be attempted, a qualified individual may notify any third party previously designated by the eligible adult, unless the qualified individual reasonably believes that such designated third party has engaged, is engaged, or will engage, in suspected or attempted financial exploitation of the eligible adult. A qualified individual who, in good faith and exercising reasonable care, complies with this subsection shall be immune from any administrative or civil liability that might otherwise arise from such disclosure.

(d) **Delaying disbursements.**

(1) A broker-dealer or investment adviser transacting business in this state may delay a disbursement of funds or securities from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(A) the broker-dealer, investment adviser or qualified individual reasonably believes, after initiating an internal review of the requested disbursement, that the requested disbursement may result in financial exploitation of an eligible adult; and

(B) the broker-dealer or investment adviser:

(i) immediately, but in no event more than two business days after the requested disbursement, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless the broker-dealer or investment adviser reasonably believes that any such party has engaged, is engaged, or will engage, in suspected or attempted financial exploitation of the eligible adult;

(ii) immediately, but in no event more than two business days after the requested disbursement, notifies the agencies; and

(iii) continues its internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and reports the results of the internal review to the agencies within seven business days after the requested disbursement.

(2) Any delay of a disbursement of funds or securities as authorized by this subsection will expire upon the sooner of:

(A) a determination by the broker-dealer or investment adviser that the disbursement will not result in financial exploitation of the eligible adult; or

(B) fifteen business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds, unless either of the agencies requests that the broker-dealer or investment adviser extend the delay, in which case the delay shall expire no more than twenty-five business days after the date the broker-dealer or investment adviser first delayed disbursement of the funds unless sooner terminated by either of the agencies or an order of a court of competent jurisdiction.

(3) A court of competent jurisdiction may enter an order extending the delay of the disbursement of funds or securities or may order other protective relief based on the petition of any one of the agencies, the broker-dealer or investment adviser that initiated the delay under this subsection, or another interested party.

(4) A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with this subsection shall be immune from any administrative or civil liability that might otherwise arise from such delay in a disbursement in accordance with this subsection.

(e) **Records.** A broker-dealer or investment adviser transacting business in this state shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the Oklahoma Department of Human Services and to law enforcement, either as part of a referral to, or upon request of, the Oklahoma Department of Human Services or law enforcement. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation of an eligible adult. Nothing in this provision shall limit or otherwise impede the authority of the Administrator of the Oklahoma Department of Securities to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.