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

SUBCHAPTER 1. GENERAL PROVISIONS

660:11-1-3. Definitions [AMENDED]

Unless the context otherwise requires, or unless defined in this section or in 660:11-5-2, terms used in this chapter, if defined in the Securities Act, shall have the meaning as defined in the Securities Act. The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Advisers Act" means the Investment Advisers Act of 1940.

"Authorized to do business in Oklahoma" means authorized to do business in Oklahoma pursuant to the Oklahoma Uniform Securities Act of 2004.

"Audited financial statements" means "Certified financial statements."

"Certified financial statements" means financial statements prepared in accordance with generally accepted accounting principles and examined by Independent accountants in accordance with generally accepted auditing standards, accompanied by an opinion as described in 660:11-15-1.

"CFR" means the Code of Federal Regulations.

"CRD" means the NASAA/FINRA Central Registration Depository ~~System~~system or WEBCRD.

"Date of filing" means the date on which a proper registration statement is filed for purposes of determining the dates of the statements of financial condition to be filed with a registration statement. If amendments to a registration statement are necessary to comply fully with the registration requirements, "date of filing" means the date on which the last amendment is filed.

"FDIC" means the Federal Deposit Insurance Corporation.

"FINRA" means the Financial Industry Regulatory Authority, Inc., the successor to the NASD ~~and NASDR~~.

"Financial statements" means, but is not limited to, the statement of financial condition, statement of income, and statement of changes in stockholders' or owners' equity, as well as all related footnotes and supporting schedules applicable thereto, prepared in accordance with generally accepted accounting principles.

"**IARD**" means the FINRA-operated Investment Adviser Registration Depository.

"Independent accountants" means independent certified public accountants. The concept of independence shall be that promulgated by the American Institute of Certified Public Accountants.

"Institutional account" means the account of:

(A) a bank, savings and loan association, insurance company or registered investment company;

(B) an investment adviser registered under the Securities Act, with another state securities commission (or any agency or office performing like functions), or with the SEC under Section 203 of the Advisers Act; or

(C) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

"NASAA" means the North American Securities Administrators Association.

SUBCHAPTER 5. BROKER-DEALERS AND AGENTS
PART 1. GENERAL PROVISIONS

660:11-5-2. Definitions [AMENDED]

In addition to the terms defined in 660:11-1-3, the following words and terms when used in this subchapter shall have the following meaning, unless the context clearly indicates otherwise or the words or terms are defined in another Section:

"**Branch office**" means any business location of a broker-dealer identified to the public or customers by any means as a location at which a securities business is conducted on behalf of the broker-dealer, excluding any location identified solely in a telephone directory line listing or on a business card or letterhead, which listing, card, or letterhead also sets forth the address and telephone number of the office of the broker-dealer responsible for supervising the activities of the identified location.

"**Complaint**" means and includes any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of those persons under the control of the broker-dealer in connection with the solicitation or execution of any transaction or the disposition of securities or funds of that customer.

"**Completion of the transaction**" means:

(A) In the case of a customer who purchases a security through or from a broker-dealer, except as provided in (B), the time when such customer pays the broker-dealer any part of the purchase price, or, if payment is effected by bookkeeping entry, the time when such bookkeeping entry is made by the broker-dealer for any part of the purchase price;

(B) In the case of a customer who purchases a security through or from a broker-dealer and who makes payments therefor prior to the time when payment is requested or notification is given that payment is due, the time when such broker-dealer delivers the security to or into the account of such customer;

(C) In the case of a customer who sells a security through or to a broker-dealer, except as provided in (D), if any security is not in the custody of the broker-dealer at the time of sale, the time when the security is delivered to the broker-dealer, and if the security is in the custody of the broker-dealer at the time of sale, the time when the broker-dealer transfers the security from the account of such customer;

(D) In the case of a customer who sells a security through or to a broker-dealer and who delivers such security to such broker-dealer prior to the time when delivery is requested or notification is given that delivery is due, the time when such broker-dealer makes payment to or into the account of such customer.

"**Control**" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person is presumed to control a company that:

(A) is a director, general partner or officer exercising executive responsibility or having similar status or functions;

(B) directly or indirectly has the right to vote 25% or more of a class of a voting security or has the power to sell or direct the sale of 25% or more of a class of voting securities; or

(C) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 25% or more of the capital.

"**Customer**" means any person who, in the regular course of a broker-dealer's business, has cash or securities in the possession of such broker-dealer. "Customer" shall not include a broker-dealer.

"**Direct participation programs**" mean programs which provide for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate programs, agricultural programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or

any combination thereof; excluded from this definition are real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403(a) of the Internal Revenue Code and individual retirement plans Section 408 of that code, tax sheltered annuities pursuant to the provisions of Section 403(b) of the Internal Revenue Code and any company including separate accounts registered pursuant to the 1940 Act.

"**Independent investment adviser**" means an investment adviser that is not controlled by, does not control, and is not under common control with a broker-dealer.

"**Investment company and variable contracts products**" means:

(A) redeemable securities of companies registered pursuant to the 1940 Act;

(B) securities of closed-end companies registered pursuant to the 1940 Act during the period of original distribution only; and

(C) variable contracts and insurance premium funding programs and other contracts issued by an insurance company except contracts which are exempt securities pursuant to Section 3(a)(8) of the 1933 Act.

"**Municipal securities**" mean securities which are direct obligations of, or obligations guaranteed as to principal or interest by, a state or any political subdivision thereof, or any agency or instrumentality of a state or any political subdivision thereof, or any municipal corporate instrumentality of one of more states, or any security which is an industrial development bond as defined in Section3(a)(29) of the 1934 Act.

"**Non-branch sales office**" means any business location of the broker-dealer identified to the public or customers by any means as a location at which a securities business is conducted on behalf of the broker-dealer which location is identified solely in a telephone directory line listing or on a business card or letterhead, which listing, card, or letterhead also sets forth the address and telephone number of the office of the broker-dealer responsible for supervising the activities of the identified location.

"**Office**" means any location where a broker-dealer and/or one or more of its agents regularly conduct the business of handling funds or securities or effecting any transactions in, or inducing or attempting to induce the purchase or sale, of any security.

"**Option**" means any put, call, straddle or other option or privilege, which is a "security" as defined in Section 2(1) of the 1933 Act, as amended, but shall not include any tender offer, registered warrant, right, convertible security or any other option in respect to which the writer is the issuer of the security which may be purchased or sold upon the exercise of the option.

"**OSJ**" or "Office of supervisory jurisdiction" means any office designated as directly responsible for the review of the activities of registered agents or associated persons in such office and/or in other offices of the broker-dealer. An office of supervisory jurisdiction would be any business location of a broker-dealer at which one or more of the following functions take place:

(A) order execution and/or market making;

(B) structuring of public offerings or private placements;

(C) maintaining custody of customers' funds and/or securities;

(D) final acceptance (approval) of new accounts on behalf of the broker-dealer;

(E) review and endorsement of customer orders pursuant to 660:11-5-42;

(F) final approval of advertising or sales literature for use by agents of the broker-dealer;

(G) responsibility for supervising the activities of persons associated with the broker-dealer at one or more other offices of the broker-dealer.

"**Principal**" means:

(A) any individual registered with a registered national securities association as a principal or branch manager of a member, broker or dealer, or any other person who has been delegated supervisory responsibility for the firm or its associated persons; or
(B) any person associated with a non-FINRA applicant for registration as a broker-dealer who is or will be actively engaged in the management of the applicant's securities business, including supervision, solicitation, conduct of business or training of persons associated with an applicant for any of these functions, and is designated as a principal by the broker-dealer applicant.

"**Public offering price**" shall mean the price at which the security involved was offered to the public as set forth in the prospectus of the issuing company.

"**Selling group**" means any group formed in connection with a public offering, to distribute all or part of an issue of securities by sales made directly to the public by or through members of such selling group, under an agreement which imposes no financial commitment on the members of such group to purchase any such securities except as they may individually or collectively elect to do so.

"**Selling syndicate**" means any syndicate formed in connection with a public offering, to distribute all or part of an issue of securities by others or sales made directly to the public by or through participants in such syndicate under an agreement which imposes a financial commitment upon the participants in such syndicate to purchase any of such securities.

"**Undertaking for Participation in the NASAA/CRD Temporary Agent Transfer Program**" means the document entitled "Broker-Dealer Undertaking for Participation in the NASAA/CRD Temporary Agent Transfer Program" which the employing broker-dealer has executed and filed with the CRD.

SUBCHAPTER 5. BROKER-DEALERS AND AGENTS
PART 3. LISCENSING PROCEDURES

660:11-5-14. Agent termination [AMENDED]

(a) **Filing requirement**. Termination notice pursuant to the requirements of Section 1-408.A of the Securities Act shall be promptly given by filing within thirty ~~calendar~~ (30) days of termination, a completed Uniform Termination Notice ~~For~~ for Securities Industry Registration, Form ~~U-5~~U5. The Form ~~U-5~~U5 for an agent terminating registration with a FINRA member shall be filed with the CRD. The Form ~~U-5~~U5 for agents terminating registration with a non-FINRA broker-dealer shall be filed with the Department.

(b) **Responsibility for filing**. A completed Form ~~U-5~~U5 signed by the employer will be accepted as fulfilling the statutory requirements of both parties. Upon verification that the Form ~~U-5~~U5 has not been filed by the broker-dealer, the agent shall notify the Department in writing of said termination.

(c) **Amendments**. If the information contained in a Form U5 becomes inaccurate or incomplete, the employer shall promptly file a correcting amendment after learning of the facts or circumstances giving rise to the amendment.

~~(c)~~(d) **Effect of failure to file**. In the event of termination, the filing of a future application for registration shall not be considered complete until compliance with the termination notice requirements of Section 1-408.A and this section.

660:11-5-21. Supplemental disclosures [AMENDED]

Every broker-dealer and agent registered under the Securities Act must keep their application current at all times by promptly filing amendments supplementing their application after learning of the facts and circumstances giving rise to the amendments as required by Section 1-406.B of

the Securities Act. ~~and the instructions to the Form U-5 and Form U-4. "Promptly" shall mean not later than thirty (30) days after learning of the facts or circumstances giving rise to the amendment.~~

660:11-5-26. Merger and acquisition broker exemption [NEW]

(a) **Definitions.** For purposes of this Section:

(1) "**Control**" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. There is a presumption of control for any person who:

(A) is a director, general partner, member, or manager of a limited liability company, or officer exercising executive responsibility (or has similar status or functions);

(B) has the right to vote 20 percent or more of a class of voting securities or the power to sell or direct the sale of 20 percent or more of a class of voting securities; or;

(C) in the case of a partnership or limited liability company, has the right to receive upon dissolution, or has contributed, 20 percent or more of the capital.

(2) "**Eligible privately held company**" means a company meeting both of the following conditions:

(A) The company does not have any class of securities registered, or required to be registered, with the SEC under Section 12 of the 1934 Act, 15 U.S.C. 78l, or with respect to which the company files, or is required to file, periodic information, documents, and reports under subsection 15(d) of the 1934 Act, 15 U.S.C. 78o(d).

(B) In the fiscal year ending immediately before the fiscal year in which the services of the Merger and Acquisition Broker are initially engaged with respect to the securities transaction, the company meets either or both of the following conditions (determined in accordance with the historical financial accounting records of the company):

(i) The earnings of the company before interest, taxes, depreciation, and amortization are less than $25,000,000.

(ii) The gross revenues of the company are less than $250,000,000.

(3) "**Merger and Acquisition Broker**" means any broker-dealer and any person associated with a broker-dealer engaged in the business of effecting securities transactions solely in connection with the transfer of ownership of an eligible privately held company, regardless of whether that broker-dealer acts on behalf of a seller or buyer, through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the eligible privately held company –

(A) if the broker-dealer reasonably believes that upon consummation of the transaction, any person acquiring securities or assets of the eligible privately held company, acting alone or in concert, will control and, directly or indirectly, will be active in the management of the eligible privately held company or the business conducted with the assets of the eligible privately held company; and

(B) if any person is offered securities in exchange for securities or assets of the eligible privately held company, such person will, prior to becoming legally bound to consummate the transaction, receive or have reasonable access to the most recent fiscal year-end financial statements of the issuer of the securities as customarily prepared by its management in the normal course of operations and, if the financial statements of the issuer are audited, reviewed, or compiled, any related statement by the independent accountant; a balance sheet dated not more than 120 days before the date of the exchange offer; and information pertaining to the management, business, results of operations for the period covered by the foregoing financial statements, and any material loss contingencies of the issuer.

(C) A merger and acquisition broker may receive transaction-based or other compensation, as agreed by the parties.

(4) **"Public shell company"** means a company that at the time of a transaction with an eligible privately held company:

(A) has any class of securities registered, or required to be registered, with the SEC under Section 12 of the 1934 Act, 15 U.S.C. 78l, or with respect to which the company files, or is required to file, periodic information, documents, and reports under subsection 15(d) of the 1934 Act, 15 U.S.C. 78o(d); and

(B) has no or nominal operations; and

(C) has:

(i) no or nominal assets;

(ii) assets consisting solely of cash and cash equivalents; or

(iii) assets consisting of any amount of cash and cash equivalents and nominal other assets.

(b) **Inflation adjustment.** On the date that is five years after the date of the enactment of this Section, and every five years thereafter, each dollar amount in subparagraph (a)(2)(B) shall be adjusted by:

(1) dividing the annual value of the Employment Cost Index for Wages and Salaries, Private Industry Workers (or any successor index), as published by the Bureau of Labor Statistics, for the calendar year preceding the calendar year in which the adjustment is being made by the annual value of such index (or successor) for the calendar year ending December 31, 2020; and

(2) multiplying such dollar amount by the quotient obtained under (i) of this subsection.

(3) Rounding – Each dollar amount determined under (i) of this subsection shall be rounded to the nearest multiple of $100,000.

(c) **Exemption.** Except as provided in paragraphs (d) and (e), a Merger and Acquisition Broker shall be exempt from registration as a broker-dealer under this ~~s~~Section.

(d) **Excluded activities.** A merger and acquisition broker is not exempt from registration under this paragraph if such broker-dealer does any of the following:

(1) Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction.

(2) Engages on behalf of an issuer in a public offering of any class of securities that is registered, or is required to be registered, with the SEC under Section 12 of the 1934 Act, 15 U.S.C. 78l or with respect to which the issuer files, or is required to file, periodic information, documents, and reports under subsection 15(d) of the 1934 Act, 15 U.S.C. 78o(d).

(3) Engages on behalf of any party in a transaction involving a public shell company.

(e) **Disqualifications.** A merger and acquisition broker is not exempt from registration under this paragraph if such broker-dealer is subject to:

(1) Suspension or revocation of registration under paragraph 15(b)(4) of the 1934 Act, 15 U.S.C. 78o(b)(4);

(2) A statutory disqualification described in paragraph 3(a)(39) of the 1934 Act, 15 U.S.C. 78c(a)(39);

(3) A disqualification under the rules adopted by the SEC under Section 926 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 77d); or

(4) A final order described in subparagraph (4)(H) of Section 15(b) of the 1934 Act, 15 U.S.C. 78o(b)(4)(H).

(f) **Rule of construction.** Nothing in this Section shall be construed to limit any other authority of the Administrator to exempt any person, or any class of persons, from any provision of the Securities Act or from any provisions of any rule or regulation thereunder.

SUBCHAPTER 5. BROKER-DEALERS AND AGENTS
PART 7. RECORD KEEPING AND ETHICAL STANDARDS

660:11-5-42. Standards of ethical practices for broker-dealers and their agents [AMENDED]

(a) **Purpose.** This rule is intended to set forth the standards of ethical practices for broker-dealers and their agents. Any noncompliance with the standards of ethical practices specified in this section will constitute unethical practices in the securities business; however, the following is not intended to be a comprehensive listing of all specific events or conditions that may constitute such unethical practices. The standards shall be interpreted in such manner as will aid in effectuating the policy and provisions of the Securities Act, and so as to require that all practices of broker-dealers, and their agents, in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory.

(b) **Standards.**

(1) A broker-dealer and his agents, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. A broker-dealer and his agents shall not violate any federal securities statute or rule or any rule of a national securities exchange or national securities association of which it is a member with respect to any customer, transaction or business effected in this state.

(2) **Recommendations**

(A) A broker-dealer and his agents shall have reasonable grounds for believing that a recommended transaction or investment strategy involving a security or securities is suitable for such customer based upon the customer's investment profile. A customer's investment profile includes, but is not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information disclosed by the customer or known to the broker-dealer or agent.

(B) A broker-dealer and his agents fulfill the customer-specific suitability obligation for an institutional account, as defined in 660:11-1-3, if (i) the broker-dealer or agent has a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities and (ii) the institutional customer affirmatively indicates that it is exercising independent judgment in evaluating the broker-dealer or agent's recommendations. Where an institutional customer has delegated decision-making authority to an agent, such as an investment adviser or a bank trust department, these factors shall be applied to the agent.

(3) Charges, if any, for services performed, including miscellaneous services such as collection of monies due for principal, dividends, or interest, exchange or transfer of securities, appraisals, safekeeping or custody of securities, and other services, shall be reasonable and not unfairly discriminatory between customers.

(4) In "over-the-counter" transactions, whether in "listed" or "unlisted" securities, if a broker-dealer or agent of a broker-dealer buys for his own account from his customer, or sells for his own account to his customer, he shall buy or sell at a price which is fair, taking into consideration all relevant circumstances, including market conditions with respect to such

security at the time of the transaction, the expense involved, and the fact that he is entitled to a profit; and if he acts as agent for his customer in any such transaction, he shall not charge his customer more than a fair commission or service charge, taking into consideration all relevant circumstances including market conditions with respect to such security at the time of the transaction, the expense of executing the order and the value of any service he may have rendered by reason of his experience in and knowledge of such security and the market therefor.

(5) No broker-dealer or agent of a broker-dealer shall publish or circulate, or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security. If nominal quotations are used or given, they shall be clearly stated or indicated to be only nominal quotations.

(6) No broker-dealer or agent of a broker-dealer shall make an offer to buy from or sell to any person any security at a stated price unless such broker-dealer or agent is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell.

(7) A broker-dealer, when a member of a selling syndicate or a selling group, shall purchase securities taken in trade at a fair market price at the time of purchase, or shall act as agent in the sale of such securities.

(8) A broker-dealer who in the capacity of paying agent, transfer agent, trustee, or any other similar capacity, has received information as to the ownership of securities, shall under no circumstances make use of such information for the purpose of soliciting purchases, sales or exchanges except at the request and on behalf of the issuer.

(9) No broker-dealer or agent of a broker-dealer shall, directly or indirectly, give, permit to be given, or offer to give, anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service, or similar publication, of any matter which has, or is intended to have, an effect upon the market price of any security, provided that this rule shall not be construed to apply to matter which is clearly distinguishable as paid advertising.

(10) A broker-dealer at or before the completion of each transaction with a customer shall give or send to each customer written notification disclosing:

(A) whether such broker-dealer is acting as a broker for such customer and some other person; and

(B) in any case in which such broker-dealer is acting as a broker for such customer or for both such customer and some other person, either the name of the person from whom the security was purchased or to whom it was sold for such customer and the date and the time when such transaction took place or the fact that such information will be furnished upon the request of such customer, and the source and amount of any commission or other remuneration received or to be received by such broker-dealer in connection with the transaction.

(11) A broker-dealer or agent of a broker-dealer controlled by, controlling, or under common control with, the issuer of any security, shall, before entering into any contract with or for a customer for the purchase or sale of such security, disclose to such customer the existence of such control, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction.

(12) A broker-dealer or agent of a broker-dealer who is acting as a broker for a customer or for both such customer and some other person, or a broker-dealer who is acting as a dealer and who receives or has promise of receiving a fee from a customer for advising such customer with respect to securities, shall, at or before the completion of any transaction for or with such customer in any security in the primary or secondary distribution of which such broker-dealer is participating or is otherwise financially interested, give such customer written notification of the existence of such participation or interest.

(13) The following standards shall apply to discretionary accounts:

(A) No broker-dealer or agent of a broker-dealer shall effect with or for any customer's account in respect to which such broker-dealer or agent or employee is vested with any discretionary power any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources of such customer and character of such account.

(B) No broker-dealer or agent of a broker-dealer shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the broker-dealer, as evidenced in writing by the broker-dealer or the partner, officer, or manager duly designated by the broker-dealer, in accordance with (22) of this subsection.

(C) The broker-dealer or the person duly designated shall approve promptly, in writing, each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources of the customer and the character of the account.

(D) This section shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed.

(14) A broker-dealer or agent of a broker-dealer who is participating or who is otherwise financially interested in the primary or secondary distribution of any security which is not admitted to trading on a national securities exchange, shall make no representation that such security is being offered to a customer "at the market" or at a price related to the market price unless such broker-dealer or agent knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by such broker-dealer or agent, or by any person for whom he is acting or with whom he is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer or agent.

(15) No broker-dealer or agent of a broker-dealer shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device, practice, plan, program, design, or contrivance.

(16) The following standards shall apply to the use of customer funds:

(A) No broker-dealer or person associated with a broker-dealer shall make improper use of a customer's securities or funds.

(B) No broker-dealer or agent of a broker-dealer shall lend, either to himself or to others, securities carried for the account of any customer, unless such broker-dealer or agent shall first have obtained from the customer a separate written authorization permitting the lending of securities thus carried by such broker-dealer or agent; and, regardless of any agreement between the broker-dealer or agent and a customer authorizing the former to lend or pledge such securities, no broker-dealer or agent shall lend or pledge more of such securities than is fair and reasonable in view of the indebtedness of the customer, except such lending as may be specifically authorized under (C) of this paragraph.

(C) No broker-dealer or agent of a broker-dealer shall lend securities carried for the account of any customer which have been fully paid for or which are in excess of the amount which may be loaned in view of the indebtedness of the customer, unless such broker-dealer or agent shall first have obtained from such customer a separate written authorization designating the particular securities to be loaned.

(D) No broker-dealer or agent of a broker-dealer shall hold securities carried for the account of any customer which have been fully paid for or which are in excess of the amount which may be pledged in view of the indebtedness of the customer, unless such securities are segregated and identified by a method which clearly indicates the interest of such customer in those securities.

(E) No broker-dealer or agent of a broker-dealer shall guarantee a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer or agent with or for such customer.

(F) No broker-dealer or agent of a broker-dealer shall share directly or indirectly in the profits or losses in any account of a customer carried by the broker-dealer or agent or any other broker-dealer or agent, unless such broker-dealer or agent obtains written authorization from the broker-dealer carrying the account; and, a broker-dealer or agent shall share in the profits or losses in any account of such customer only in direct proportion to the financial contributions made to such account by the broker-dealer or agent. Exempt from the direct proportionate share limitation are accounts of the immediate family of such broker-dealer or agent. For purposes of this section, the term "immediate family" shall include parents, mother-in-law or father-in-law, husband or wife, children or any relative to whose support the broker-dealer or agent otherwise contributes directly or indirectly.

(17) The following standards shall apply to customer credit:

(A) No broker-dealer or agent of a broker-dealer shall take or carry any account or make a transaction for any customer under any arrangement which contemplates or provides for the purchase of any security for the account of the customer or for the sale of any security to the customer where payment for the security is to be made to the broker-dealer by the customer over a period of time in installments or by a series of partial payments, unless:

(i) in the event such broker-dealer acts as an agent or broker in such transaction, he shall immediately, in the regular course of his business, make an actual purchase of the security for the account of the customer, and shall immediately, in the regular course of his business, take possession or control of such security and shall maintain possession or control thereof so long as he remains under obligation to delivery of the security to the customer;

(ii) in the event such broker-dealer acts as a principal in any such transaction, he shall, at the time of such transaction own such security and shall maintain possession or control thereof so long as he remains under obligation to deliver the security to the customer; and

(iii) the provisions of Regulation T of the Federal Reserve Board, if applicable to such broker-dealer, are satisfied.

(B) No broker-dealer, whether acting as a principal or agent, shall, in connection with any transaction referred to in this Standard, make any agreement with his customer under which such broker-dealer shall be allowed to pledge or hypothecate any security involved in such transaction for any amount in excess of the indebtedness of the customer to such broker-dealer.

(18) The following standards shall apply to books and records:

(A) Each broker-dealer shall keep and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations, and statements of policy promulgated by the Administrator and/or the Commission under the Securities Act.

(B) Each broker-dealer shall keep and preserve in each office of supervisory jurisdiction, as defined in 660:11-5-2, either a separate file of all written complaints of customers and action taken by the broker-dealer, if any, or a separate record of such complaints and clear reference to the files containing the correspondence connected with such complaints as maintained in such office.

(19) A broker-dealer shall make available to inspection by any bona fide regular customer, upon request, the information relative to such broker-dealer's financial condition as disclosed in its most recent balance sheet prepared either in accordance with such broker-dealer's usual practice or as required by the state or federal securities laws, or any rule or regulation promulgated thereunder.

(20) No broker-dealer or agent of a broker-dealer shall offer any security or confirm any purchase or sale of any security, from or to any person not actually engaged in the investment banking or securities business at any price which shows a concession, discount, or other allowance, but shall offer such security and confirm such purchase or sale at a net dollar or basis price.

(21) Selling concessions, discounts, or other allowances, as such, shall be allowed only as consideration for services rendered in distribution and in no event shall be allowed to anyone other than a broker-dealer registered under the Securities Act actually engaged in the investment banking or securities business; provided however, that nothing in this standard shall prevent any broker-dealer from selling any security owned by him to any person at any net price which may be fixed by him unless prevented therefrom by agreement.

(22) The following standards shall apply to supervisory procedures:

(A) Each broker-dealer shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of each registered agent and associated person to assure compliance with applicable securities laws, rules, regulations and statements of policy promulgated by the Administrator and/or the Commission under the Securities Act.

(B) Final responsibility for proper supervision shall rest with the broker-dealer, the principal(s) of the broker-dealer registered in accordance with 660:11-5-11, and the principal(s) of the broker-dealer in each OSJ, including the main office, and the registered representatives in each non-OSJ branch office designated by the broker-dealer to carry out the supervisory responsibilities assigned to that office by the broker-dealer pursuant to the rules and regulations of the NASD. A copy of the written supervisory procedures shall be kept in each office of supervisory jurisdiction and each non-OSJ branch office.

(C) Each broker-dealer shall be responsible for keeping and preserving appropriate records for carrying out such broker-dealer's supervisory procedures. Each broker-dealer shall review and endorse in writing, on an internal record, all transactions and all correspondence of its registered agents pertaining to the solicitation or execution of any securities transaction.

(D) Each broker-dealer shall review the activities of each office, which shall include the periodic examination of customer accounts to detect and prevent irregularities or abuses and conduct at least an annual inspection of each office of supervisory jurisdiction.

(E) Each broker-dealer shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications and experience of any

person prior to making such a certification in the application of such person for registration under the Securities Act.

(23) The following standards shall apply to financial information:

(A) Each broker-dealer offering or selling securities not listed on a registered national securities exchange recognized by the Administrator shall have and furnish to customers, on request, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, prepared in accordance with generally accepted accounting principles, the names of the issuer's proprietors, partners or officers, the nature of the enterprise of the issuer and any other available information reasonably necessary for evaluating the desirability or the lack of desirability of investing in the securities of the issuer.

(B) Each broker-dealer who, in computation of net capital includes securities not listed on a registered national securities exchange recognized by the Administrator shall also have the information provided for in (A) of this paragraph available and shall, upon request, furnish same to the Department.

(C) All transactions in such securities described in (A) and (B) of this paragraph shall comply with the provisions of Section 1-301 of the Securities Act.

(D) The provisions of (A) of this paragraph shall not be required in unsolicited transactions, except when numerous unsolicited transactions in a particular security are occurring, it shall be the duty and responsibility of the broker-dealer to make reasonable effort to secure and provide to customers upon their written request the information required by the provisions of (A) of this paragraph. Nothing contained in this Section shall be construed to limit the powers of the Administrator under Section 1-204 of the Securities Act.

(24) The following standards shall apply when a broker-dealer shares an office with an independent investment adviser that has an investment adviser representative who regularly conducts business in the office and is not registered as an agent of the broker-dealer.

(A) The broker-dealer and the independent investment adviser shall reduce any agreement between them to writing.

(B) The broker-dealer shall take appropriate measures, including, but not limited to, adequate disclosures to eliminate the appearance of an agency relationship between the broker-dealer and the independent investment adviser when one does not otherwise exist.

(C) The broker-dealer shall comply with all applicable Oklahoma and federal laws requiring the safeguarding of customer data from disclosure to the independent investment adviser and investment adviser representative.

SUBCHAPTER 7. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES
PART 1. GENERAL PROVISIONS

660:11-7-2. Definitions [AMENDED]

In addition to the terms defined in 660:11-1-3, the following words and terms when used in this subchapter shall have the following meaning, unless the context clearly indicates otherwise:

"**IARD**" means the FINRA-operated Investment Adviser Registration Depository.

"**Impersonal advisory services**" means investment advisory services provided solely:

(A) by means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

(B) through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

(C) any combination of the foregoing services.

"**Investment company contract**" means a contract with an investment company registered under the 1940 Act that meets the requirements of Section 15(c) of that Act.

"**Advisory affiliate**" means an advisory affiliate as defined by the Glossary of Terms for the Form ADV.

"**Office**" means any location where an investment adviser and/or one or more of its investment adviser representatives regularly conduct business relating to investment advisory services.

"**Solicitor**" means any person who, directly or indirectly, solicits any client for, or refers any client to, an investment adviser.

SUBCHAPTER 7. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES
PART 3. LICENSING PROCEDURES

660:11-7-11. Initial registration [AMENDED]

(a) **Investment adviser**. Investment advisers applying for initial registration pursuant to Section 1-406 of the Securities Act:

(1) shall file with the IARD:

(A) a completed Form ADV; and

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

(2) shall file with the Department:

(A) a list of the addresses, telephone numbers and resident representatives of all branch offices located within the state of Oklahoma, and if the principal office of the investment adviser is located in Oklahoma, all branch offices located elsewhere;

(B) audited financial statements as required by 660:11-7-44 unless exempt therefrom;

(C) a copy of each form of investment advisory contract to be executed by Oklahoma clients and if the principal office of the investment adviser is located in Oklahoma, a copy of each form of investment advisory contract to be executed by any other clients; ~~and~~

(D) ~~any additional documentation, supplemental forms and information as the Administrator may deem necessary;~~ prior to the effective date of registration, proof that the applicant maintains an errors and omissions insurance policy in the amount of at least $1 million per claim from an insurer authorized to transact insurance in the state of Oklahoma or from any other insurer approved by the Administrator according to standards established by 660:11-7-21; and

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

(3) if a natural person, must have passed the applicable examinations specified in 660:11-7-13.

(b) **Investment adviser representative**. Investment adviser representatives applying for initial registration under the Securities Act:

(1) shall file with the CRD:

(A) a completed or updated Form U-4;

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

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

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

(2) must have passed the applicable examinations specified in 660:11-7-13.

660:11-7-14. Investment adviser representative termination [NEW]

(a) Filing requirement. Termination notice pursuant to the requirements of Section 1-408.A of the Securities Act shall be promptly given by filing within thirty (30) days of termination, a completed Uniform Termination Notice for Securities Industry Registration, Form U5. The Form U5 for an investment adviser shall be filed with IARD.

(b) **Responsibility for filing**. A completed Form U5 signed by the investment adviser will be accepted as fulfilling the statutory requirements of both parties. Upon verification that the Form U5 has not been filed by the investment adviser, the investment adviser representative shall notify the Department in writing of the termination.

(c) **Amendments**. If the information contained in a Form U5 becomes inaccurate or incomplete, the investment adviser shall promptly file a correcting amendment after learning of the facts or circumstances giving rise to the amendment.

(d) **Effect of failure to file**. In the event of termination, the filing of a future application for registration shall not be considered complete until compliance with the termination notice requirements of Section 1-408.A of the Securities Act.

660:11-7-20. Supplemental disclosures [AMENDED]

Every investment adviser and investment adviser representative registered under the Securities Act must keep their application current at all times by promptly filing amendments supplementing their application after learning of the facts or circumstances giving rise to the amendment as required by Section 1-406.B of the Securities Act. ~~and the instructions to the Form ADV, Form U-5, and FormU-4. "Promptly" shall mean not later than thirty (30) days after learning of the facts or circumstances giving rise to the amendment.~~

660:11-7-21. Errors and omissions coverage [NEW]

(a) Every investment adviser who is required to maintain an errors and omissions insurance policy under 660:11-7-11 must submit proof of an errors and omissions insurance policy to the Department as a condition of registration.

(b) Every investment adviser registered under Section 1-406 of the Securities Act must submit proof of an errors and omissions insurance policy annually as set forth in 660:11-7-31.

(c) If subject to 660:11-7-11, proof of insurance may be demonstrated by submitting to the Department an attestation of compliance on a form approved by the Administrator and a policy declaration page, or a certificate of liability coverage specifying errors and omissions coverage. For purposes of compliance with 660:11-7-31, proof of insurance may be demonstrated by submitting to the Department an attestation of compliance on a form available on the Department's website.

(1) An attestation must include:

(A) The name of the insurer;

(B) The policy number;

(C) Name of the insured; licensee; and

(D) Date of the policy period.

(2) For purposes of compliance with this Section, 660:11-7-11, and 660:11-7-31, a policy may not contain exclusions for investment management and advisory services performed in this state on behalf of the investment adviser or for persons performing investment management and advisory services in this state on behalf of the investment adviser.

(3) The requirements for this insurance may be fulfilled by a policy provided through membership in a professional association so long as the requirements are otherwise met, or at the discretion of the Administrator.

(4) The requirements for this insurance may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(d) For purposes of this rule, policies written by admitted or authorized insurers, registered surplus lines insurers, and registered risk retention and purchasing groups will satisfy the errors and omissions requirements of 660:11-7-11 and 660:11-7-31.

(e) Every investment adviser registered under Section 1-406 of the Securities Act shall immediately notify the Department in writing if its errors and omissions insurance policy is cancelled, terminated, or substantially modified.

SUBCHAPTER 7. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES
PART 5. REPORTING REQUIREMENTS

660:11-7-31. Post-registration reporting requirements [AMENDED]

(a) **Form ADV Amendments**. Every investment adviser registered under Section 1-406 of the Securities Act must amend its Form ADV each year by filing an annual updating amendment within 90 days of the end of its fiscal year. In addition, every investment adviser registered under Section 1-406 of the Securities Act must amend its Form ADV by promptly filing additional amendments (other-than-annual amendments) if required by the written instructions to Form ADV. ~~"Promptly" shall mean not later than 30 days after learning of the facts or circumstances giving rise to the amendment.~~

(b) **Proof of Errors and Omissions Coverage**. Every investment adviser registered under Section 1-406 of the Securities Act must submit proof of an errors and omissions insurance policy meeting the requirements of 660:11-7-11(a)(2)(D) to the Department each year within 90 days of the end of its fiscal year. The proof must be submitted in compliance with 660:11-7-21.

~~(b)~~(c) **Financial Reports**.

(1) **Filing requirement.** Pursuant to Section 1-410.B of the Securities Act, every investment adviser registered under Section 1-406 of the Securities Act who has custody, as that term is defined in 660:11-7-48, of clients' funds or securities or requires prepayment of advisory fees six (6) months or more in advance and in excess of $1,200.00 per client shall file a post-registration financial report with the Department each fiscal year.

(2) **Report content.** ~~A financial report~~Financial reports shall contain the financial or operating report filing fee specified in Section 1-612 of the Securities Act and an audited statement of financial condition as of the investment adviser's fiscal year end.

(3) **Report filing dates.** Financial reports become due on the last day of the fiscal year to which they apply; however, a grace period is provided before a filing becomes delinquent. The filing must be made within 90 days of the end of the registrant's fiscal year.

(4) **Amendment**. If the information contained in a financial report is or becomes inaccurate or incomplete in a material respect, the investment adviser shall promptly file a correcting amendment. ~~"Promptly" shall mean not later than 30 days after learning of the facts or circumstances giving rise to the amendment.~~

~~(c)~~(d) **Incomplete or Delinquent Filings**. The Department will not accept incomplete or piecemeal filings. Failure to make a required filing before it becomes delinquent may result in the suspension or revocation of registration.

SUBCHAPTER 7. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES
PART 7. RECORDS KEEPING AND ETHICAL STANDARDS

660:11-7-41. Record keeping requirements [AMENDED]

(a) **General requirements.** Every investment adviser registered or required to be registered under the Securities Act shall make and keep true, accurate and current the following books and records:

(1) A journal or journals, including cash receipts and disbursements, records, and any other records of original entry forming the basis of entries in any ledger.

(2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts. In no event shall the general ledger be posted less than once a month.

(3) A record of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. The record shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed the order; and shall show the account for which entered, the date of entry, and the bank or broker-dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.

(4) All check books, bank statements, canceled checks and cash reconciliations of the investment adviser.

(5) All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment adviser as such.

(6) All trial balances, financial statements prepared in accordance with generally accepted accounting principles, and internal audit working papers relating to the business of such investment adviser. The trial balance shall be prepared no later than fifteen (15) business days after the end of the accounting period. The financial statements shall include a balance sheet prepared in accordance with generally accepted accounting principles, an income statement, a cash flow statement, and a net worth computation.

(7) Originals of all written communications received and copies of all written communications sent by the investment adviser relating to the business of the investment adviser, including, but not limited to:

(A) any recommendation made or proposed to be made and any advice given or proposed to be given,

(B) any receipt, disbursement or delivery of funds or securities, or

(C) the placing or execution of any order to purchase or sell any security; provided, however:

(i) that the investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser, and

(ii) that if the investment adviser sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to 2 or more persons, the investment adviser shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if the notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain with the copy of the notice, circular or advertisement a memorandum describing the list and the source thereof.

(8) A list or other record identifying all accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client.

(9) A copy of all powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser.
(10) A copy of all agreements entered into by the investment adviser with any client and all other agreements relating to the business of the investment adviser as such, including agreements which set forth the fees to be charged, the manner of computation and method of payment.
(11) A file containing a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including any communication by electronic media, that the investment adviser circulates or distributes, directly or indirectly, to 2 or more persons (other than persons connected with the investment adviser), and if the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including any communication by electronic media, recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum of the investment adviser indicating the reasons for the recommendation.
(12) When providing investment advice is the primary business of the investment adviser.

(A) A record of every transaction in a security in which the investment adviser or any advisory representative (as defined in (B) of this paragraph) of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment adviser nor the advisory representative of the investment adviser has any direct or indirect influence or control, and (ii) transactions in securities which are direct obligations of the United States. The record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded no later than ten (10) days after the end of the calendar quarter in which the transaction was effected.

(B) For purposes of this paragraph, the following definitions will apply:

(i) The term "advisory representative" shall mean any partner, officer or director of the investment adviser; any employee who participates in any way in the determination of which recommendations shall be made; any employee who, in connection with his duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of the recommendations or of the information concerning the recommendations:

(I) any person in a control relationship to the investment adviser,
(II) any affiliated person of a controlling person, and
(III) any affiliated person of an affiliated person.

(ii) "Control" shall mean the power to exercise a controlling influence over the management or policies of a company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control such company.

(13) When providing investment advice is not the primary business of the investment adviser:

(A) Notwithstanding the provisions of (12) of this subsection, where the investment adviser is primarily engaged in a business or businesses other than advising investment advisory clients, a record must be maintained of every transaction in a security in which the investment adviser or any advisory representative (as defined in (C) of this paragraph) of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except:

(i) transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(ii) transactions in securities which are direct obligations of the United States.

(B) Each record required by (A) of this paragraph shall state the title and amount of the security involved; the date and nature of the transaction (i.e. purchase, sale, or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

(C) For purposes of this paragraph, the following definitions will apply:

(i) The term "advisory representative", when used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, shall mean any partner, officer, director or employee of the investment adviser who participates in any way in the determination of which recommendations shall be made, or whose functions or duties relate to the determination of which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of such recommendations or of the information concerning the recommendations:

(I) any person in a control relationship to the investment adviser,

(II) any affiliated person of a controlling person, and

(III) any affiliated person of an affiliated person.

(ii) "Control" shall mean the power to exercise a controlling influence over the management or policies of a company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control such company.

(iii) An investment adviser is "primarily engaged in a business or businesses other than advising investment advisory clients" when, for each of its most recent three fiscal years or for the period of time since organization, whichever is lesser, the investment adviser derived from such other business or businesses, on an unconsolidated basis, more than 50% of:

(I) its total sales and revenues, and

(II) its income (or loss) before income taxes and extraordinary items.

(14) A copy of each written statement and each amendment or revision, given or sent to any client or prospective client of the investment adviser, and a record of the dates that each written statement, and each amendment or revision, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

(15) For each client that was obtained by the adviser by means of a solicitor to whom a cash fee was paid by the adviser:

(A) evidence of a written agreement to which the adviser is a party related to the payment of such fee;

(B) a signed and dated acknowledgment of receipt from the client evidencing the client's receipt of the investment adviser's disclosure statement and a written disclosure statement of the solicitor; and

(C) a copy of the solicitor's written disclosure statement. The written agreement, acknowledgment, and solicitor disclosure statement will be considered to be in compliance with this paragraph if such documents are in compliance with Rule 275.206(4)-3 of the Advisers Act of 1940.

(16) All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including, but not limited to, electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons (other than persons connected with the investment adviser); provided, however, that, with respect to the performance of managed accounts, the retention of all account statements, if they reflect all debits, credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts shall be deemed to satisfy the requirements of this paragraph.

(17) A file containing a copy of all written communications received or sent regarding any litigation involving the investment adviser or any investment adviser representative or employee, and regarding any written customer or client complaint.

(18) Recommendations.

(A) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client.

(B) A record evidencing that the account record of each client consisting of the information described in (A) of this paragraph has been furnished by the investment adviser to the client within thirty days of the signing of an investment advisory contract, and thereafter at intervals no greater than thirty-six months. The account record shall include or be accompanied by prominent statements that the client should mark any corrections and return the account record to the adviser and that the client should notify the advisor of any changes to information contained in the account record as they occur in the future.

(19) Written procedures to supervise the activities of employees and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations. The following standards shall apply to supervisory procedures:

(A) Regardless of its size or complexity, every investment adviser registered or required to be registered under the Securities Act must adopt and implement supervisory procedures that are tailored specifically to their business and must address the activities of all its investment adviser representatives and associated persons. Supervisory procedures must be in writing and must be reasonably designed to achieve compliance with applicable securities laws and the rules of the Oklahoma Department of Securities. Ultimate responsibility for supervision rests with the investment adviser.

(B) Written supervisory procedures must identify who has supervisory responsibilities, a record of each associated person who has supervisory responsibilities and the date

assigned, and procedures for each business line and applicable securities laws for which each supervisor is responsible.

(C) All written supervisory procedures should specifically identify the individual to perform a supervisory function; what specifically the supervisor will review; when or how often the review will take place and how the supervisor's review will be documented.

(D) Every investment adviser must maintain a copy of each prior version of its written supervisory procedures for a minimum of five years.

(20) A file containing a copy of each document (other than any notices of general dissemination) that was filed with or received from any state or federal agency or self-regulatory organization and that pertains to the registrant or its investment adviser representatives, which file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

(21) Copies, with original signatures of the investment adviser's appropriate signatory and the investment adviser representative, of each initial Form U-4 and each amendment to Disclosure Reporting Pages (DRPs U-4) must be retained by the investment adviser (filing on behalf of the investment adviser representative) and must be made available for inspection upon regulatory request.

(22) Where the adviser inadvertently held or obtained a client's securities or funds and returned them to the client within three business days or has forwarded third party checks drawn by clients and made payable to third parties within three business days of receipt, the adviser shall keep a ledger or other listing of all securities or funds held or obtained including the following information:

(A) issuer;

(B) type of security and series;

(C) date of issue;

(D) for debt instruments, the denomination, interest rate and maturity date;

(E) certificate number, including alphabetical prefix or suffix;

(F) name in which registered;

(G) date ~~given to~~received by the adviser;

(H) date sent to client or sender;

(I) form of delivery to client or sender, or copy of the form of delivery to client or sender; and

(J) mail confirmation number, if applicable, or confirmation by client or sender of the fund's or security's return~~; and~~.

~~(K) date each check was received by the adviser.~~

(23) If an investment adviser obtains possession of securities that are acquired from the issuer in a transaction or chain of transactions not involving any public offering that comply with the exception from custody in (c)(2) of 660:11-7-48, the adviser shall keep the following records:

(A) a record showing the issuer or current transfer agent's name, address, phone number and other applicable contact information pertaining to the party responsible for recording client interests in the securities; and

(B) a copy of any legend, shareholder agreement or other agreement showing that those securities are transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(24) A copy of the investment adviser's Physical Security and Cybersecurity Policies and Procedures and Privacy Policy required by 660:11-7-46. In addition to the investment

adviser's recordkeeping requirements under subsections (e) and (g) of this Section, the investment adviser shall maintain:

(A) A current copy of these policies and procedures either in hard copy in a separate location or stored on electronic storage media that is separate from and not dependent on access to the investment adviser's computers or a network;

(B) All records documenting the investment adviser's compliance with 660:11-7-46, including, but not limited to, evidence of the annual review of the policies and procedures; and

(C) A record of any violation of 660:11-7-46 and of any action taken as a result of the violation.

(25) Copies of the brochures required by 660:11-7-43 including a list of all clients or perspective clients to whom the brochures were provided and the date the brochures were provided.

(b) **Special requirements due to type of custody.**

(1) **Custody as defined in 660:11-7-48**. If an investment adviser has custody, as that term is defined in 660:11-7-48, the records required to be made and kept under (a) of this Section shall include:

(A) a copy of any and all documents executed by the client (including a limited power of attorney) under which the adviser is authorized or permitted to withdraw a client's funds or securities maintained with a custodian upon the adviser's instruction to the custodian.

(B) a journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for all accounts and all other debits and credits to the accounts.

(C) a separate ledger account for each client showing all purchases, sales, receipts and deliveries of securities, the date and price of each purchase and sale, and all debits and credits.

(D) copies of confirmations of all transactions effected by or for the account of any client.

(E) a record for each security in which any client has a position, which record shall show the name of each client having any interest in each security, the amount or interest of each client, and the location of each security.

(F) a copy of each of the client's quarterly account statements, as generated and delivered by the qualified custodian. If the adviser also generates a statement that is delivered to the client, the adviser shall also maintain copies of such statements along with the date such statements were sent to the clients.

(G) if applicable to the adviser's situation, a copy of the special examination report verifying the completion of the examination by an independent certified public accountant and describing the nature and extent of the examination.

(H) a record of any finding by the independent certified public accountant of any material discrepancies found during the examination.

(I) if applicable, evidence of the client's designation of an independent representative.

(2) **Adviser to pooled investment vehicle**. If an investment adviser has custody because it advises a pooled investment vehicle, the adviser shall also keep the following records:

(A) true, accurate and current account statements;

(B) When the exception set forth in (c)(4) of 660:11-7-48 applies, the records required to be made and kept shall include:

(i) the date(s) of the audit;

(ii) a copy of the audited financial statements; and

(iii) evidence of the mailing of the audited financial to all limited partners, members or other beneficial owners within 120 days of the end of its fiscal year.

(C) When the description set forth in (b)(5) of 660:11-7-48 applies to an investment adviser, the investment adviser is required to make and keep records to include:

(i) a copy of the written agreement with the independent party reviewing all fees and expenses, indicating the responsibilities of the independent third party.

(ii) copies of all invoices and receipts showing approval by the independent party for payment through the qualified custodian.

(c) **Managed accounts.** Every investment adviser subject to (b) of this Section who renders any investment supervisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate and current:

(1) Records showing separately for each client the securities purchased and sold, and the date, amount and price of each purchase and sale.

(2) For each security in which any client has a current position, information from which the investment adviser can promptly furnish the name of each security held by the client, and the current amount or interest of the client.

(d) **Client identity.** Any books or records required by this Section may be maintained by the investment adviser in such manner that the identity of any client to whom the investment adviser renders investment supervisory services is indicated by numerical or alphabetical code or some similar designation.

(e) **Records retention.** Every investment adviser subject to (a) of this Section shall preserve the following records in the manner prescribed:

(1) All books and records required to be made under the provisions of (a) to (c)(1), inclusive, of this Section (except for books and records required to be made under the provisions of (a)(11) and (a)(16) of this Section), shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on record, the first two years in the principal office of the investment adviser.

(2) Partnership articles and any amendments, articles of incorporation, charters, minute books, and stock certificate books of the investment adviser and of any predecessor, shall be maintained in the principal office of the investment adviser and preserved until at least three years after termination of the enterprise.

(3) Books and records required to be made under the provisions of (a)(11) and (a)(16) of this Section shall be maintained and preserved in an easily accessible place for a period of not less than five years, the first two years in the principal office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media.

(4) Books and records required to be made under the provisions of (a)(17)-(22), inclusive, of this Section shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years in the principal office of the investment adviser, or for the time period during which the investment adviser was registered or required to be registered in the state, if less.

(5) Notwithstanding other record preservation requirements of this Section, the following records or copies shall be required to be maintained at the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services: (A) records required to be preserved under (a)(3), (a)(7)-(10),

(a)(14)-(15), (a)(17)-(19), (b) and (c) inclusive, of this Section, and (B) the records or copies required under the provision of(a)(11) and (a)(16) of this Section which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the applicable period described in this Subsection.

(f) **Ceasing business.** An investment adviser subject to (a) of this Section, before ceasing to conduct or discontinuing business as an investment adviser, shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this Section for the remainder of the period specified in this Section, and shall notify the Administrator in writing of the exact address where the books and records will be maintained during the period.

(g) **Format and storage of records.**

(1) The records required to be maintained and preserved may be immediately produced or reproduced, and maintained and preserved as the records are kept in their regular form for the required time, by an investment adviser on:

(A) paper or hard copy form~~, as those records are kept in their original form~~; or

(B) micrographic media, including microfilm, microfiche, or any similar medium; or

(C) electronic storage media, including any digital storage medium or system that meets the terms of this section.

(2) The investment adviser must:

(A) arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;

(B) provide promptly any of the following that the Administrator or his representatives may request:

(i) a legible, true, and complete copy of the record in the medium and format in which it is stored;

(ii) a legible, true, and complete printout of the record; and

(iii) means to access, view, and print the records; and

(C) separately store, for the time required for preservation of the original record, a duplicate copy of the record on any medium allowed by this section.

(3) In the case of records created or maintained on electronic storage media, the investment adviser must establish and maintain procedures:

(A) to maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction;

(B) to limit access to the records to properly authorized personnel and the Administrator and his representatives; and

(C) to reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete, true, and legible when retrieved.

(h) **Investment supervisory services.** For purposes of this Section, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client; and "discretionary power" shall not include discretion as to the price at which or the time when a transaction is or is to be effected, if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

(i) **Compliance with federal law.** Any book or other record made, kept, maintained and preserved in compliance with Rules 17a-3 [17 C.F.R. 240.17a-3] and 17a-4 [17 C.F.R. 240.17a-4] under the 1934 Act, which is substantially the same as the book or other record required to be

made, kept, maintained and preserved under this Section, shall be deemed to be made, kept, maintained and preserved in compliance with this Section.

(j) **Compliance with other state requirements.** Every investment adviser registered or required to be registered under the Securities Act that has its principal place of business in a state other than Oklahoma shall be exempt from the requirements of this section, provided the investment adviser is licensed in the state in which it maintains its principal place of business and is in compliance with that state's books and records requirements.

660:11-7-42. Standards of ethical practices [AMENDED]

(a) **Purpose**. This Section is intended to set forth the standards of ethical practices for investment advisers and investment adviser representatives. The standards set forth in this Section apply to federal covered investment advisers and investment adviser representatives of federal covered investment advisers only to the extent that application is permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). Any noncompliance with the standards set forth in this Section will constitute unethical practices in the securities business as the same is set forth in Section 1-411.D.13 of the Securities Act; however, the following is not intended to be a comprehensive listing of all specific events or conditions that may constitute such unethical practices. The standards shall be interpreted in such manner as will aid in effectuating the policy and provisions of the Securities Act, and so as to require that all practices of investment advisers and investment adviser representatives in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory. ~~The standards set forth in this Section and the disclosure delivery requirement set forth in 660:11-7-43 shall apply to all investment advisers and investment adviser representatives and investment adviser representatives of federal covered investment advisers application is permitted by the Markets).~~

(b) **Standards**. An investment adviser or investment adviser representative shall not engage in dishonest or unethical practices including, although not limited to, the following:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment profile.

(A) A client's investment profile includes, but is not limited to, the client's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information disclosed by the client or known to the investment adviser or investment adviser representative.

(B) Institutional clients.

(i) An investment adviser or an investment adviser representative fulfills the customer-specific suitability obligation for an institutional account, as defined in 660:11-1-3, if

(I) the investment adviser or investment adviser representative has a reasonable basis to believe that the institutional client is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities and

(II) the institutional client affirmatively indicates that it is exercising independent judgment in evaluating the investment adviser or investment adviser representative's recommendations.

(ii) Where an institutional client has delegated decision-making authority to an agent, such as an investment adviser or a bank trust department, these factors shall be applied to the agent.

(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten (10) business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client.

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser or investment adviser representative, or a financial institution engaged in the business of loaning funds.

(7) Loaning money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser or investment adviser representative.

(8) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser or an investment adviser representative or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(9) Providing a report or recommendation to any advisory client prepared by someone other than the investment adviser without disclosing the source.

(10) Charging a client an unreasonable advisory fee.

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

(A) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and

(B) Charging a client an advisory fee for rendering advice when ~~a commission~~compensation for ~~executing~~ effecting securities transactions pursuant to such advice will be received by the investment adviser or its employees or affiliated persons.

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered.

(13) Publishing, circulating and distributing any advertisement which does not comply with Reg. A § 275.206(4)-1 under the Advisers Act.

(14) Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client.

(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the investment adviser's action does not comply with the requirements of Reg. A § 275.206(4)-2 under the Advisers Act.

(16) Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment adviser or investment adviser representative and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract.

(17) Entering into, extending or renewing any investment advisory contract, if such contract contains any provision that limits or purports to limit any of the following:

(A) the liability of the investment adviser for conduct or omission arising from the advisory relationship that does not conform to the Securities Act, applicable federal statutes, or common law fiduciary standard of care;

(B) remedies available to the client at law or equity or the jurisdiction where any action shall be filed or heard; or

(C) applicability of the laws of Oklahoma with respect to the construction or interpretation of the provisions of the investment advisory contract.

(18) Failing to adopt, implement, and follow written supervisory procedures that are tailored specifically to their business and that:

(A) address the activities of all its investment adviser representatives and associated persons;

(B) identify who has supervisory responsibilities, including a record of each associated person who has supervisory responsibilities and the date assigned, and procedures for each business line and applicable securities laws for which each supervisor is responsible; and

(C) specifically identify the individual to perform a supervisory function; what specifically the supervisor will review; when or how often the review will take place and how the supervisor's review will be documented.

(19) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Securities Act or any section thereunder.

(20) Accessing a client's account by using the client's own unique identifying information such as username and password.

(21) Failing to establish, maintain, and enforce required policies or procedures.

(22) Knowingly selling any security to or purchasing any security from a client while acting as principal for its own advisory account, or knowingly effecting any sale or purchase of any security for the account of the client while acting as broker-dealer for a person other than the client, without disclosing to the client in writing before the completion of the transaction the capacity in which it is acting and obtaining the consent of the client to the transaction.

(A) The prohibitions of this paragraph (22) shall not apply to any transactions with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser in relation to the transaction.

(B) The prohibition of this paragraph (22) shall not apply to any transaction with a customer of a broker-dealer if the broker-dealer acts as an investment adviser solely:

(i) by means of publicly distributed written materials or publicly made oral statements;

(ii) by means of written materials or oral statements not purporting to meet the objectives or needs of specific individuals or accounts;

(iii) through the issuance of statistical information containing no expressions of opinion as to the investment merits of a particular security; or

(iv) any combination of the foregoing services.

(C) Publicly distributed written materials or publicly made oral statements shall disclose that, if the purchaser of the advisory communication uses the investment adviser's services in connection with the sale or purchase of a security which is a subject of the communication, the investment adviser may act as principal for its own account or as agent for another person. Compliance by the investment adviser with the foregoing disclosure requirement shall not relieve it of any other disclosure obligations under the Securities Act.

(D) The prohibition of this paragraph (22) shall not apply to an investment adviser effecting an agency cross transaction for an advisory client provided the following conditions are met:

(i) The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for such client;

(ii) Before obtaining such written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as broker-dealer for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions;

(iii) At or before the completion of each agency cross transaction, the investment adviser or any other person relying on this subparagraph sends the client a written confirmation. The written confirmation shall include:

(I) A statement of the nature of the transaction;

(II) The date the transaction took place;

(III) An offer to furnish, upon request, the time when the transaction took place; and

(IV) the source and amount of any other remuneration the investment adviser received or will receive in connection with the transaction. In the case of a purchase, if the investment adviser was not participating in a tender offer, the written confirmation shall state whether the investment adviser has been receiving or will receive any other remuneration and that the investment adviser will furnish the source and amount of such remuneration to the client upon the client's written consent.

(iv) At least annually, and with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on this subparagraph (D) send each client a written disclosure statement identifying:

(I) The total number of agency cross transactions during the period for the client since the date of the last such statement or summary; and

(II) The total amount of all commissions or other remuneration the investment adviser received or will receive in connection with agency cross transactions for the client during such period.

(v) Each written disclosure and confirmation required by this subparagraph (D) must include a conspicuous statement that the client may revoke the written consent required under (i) of this subparagraph (D) at any time by providing written notice to the investment adviser.

(vi) No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser.

(vii) Nothing in the subparagraph (D) shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interests of the

client, including fulfilling his duty with respect to the best price and execution for the particular transaction for the client nor shall it relieve any investment adviser or investment adviser representative of any other disclosure obligations imposed by the Securities Act.

(E) Definitions for purposes of this paragraph (22).

(i) "Agency cross transaction for an advisory client" means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction. When acting in such capacity such person is required to be registered as a broker-dealer in this state unless excluded from the definition.

(ii) "Publicly distributed written materials" means written materials which are distributed to 35 or more persons who pay for those materials.

(iii) "Publicly made oral statements" means oral statements made simultaneously to 35 or more persons who pay for access to those statements.

(23) Sharing an office with a person who is not an advisory affiliate without:

(A) reducing any agreement with the unaffiliated person to writing;

(B) taking appropriate measures, including, but not limited to, adequate disclosures to eliminate the appearance of an agency relationship with the unaffiliated person when one does not otherwise exist; and

(C) complying with all applicable Oklahoma and federal laws requiring the safeguarding of customer data from disclosure to the unaffiliated person.

660:11-7-46. Information security and privacy [NEW]

(a) Physical security and cybersecurity policies and procedures. Every investment adviser registered or required to be registered shall establish, implement, update, and enforce written physical security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information. The policies and procedures must be tailored to the investment adviser's business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser.

(1) The physical security and cybersecurity policies and procedures must:

(A) Protect against reasonably anticipated threats or hazards to the security or integrity of client records and information;

(B) Ensure that the investment adviser safeguards confidential client records and information; and

(C) Protect any records and information the release of which could result in harm or inconvenience to any client.

(2) The physical security and cybersecurity policies and procedures must cover at least five functions:

(A) Identify. Develop the organizational understanding to manage information security risk to systems, assets, data, and capabilities;

(B) Protect. Develop and implement the appropriate safeguards to ensure delivery of critical infrastructure services;

(C) Detect. Develop and implement the appropriate activities to identify the occurrence of an information security event;

(D) Respond. Develop and implement the appropriate activities to take action regarding a detected information security event; and

(E) Recover. Develop and implement the appropriate activities to maintain plans for resilience and to restore any capabilities or services that are impaired due to an information security event.

(3) The investment adviser must review, no less frequently than annually, and modify, as needed, these policies and procedures to ensure the adequacy of the security measures and the effectiveness of their implementation.

(b) **Privacy policy.** The investment adviser must deliver upon the investment adviser's engagement by a client, and on an annual basis thereafter, a privacy policy to each client that is reasonably designed to aid in the client's understanding of how the investment adviser collects and shares, to the extent permitted by state and federal law, non-public personal information. The investment adviser must promptly update and deliver to each client an amended privacy policy if any of the information in the policy becomes inaccurate.

SUBCHAPTER 9. REGISTRATION OF SECURITIES
PART 5. GUIDELINES AND POLICIES APPLICABLE TO OFFERING OF REGISTERED SECURITIES

660:11-9-31. Prospectus delivery requirement [AMENDED]

No offer or sale of any security registered under the Securities Act may be made unless concurrent with the initial solicitation or immediately thereafter there is furnished to the prospective purchaser, a prospectus, in such form and containing such information as may be required pursuant to the Securities Act or the rules and regulations promulgated thereunder or by order of the Administrator, which prospectus has been previously filed with and approved by the Administrator for use; provided, no prospectus shall be required in connection with offers or sales of securities or transactions exempted by Sections 1-201 through 1-203 of the Securities Act, except as may be specifically required by such Act or the rules and regulations promulgated thereunder or by order of the Administrator. In addition, after the effective date of the registration statement in the state of Oklahoma, all broker-dealers and agents effecting transactions in the securities registered under the Securities Act shall be required to deliver a prospectus prior to or concurrently with any transaction in said securities for the same time periods specified in Section 4~~(3)~~4(a)(3) of the 1933 Act and Rule 174 adopted by the SEC ~~(17 C.F.R. 230.174)~~ (17 CFR § 230.174) in its most currently amended form as of the date of the filing of the application. Nothing in this rule obviates the need for registrants to comply with the provisions of Section 1-501 of the Securities Act.

660:11-9-33. Special requirements for promotional or ~~developmental~~ development stage companies [AMENDED]

(a) **Definition**. For purposes of this Section, a "promotional or development stage company" means any entity that meets the definition in 660:11-11-1.

(b) **Requirements**. Registration statements filed under Section 1-305 of the Securities Act or any exhibits filed therewith relating to securities of a promotional or ~~developmental~~ development stage company must demonstrate in addition to meeting any other requirements that may apply, the issuer's ability to meet the following requirements:

(1) Taking into consideration the minimum net proceeds of the offering, past earnings, and accounts receivable, of the issuer, the prospectus must demonstrate the issuer's ability to operate for a period of at least six months without additional capital; or based on a business plan filed supplementally, the issuer must demonstrate its ability to operate for a period of at

least 12 months. Any registrant may request that such business plan not be deemed filed with the registration statement and may request that it be held in confidence. A prospectus relating to an offering of debt securities must demonstrate the issuer's ability to service the debt. This can be demonstrated by submission of a compilation.

(2) No more than 25% of the proceeds of the offering net of offering costs shall be paid as remuneration to promoters, executive officers, directors or shareholders owning 10% or more of any class of outstanding stock of the issuer.

(3) The prospectus must demonstrate compliance with 660:11-9-35 regarding limitations on offering expenses and remuneration and with the NASAA statement of policy regarding promotional shares.

(4) Issuers shall not have granted, and shall agree not to grant in the future, options to acquire securities of the same class as those being offered, at an exercise price that is less than 85% of the fair market value of the securities at the time of the grant of the option. The prospectus shall disclose the dilution that would result from the exercise of all outstanding warrants or options to acquire securities of the same class as those being offered.

(5) The use of offering proceeds must be disclosed with specificity in the prospectus.

(c) **Waiver provisions**. The Administrator in his or her discretion may waive any of the above requirements upon written request of the registrant, if the Administrator finds that the requirement is not necessary to protect the public interest under the circumstances. Any such request shall be filed with the registration statement and shall indicate the reasons why the requirement is not necessary under the circumstances described in the registration statement.

660:11-9-36. Promoters' and organizers' equity contributions [AMENDED]

(a) **Requirement**. Where an issuer is a promotional or ~~developmental~~ development stage company as defined in ~~660:11-1-3~~660:11-11-1, the ratio of equity investment by promoters or insiders must be determined as reasonable and equitable in light of the facts and circumstances presented in each particular case. Cases where the fair value of such equity investment is less than 10% of the total offering are discouraged, and in such instances, the proponents of the registration shall have the burden of establishing that the offering is being made without unfair or unreasonable amounts of promoters' profits or participation, as provided in Section 1-306.A.7.b of the Securities Act.

(b) **Presumption**. In those instances where only 5% or more has been contributed by promoters or organizers, but where they have entered into bona fide and binding subscription contracts exercisable within one year with the new enterprises for capital stock representing the difference between the amount contributed and 10%, then the burden of proof will be deemed to have been satisfied.

(c) **Determination of equity investment**. The fair value of equity investment shall be deemed to mean the total of all sums conveyed to the issuer in the form of paid-in or contributed cash or other assets with an established or determinable value. In those cases where the issuer has experienced losses from operations, the fair value of equity investment shall be the net worth of the issuer as of the date of the proposed offering determined in accordance with generally accepted accounting principles.

(d) **Burden of proof**. The burden of justifying as equitable the quantity of promotional securities to be issued for assets so conveyed, and of establishing reasonable or market value of said assets, shall rest with the applicant.

SUBCHAPTER 11. EXEMPTIONS FROM SECURITIES REGISTRATION
PART 1. GENERAL PROVISIONS

660:11-11-1. Definitions [AMENDED]

The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Affiliate**" means a person who, directly or indirectly, controls, is controlled, by, or is under common control with a person as defined in this Section.

"**Associate**" means, when used to indicate a relationship with a person, includes:

(A) corporations, legal entities, other than the issuer or majority-owned subsidiaries of the issuer, of which a person is an officer, director, partner, or a direct or indirect, legal or beneficial owner of five percent (5%) or more of any class of equity securities.

(B) trusts or other estates in which a person has a substantial beneficial interest or for which a person serves as a trustee or in a similar capacity; and

(C) a person's spouse and relatives, by blood or by marriage, if that person is a promoter of the issuer, its subsidiaries, its affiliates, or its parent.

"**Class**" means the lowest level of subdivision of the securities offered by an issuer.

"**Control**" means the power to direct or influence the direction of the management or policies of a person, directly or indirectly, through the ownership of voting securities, by contract or otherwise. A presumption of control exists for any person who:

(A) is a director, general partner, member, manager, or officer exercising executive responsibility or has similar status or functions;

(B) has the right to vote twenty percent (20%) or more of a class of voting securities; or

(C) in the case of a partnership or limited liability company, has contributed or has the right to receive upon dissolution twenty percent (20%) or more of the capital.

"**Enterprise**" means a corporation, general partnership, limited partnership, joint venture and any other formal or informal entity, association or arrangement (other than a sponsor) in which the investors' rights, interests or participation constitute "securities" as defined by Section 1-102 of the Securities Act.

"**Equity securities**" means, including, but not limited to shares of common stock or similar securities, convertible securities, warrants, and options or rights that may be converted into or exercised to purchase shares of common stock or similar securities.

"**Net earnings**" means the issuer's after-tax earnings, excluding extraordinary and nonrecurring items, determined in accordance with generally accepted accounting principles.

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

"**Promoter**" means:

(A) a person, including, but not limited to, who:

(i) alone or in conjunction with one or more persons, directly, or indirectly, took the initiative in founding or organizing the issuer or controls the issuer;

(ii) directly or indirectly, receives, as consideration for property or for services rendered, five percent (5%) or more of any class of the issuer's equity securities or five percent (5%) or more of the proceeds from the sale of any class of the issuer's equity securities;

(iii) is an officer or director for the issuer;

(iv) legally or beneficially owns, directly or indirectly, five percent (5%) or more of any class of the issuer's equity securities; or

(v.) is an affiliate or an associate of a person specified in i through iv of this subparagraph.

(B) A promoter does not include:

(i) a person who receives securities or proceeds solely as underwriting compensation unless that person otherwise comes within the terms;
(ii) an unaffiliated institutional investor, who purchased the issuer's equity securities more than one year prior to the filing date of the issuer's registration statement; or
(iii) at the Administrator's discretion, an unaffiliated institutional investor, who purchased the issuer's equity securities on an arm's-length basis within one year prior to the filing date of the issuer's registration statement.

"**Promotional or development stage company**" means an issuer:
(A) that is not listed, or authorized for listing, on the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Market, or a securities exchange that the SEC determines under Section 18(b)(1) of the 1933 Act has substantially similar listing standards;
(B) that has had annual net earnings for each of the last two (2) consecutive fiscal years before the public offering that have been less than five percent (5%) of the aggregate public offering; or
(C) that has had average, annual net earnings for the last five (5) fiscal years before the public offering that have been less than five percent (5%) of the aggregate public offering.

"**Promotional shares**" means equity securities that:
(A) A promotional or development stage company has issued within five (5) years before the filing of the registration statement or will issue to its promotors for cash or other consideration, including services rendered, patents, copyrights, and other intangibles; or
(B) An issuer that is not a promotional or development stage company has issued within three (3) years before the filing of the registration statement or will issue to promotors for cash or other consideration, including services rendered, patents, copyrights, and other intangibles.

"**Sponsor**" means any natural person, corporation, general partnership, limited partnership, joint venture or other entity which is directly or indirectly instrumental in organizing an enterprise or which will manage or participate in the management of an enterprise.

"**Unaffiliated institutional investor**" means the following investors if not affiliated with the issuer:
(A) an institutional investor as defined in 1-102(13) of the Securities Act; and
(B) a business development company as defined in Section 2(a)(48) of the 1940 Act.

SUBCHAPTER 11. EXEMPTIONS FROM SECURITIES REGISTRATION
PART 5. EXEMPT TRANSACTIONS

660:11-11-40. Manual exemption [AMENDED]

(a) **Recognized securities manuals.** The publications which shall be recognized by the Administrator for purposes of the exemption from registration set forth in Section 1-202.2.d of the Securities Act shall be as follows:
(1) Best's Insurance Reports, Life-Health
(2) Mergent's Industrial Manual
(3) Mergent's International Manual
(4) OTC Markets Group Inc. with respect to securities included in the OTCQX and OTCQB markets.

(b) **Additional requirements.** To be eligible for the exemption from registration provided by Section 1-202.2.d of the Securities Act, the following additional conditions must be met:

(1) All information specified as required to be contained in the recognized securities manuals pursuant to Section 1-202.2.d of the Securities Act must be given to the purchaser with the confirmation by providing the purchaser with a copy of either:

(A) the information contained in the manual listing; or

(B) the information maintained by the broker-dealer effecting the transaction that is required to be kept by such broker-dealer pursuant to the requirements of SEC Rule 15c2-11 promulgated under the provisions of the 1934 Act.

(2) The information required under (1) of this subsection must be reasonably current in all material respects. The time for determining whether the information is current is at the date of the particular sale not the date the manual listing is published. For purposes of this paragraph, the term "reasonably current" shall have the meaning set forth in SEC Rule 15c2-11.

(3) The financial statements of the issuer required pursuant to Section 1-202.2.d of the Securities Act must be audited by an independent public accountant in accordance with generally accepted auditing standards, presenting fairly, in all material respects, the financial condition of the issuer; provided, if the issuer is an entity formed and operating under the laws of a foreign jurisdiction, the financial statements shall be audited in accordance with the auditing standards applicable in its jurisdiction of formation and operation.

(4) The issuer of the security, including any predecessors, has either:

(A) been in continuous business or operations for at least two (2) years, unless the issuer is an insurance company in which event it shall have been in business for at least five (5) years; or

(B) had a class of equity securities registered under Section 1-301 of the Securities Act within the past five (5) years.

(C) As used in this paragraph, "business or operations" means actual activities related to its current business or operations and shall not include merely holding funds or assets for future use.

(5) Sales must be made by a broker-dealer, either as principal or agent, who is registered under the provisions of Section 1-401 of the Securities Act.

(6) The securities must be offered or sold at a price reasonably related to the current market price of such securities.

(7) The securities must be issued and outstanding. The exemption is not available for issuer transactions. For purposes of this paragraph, "issuer" shall include all officers, directors and controlling (5% or more) shareholders of the issuer.

(8) The security does not constitute the whole or any part of an unsold allotment to, or subscription or participation by, the broker-dealer as an underwriter of the security.

(c) **Restriction for promotional or developmental stage companies.** This exemption may not be used to evade the registration requirements of Section 1-301 of the Securities Act. Accordingly, transactions in reliance on this exemption for the securities of an issuer which is a promotional or ~~developmental~~ development stage company as defined in ~~660:11-1-3~~660:11-11-1, involving securities that have not been registered for offer or sale in the state of Oklahoma and which securities would not have met the requirements for registration set forth in Sections 1-303 or 1-304 of the Securities Act and the rules promulgated thereunder, had the securities been filed for registration pursuant to such sections of the Securities Act, may be deemed to have violated this requirement unless proven otherwise.

(d) **Exemption.** The requirements of (b)(1) of this Section, shall not apply to the sale of the securities of an issuer who has net tangible assets in excess of $10,000,000.00 (U.S.) as determined by its most recent audited financial statements. For foreign issuers, the net tangible asset value may be determined by applying the exchange rate in effect as of the date of the financial

statement relied upon unless there has been a material change in such exchange rate after the date of the financial statement that would reduce by greater than 20% the value in U.S. dollars. In that event, the exchange rate applied should be the rate effective as of the last day of the preceding month. Nothing in this Section shall release the broker-dealer effecting the transaction from its obligation to maintain the information required by SEC Rule 15c2-11 and to deliver any such information to any person involved in a transaction effected in the security, upon request by such person.

660:11-11-52. Oklahoma Accredited Investor Exemption [AMENDED]

~~(a) **Preliminary statement.** On April 27, 1997, the NASAA adopted the Model Accredited Investor Exemption ("MAIE"). MAIE provides exemption from securities registration only for offers and sales to accredited investors. The MAIE rests on the premise that accredited investors are capable of fending for themselves in information gathering and conducting "due diligence" on potential investments in companies before making an investment. Under authority of Section 401(b)(22) of the Oklahoma Securities Act, 71 O.S. Â§Â§ 1-17, 101-103, 201-204, 301-307, 401-413, 501, 701-703 (Supp. 1998), repealed effective July 1, 2004, the Administrator issued an order granting such an exemption, effective March 8, 1999, that is known as the Oklahoma Accredited Investor Exemption.~~

~~(b) **Definitions.** The following terms, when used in this section, shall have the meanings as such terms are defined in the NASAA Statement Of Policy Regarding Corporate Securities Definitions, adopted April 27, 1997.~~

~~(1) "Issuer in the Development Stage"; and~~

~~(2) "Promoters"~~

~~(c) **Exemption.**~~ Under the authority of Section ~~2-103~~1-203 of the Securities Act, transactions meeting the following conditions are exempt from Sections 1-301 and 1-504 of the Securities Act:

(1) **Sales only to accredited investors.** Sales of securities shall be made only to persons who are or the issuer reasonably believes are accredited investors. For purposes of this ~~order~~Section, an "accredited investor" is a person who meets the definition set forth in 17 CFR § 230.501(a).

(2) **Investment intent.** The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under Sections 1-303 or 1-304 of the Securities Act or to an accredited investor pursuant to an exemption from securities registration under the Securities Act.

(3) **When exemption is unavailable.**

(A) The exemption is not available to ~~an Issuer that is in the~~a promotional or ~~Development~~ development ~~Stage~~ stage company that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(B) The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, any ~~of the issuer's Promoters~~ promoters of the issuer presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter:

(i) within the last five years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC;

(ii) within the last five years, has been convicted of any criminal offense in connection with the offer, purchase or sale of any security, or involving fraud or deceit;

(iii) is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five years, finding fraud or deceit in connection with the purchase or sale of any security; or

(iv) is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last five years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

(C) Subparagraph (3)(B) shall not apply if:

(i) the party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment or decree creating the disqualification was entered against such party;

(ii) before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or

(iii) the issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this paragraph.

(4) **General announcement.**

(A) A general announcement of the proposed offering may be made by any means.

(B) The general announcement shall include only the following information, unless additional information is specifically permitted by the Administrator:

(i) The name, address and telephone number of the issuer of the securities;

(ii) The name, a brief description and price (if known) of any security to be issued;

(iii) A brief description of the business of the issuer in 25 words or less;

(iv) The type, number and aggregate amount of securities being offered;

(v) The name, address and telephone number of the person to contact for additional information; and

(vi) A statement that:

(I) sales will only be made to accredited investors;

(II) no money or other consideration is being solicited or will be accepted by way of this general announcement; and

(III) the securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold pursuant to an exemption from registration.

(5) **Additional information.** The issuer, in connection with an offer, may provide information in addition to the general announcement under ~~(5)~~(4), if such information:

(A) is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or

(B) is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.

(6) **Telephone solicitation.**

(A) No telephone solicitation shall be permitted unless prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

(B) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this order.

(7) **Notice filing.** The issuer shall file a notice of the transaction with the Department within 15 days after the first sale of securities subject to the Act. The notice must include the following: an executed copy of the NASAA Model Accredited Investor Exemption Uniform Notice of Transaction; the Oklahoma Accredited Investor Exemption Supplemental Information Form; a consent to service of process on Form U-2 and (if applicable) Form U-2A; a copy of the general announcement; and a fee as set forth in Section 1-612 of the Securities Act.

(8) **Disqualifying provision.** Failure to comply with (7) of this section shall not result in the loss of availability of the subject exemption unless the issuer, any of its predecessors or affiliates have been subject to a cease and desist order of the Administrator or any order, judgment, or decree by another state securities agency, the SEC or any court of competent jurisdiction temporarily, preliminarily or permanently enjoining such person for failure to comply with a notice filing requirement for a comparable exemption. This provision shall not apply if the Administrator determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied. Requests for waivers of the disqualifying provision of this subsection shall be in writing setting forth the reasons therefor.

660:11-11-53. Exemptions for offers but not sales [AMENDED]

Terms of the exemption. By authority delegated to the Administrator in Sections ~~1-202~~1-202.18 and 1-203 of the Securities Act, the following transactions are determined to be classes of transactions for which registration is not necessary or appropriate for the protection of investors and are exempt from Sections 1-301 and 1-504 of the Securities Act: an offer to sell, but not a sale, of a security exempt from registration under the 1933 Act if:

(1) a registration statement has been filed under this act, but is not effective,

(2) the offeror is not aware of a stop order that has been issued by the Administrator under this act and does not know of an audit, inspection, or proceeding by the Department that may culminate in a stop order is by the offeror to be pending; and

(3) the offer consists only of:

(A) publication or distribution of a solicitation of interest document that complies with the requirements of ~~17 CRF § 230.254~~ 17 CFR § 230.255 and any subsequent oral communications with prospective investors and other broadcasts, also permitted by said section;

(B) a preliminary offering circular that complies with the requirements of ~~17 CRF § 230.255~~17 CFR § 230.254; or

(C) an offering document that contains the information required to be furnished in ~~17 CRF § 230.502(b)(2)~~17 CFR § 230.502(b)(2).

SUBCHAPTER 15. MISCELLANEOUS PROVISIONS

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

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

"Account" means any account of a broker-dealer or investment adviser for which a Protected Adult has the authority to transact business.

"Agencies" means the one or more of the following: the Oklahoma Department of Human Services, the office of the district attorney in the county in which the suspected exploitation occurred, or the local municipal police or sheriff's department.

"Financial exploitation" means:

(A) the wrongful or unauthorized taking, withholding, appropriation or use of money, assets or property of a protected 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 a protected adult, to:

(i) obtain control, through the use of intimidation, undue influence, coercion, harassment, duress, deception, false representation or false pretense, over the protected adult's money, assets or property; or

(ii) convert money, assets or property of the protected adult.

"Protected adult" means:

(A) an individual 62 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 in Title 43A of the Oklahoma Statutes.

(b) Agency disclosure. As required by the Protective Services for Vulnerable Adults Act in Title 43A of the Oklahoma Statutes, if a broker-dealer or investment adviser reasonably believes that financial exploitation of a protected adult in this state has occurred, is occurring, may have been attempted, is being attempted, or will be attempted, the broker-dealer or investment adviser shall promptly notify one or more of the Agencies.

(c) Third-party disclosures. If a broker-dealer or investment adviser reasonably believes that financial exploitation relating to a protected adult has occurred, is occurring, may have been attempted, is being attempted, or will be attempted, in and/or from this state, the broker-dealer or investment adviser may notify any third-party previously designated by the protected adult or any other third party that is reasonably associated with the protected adult.

(d) Temporary holds.

(1) A broker-dealer or investment adviser transacting business in and/or from this state with a protected adult may place a temporary hold on a transaction in and/or a disbursement of funds or securities from an account of such protected adult or an account on which such protected adult is a beneficiary if:

(A) the broker-dealer or investment adviser reasonably believes that financial exploitation of a protected adult has occurred, is occurring, has been attempted, or will be attempted; and

(B) the broker-dealer or investment adviser:

(i) immediately, but in no event more than two business days after the date the temporary hold is first placed provides oral or written notification, which may be electronic, of the temporary hold and the reason therefor to all parties authorized to transact business in the account; any third party previously designated by the protected adult to be contacted; and the Oklahoma Department of Securities;

and

(iii) immediately initiates an internal review of the suspected or attempted financial exploitation of the protected adult, as necessary.

(2) Any temporary hold of a transaction or disbursement of funds or securities as authorized by this subsection will expire upon the earlier of:

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

(B) not later than fifteen business days after the date on which the broker-dealer or investment adviser first placed the temporary hold on the transaction or disbursement of funds or securities, unless the broker-dealer or investment adviser's internal review of the facts and circumstances supports its reasonable belief that financial exploitation of the protected adult has occurred, is occurring, has been attempted, or will be attempted, in which case the broker-dealer or investment adviser may extend the temporary hold to not later than twenty-five business days after the date the broker-dealer or investment adviser first placed the temporary hold on the transaction or disbursement of the funds or securities; or

(C) at any time, an agency of competent jurisdiction or a court of competent jurisdiction may terminate or extend a temporary hold authorized by this subsection.

(e) Disclosure exceptions. Notwithstanding subsections (c) and (d) above, a notification permitted or required by this section shall not be made to any person the broker-dealer or investment adviser reasonably believes has engaged, is engaged, or will engage, in suspected or attempted financial exploitation of the protected adult.

(f) Immunity from administrative liability. A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with this section shall be immune from any administrative liability imposed through an action by the Department that might otherwise arise from a disclosure, placing a temporary hold on a transaction or disbursement of funds or securities, or providing access to records in accordance with this section.

(g) Records. A broker-dealer or investment adviser shall retain and provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of a protected 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 a protected 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.