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CS FOR HOUSE BILL NO. 194(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to securities, registration, exempt securities, exempt transactions, broker-dealers, agents, investment advice, investment advisers, investment adviser representatives, federal covered securities, federal covered investment advisers, viatical settlement interests, small intrastate security offerings, Canadian broker-dealers, and Canadian agents; relating to administrative, civil, and criminal enforcement provisions, including restitution and civil penalties for violations; relating to an investor training fund; establishing increased civil penalties for harming older persons and vulnerable adults; relating to corporations organized under the Alaska Native Claims Settlement Act; amending Rules 4, 5, 54, 65, and 90, Alaska Rules of Civil Procedure, and Rule 602, Alaska Rules of Appellate Procedure; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 06.05.340 is amended to read:

Sec. 06.05.340. Certain remuneration prohibited. A bank may not pay directly or indirectly a fee, commission, or bonus of any kind for its promotion and organization or for securing a subscription to the original capital or to any increase in capital. However, this section does not prohibit the payment of reasonable compensation for legal, accounting, and econometric services, or payments to a securities broker-dealer registered under **AS 45.56** [AS 45.55] for services that have been performed in connection with the sale of bank securities.

*** Sec. 2.** AS 06.26.020(a) is amended to read:

(a) Notwithstanding any other provision of this chapter, a person does not act as a fiduciary under this chapter if the person

(1) is licensed to practice law in this state, the person is acting within the scope of the license, and the person and any law firm of the person are not trustees of more trusts than the number established for the person and law firm by the department by regulation or order; in this paragraph, "law firm" means a partnership, a professional corporation organized under AS 10.45, or another association organized for the practice of law and in which the person practices law;

(2) acts as trustee under a deed of trust delivered only as security for the payment of money or for the performance of another act;

(3) receives and distributes on behalf of a principal rents and proceeds of sales as a real estate broker or other licensee under AS 08.88;

(4) engages in securities business activity [OR INVESTMENT ADVISORY BUSINESS ACTIVITY] as a registered broker-dealer, a broker-dealer agent, **an** [A STATE] investment adviser, or an investment adviser representative, or as a federal covered **investment** adviser who has made a notice filing under **AS 45.56.445(c)** [AS 45.55.040(h)], the person is acting within the scope of the person's registration or notice filing, and the activity is regulated by the department under **AS 45.56** [AS 45.55] or by the United States Securities and Exchange Commission; in this paragraph, "agent," "broker-dealer," "federal covered **investment** adviser," **"investment adviser,"** "investment adviser representative," **and** ["INVESTMENT ADVISORY BUSINESS,"] "securities business [,]" [AND "STATE INVESTMENT ADVISER"] have the meanings given in **AS 45.56.900**

[AS 45.55.990];

(5) engages in the sale and administration of an insurance product as an insurance company licensed under AS 21 or an insurance producer licensed under AS 21 and is acting within the scope of that license;

(6) handles escrow transactions and is a title insurance company that has a certificate of authority issued under AS 21.09, a title insurance limited producer that is licensed as required by AS 21.66.270, or an employee of the title insurance company or title insurance producer when acting in the scope of the employee's employment; in this paragraph,

(A) "escrow transaction" has the meaning given in AS 34.80.090;

(B) "title insurance company" has the meaning given in AS 21.66.480;

(C) "title insurance limited producer" has the meaning given in AS 21.66.480;

(7) is a cemetery association organized and acting under AS 10.30;

(8) is a trustee for a voting trust under AS 10.06 and is acting in that capacity;

(9) has a certified public accountant license issued under AS 08.04.105 or 08.04.195, the person is acting within the scope of the license, and the person and any accounting firm of the person are not trustees of more trusts than the number established for the person and accounting firm by the department by regulation or order; in this paragraph, "accounting firm" means a partnership, a professional corporation organized under AS 10.45, or another association organized for the practice of public accounting and in which the person practices public accounting;

(10) holds real property in trust for the primary purpose of subdivision, development, or sale or to facilitate a business transaction with respect to the real property;

(11) serves as a trustee of a trust created by the person's family members;

(12) holds money or other assets as a homeowners' association or

similar organization to pay maintenance and other related costs for commonly owned property; in this paragraph, "homeowners' association" includes an association of apartment owners under AS 34.07.450 and a unit owners' association or master association under AS 34.08.990;

(13) holds money or other assets in connection with the collection of debts or payments on loans by a person acting solely as the agent or representative at the sole direction of the person to whom the debt or payment is owed, including engaging in the business of an escrow agent;

(14) acts as a conservator if the person is appointed by a court of this or another state or is qualified to act as a conservator under AS 13.26.320;

(15) acts as a personal representative if the person is appointed a personal representative by a court of this or another state or is qualified to act as a personal representative under AS 13.21.035;

(16) acts as a guardian or receiver if the person is appointed as a guardian or receiver by a court of this or another state;

(17) is a business partner acting with regard to the business, or a co-owner of property acting with regard to the co-owned property;

(18) serves as a trustee of one or more trusts in which the settlor is not a family member of the person, except that the person may not at any one time serve as a trustee for trusts that cumulatively have more than 10 different settlors; however, the department may change by regulation or order the maximum number of settlors allowed for this exemption; in this paragraph, a husband and wife who create a joint trust are considered to be one settlor.

*** Sec. 3.** AS 06.26.990(a)(21) is amended to read:

(21) "issuer" has the meaning given in **AS 45.56.900** [AS 45.55.990];

*** Sec. 4.** AS 12.62.400(a)(17) is amended to read:

(17) registration as a broker-dealer, agent, investment adviser representative, or [STATE] investment adviser under **AS 45.56.405 - 45.56.440** [AS 45.55.030 - 45.55.060].

*** Sec. 5.** AS 14.43.148(h)(1) is amended to read:

(1) "license"

(A) means, except as provided in (B) of this paragraph, a license, certificate, permit, registration, or other authorization that, at the time of issuance, will be valid for more than 150 days and that may be acquired from a state agency to perform an occupation, including the following:

(i) license relating to boxing or wrestling under AS 05.10;

(ii) authorization to perform an occupation regulated under AS 08;

(iii) teacher certificate under AS 14.20;

(iv) authorization under AS 18.08 to perform emergency medical services;

(v) asbestos worker certification under AS 18.31;

(vi) boiler operator's license under AS 18.60.395;

(vii) certificate of fitness under AS 18.62;

(viii) hazardous painting certification under AS 18.63;

(ix) certification as a municipal correctional, correctional, probation, or parole officer under AS 18.65.245;

(x) security guard license under AS 18.65.400 - 18.65.490;

(xi) license relating to insurance under AS 21.27;

(xii) employment agency permit under AS 23.15.330 - 23.15.520;

(xiii) registration as a broker-dealer, an agent, **an** [A STATE] investment adviser, or an investment adviser representative under **AS 45.56.405 - 45.56.440** [AS 45.55.030];

(xiv) certification as a pesticide applicator under AS 46.03.320;

(xv) certification as a storage tank worker or contractor under AS 46.03.375;

(xvi) certification as a water and wastewater works operator under AS 46.30; and

(B) does not include

(i) a commercial fishing license under AS 16.05.480, including a crewmember fishing license;

(ii) a vessel license issued under AS 16.05.490 or 16.05.530;

(iii) [REPEALED

(iv)] a business license issued under AS 43.70;

(iv) [(v)] an entry permit or interim-use permit issued under AS 16.43; or

(v) [(vi)] a driver's license issued under AS 28.15;

*** Sec. 6.** AS 21.96.110(a) is amended to read:

(a) The director shall regulate the transaction of viatical settlement contracts for the protection of viators, insureds, and insurers. The authority of the director under this subsection extends to the regulation of transactions between a viator and a viatical settlement provider and between a viator and a person acting as an agent in viaticating a life insurance policy, while the authority of the commissioner extends to the regulation of viatical settlement investments as provided under **AS 45.56** [AS 45.55.905(c)].

*** Sec. 7.** AS 25.27.244(s)(2) is amended to read:

(2) "license"

(A) means, except as provided in (B) of this paragraph, a license, certificate, permit, registration, or other authorization that, at the time of issuance, will be valid for more than 150 days and that may be acquired from a state agency to perform an occupation, including the following:

(i) license relating to boxing or wrestling under AS 05.10;

(ii) authorization to perform an occupation regulated under AS 08;

(iii) teacher certificate under AS 14.20;

(iv) authorization under AS 18.08 to perform emergency medical services;

(v) asbestos worker certification under AS 18.31;

(vi) boiler operator's license under AS 18.60.395;

(vii) certificate of fitness under AS 18.62;

(viii) hazardous painting certification under AS 18.63;

(ix) security guard license under AS 18.65.400 - 18.65.490;

(x) license relating to insurance under AS 21.27;

(xi) employment agency permit under AS 23.15.330 - 23.15.520;

(xii) registration as a broker-dealer, an agent, **an** [A STATE] investment adviser, or an investment adviser representative under **AS 45.56.405 - 45.56.440** [AS 45.55.030];

(xiii) certification as a pesticide applicator under AS 46.03.320;

(xiv) certification as a storage tank worker or contractor under AS 46.03.375;

(xv) certification as a water and wastewater works operator under AS 46.30;

(xvi) commercial crewmember fishing license under AS 16.05.480 other than an entry permit or interim-use permit under AS 16.43;

(xvii) fish transporter permit under AS 16.05.671;

[(xviii) REPEALED

(xix) REPEALED]

(B) does not include

(i) a vessel license issued under AS 16.05.490 or 16.05.530;

(ii) [REPEALED

(iii)] a business license issued under AS 43.70;

(iii) [(iv)] an entry permit or interim-use permit issued under AS 16.43; or

(iv) a driver's license [(v)] issued under AS 28.15;

*** Sec. 8.** AS 34.08.570 is amended to read:

Sec. 34.08.570. Common interest community securities. If an interest in a common interest community is currently registered with the Securities and Exchange Commission of the United States, a declarant satisfies each requirement relating to the preparation of a public offering statement of this chapter if the declarant delivers to the purchaser a copy of the public offering statement filed with the Securities and Exchange Commission. An interest in a common interest community is not subject to the registration requirements of **AS 45.56** [AS 45.55].

*** Sec. 9.** AS 37.23.010(c) is amended to read:

(c) The registration requirements of **AS 45.56** [AS 45.55] do not apply to an investment pool formed under this chapter or to participating public entities with respect to activities of the pool.

*** Sec. 10.** AS 37.23.050 is amended to read:

Sec. 37.23.050. Investment management. The public entities participating in an investment pool under this chapter shall provide for management of investments in the pool by contracting for investment management and related services with

(1) a securities broker-dealer registered under **AS 45.56.405** [AS 45.55.030] and under 15 U.S.C. 78o (Securities Exchange Act of 1934);

(2) **an** [A STATE] investment adviser registered under **AS 45.56.435** [AS 45.55.030] or a federal covered **investment** adviser that has made a notice filing under **AS 45.56.445(c)** [AS 45.55.040(h)];

(3) the Department of Revenue; or

(4) a financial institution that is a state or federally chartered commercial or mutual bank, savings and loan association, or credit union if the institution's accounts are insured through the appropriate federal insuring agency of the United States and if the institution has trust powers under state or federal law.

*** Sec. 11.** AS 40.25.120(a) is amended to read:

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be

treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance;

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

(D) could reasonably be expected to disclose the identity of a confidential source;

(E) would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;

(F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(G) could reasonably be expected to endanger the life or physical safety of an individual;

(7) names, addresses, and other information identifying a person as a participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the advance college tuition savings program under AS 14.40.803 - 14.40.817;

(8) public records containing information that would disclose or might lead to the disclosure of a component in the process used to execute or adopt an

electronic signature if the disclosure would or might cause the electronic signature to cease being under the sole control of the person using it;

(9) reports submitted under AS 05.25.030 concerning certain collisions, accidents, or other casualties involving boats;

(10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare;

(11) the written notification regarding a proposed regulation provided under AS 24.20.105 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.105;

(12) records that are

(A) proprietary, privileged, or a trade secret in accordance with AS 43.90.150 or 43.90.220(e);

(B) applications that are received under AS 43.90 until notice is published under AS 43.90.160;

(13) information of the Alaska Gasline Development Corporation created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development Corporation that is confidential by law or under a valid confidentiality agreement;

(14) information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement under AS 38.05.020(b)(12)**;**

(15) records that are

(A) investigative files under AS 45.55.910; or

(B) confidential under AS 45.56.615.

*** Sec. 12.** AS 43.70.105(a) is amended to read:

(a) This chapter does not apply to

(1) a fisheries business;

(2) the sale of liquor under a license issued under AS 04.11;

(3) an insurance business;

(4) a mining business;

(5) supplying services as an employee;

(6) furnishing goods or services by a person who does not represent to be regularly engaged in furnishing goods or services;

(7) the activities of an investment club; in this paragraph,

(A) "investment club" means a group of individuals, incorporated or otherwise organized, that engages primarily in investing in securities, that does not sell investment services to another person, that does not advertise, and the primary purpose of which is educational;

(B) "security" has the meaning given in **AS 45.56.900** [AS 45.55.990].

*** Sec. 13.** AS 44.64.030(a)(39) is repealed and reenacted to read:

(39) AS 45.56 (Alaska Securities Act);

*** Sec. 14.** AS 44.64.030(a) is amended by adding a new paragraph to read:

(51) AS 45.55 (Alaska Native Claims Settlement Act Corporations Proxy Solicitations and Initial Issuance of Stock).

*** Sec. 15.** AS 45.55.138 is amended to read:

Sec. 45.55.138. Application to Alaska Native Claims Settlement Act corporations. The initial issue of stock of a corporation organized under Alaska law **under** [PURSUANT TO] 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) is not a sale of a security under **AS 45.56.105** [AS 45.55.070] and **45.56.900(29)** [45.55.990(28)].

*** Sec. 16.** AS 45.55.139 is amended to read:

Sec. 45.55.139. Reports of corporations. A copy of all annual reports,

proxies, consents or authorizations, proxy statements, and other materials relating to proxy solicitations distributed, published, or made available by any person to at least 30 Alaska resident shareholders of a corporation **organized under Alaska law under 43 U.S.C. 1601 et. seq. (Alaska Native Claims Settlement Act)** that has total assets exceeding $1,000,000 and a class of equity security held of record by 500 or more persons [AND WHICH IS EXEMPTED FROM THE REGISTRATION REQUIREMENTS OF AS 45.55.070 BY AS 45.55.138,] shall be filed with the administrator concurrently with its distribution to shareholders.

*** Sec. 17.** AS 45.55.920(a) is amended to read:

(a) If it appears to the administrator that a person has engaged or is about to engage in an act or practice in violation of a provision of this chapter or regulation or order under this chapter, the administrator may

(1) in the public interest [OR FOR THE PROTECTION OF INVESTORS,] issue an order

(A) directing the person to cease and desist from continuing the act or practice;

(B) directing the person, for a period not to exceed three years, to file the annual reports, proxies, consents or authorizations, proxy statements, or other materials relating to proxy solicitations required under AS 45.55.139 with the administrator for examination and review 10 working days before a distribution to shareholders; and

(C) voiding the proxies obtained by a person required to file under AS 45.55.139, including their future exercise or actions resulting from their past exercise, if the proxies were solicited by means of an untrue or misleading statement prohibited under AS 45.55.160; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or regulation or order under this chapter, and upon a proper showing, the appropriate remedy must be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets; the court may not require the administrator to post a bond.

*** Sec. 18.** AS 45.55.920(b) is amended to read:

(b) The administrator may issue an order against **a person** [AN APPLICANT, REGISTERED PERSON, OR OTHER PERSON] who [KNOWINGLY OR] intentionally violates this chapter or a regulation or order of the administrator under this chapter, imposing a civil penalty of not more than $2,500 for a single violation, or not more than $25,000 for multiple violations, in a single proceeding or a series of related proceedings. **In this subsection, "intentionally" has the meaning given in AS 11.81.900(a).**

*** Sec. 19.** AS 45.55.920(c) is amended to read:

(c) For violations not covered by (b) of this section, the administrator may issue an order against **a person** [AN APPLICANT, REGISTERED PERSON, OR OTHER PERSON] who violates this chapter or a regulation or order of the administrator under this chapter, imposing a civil penalty of not more than $500 for a single violation, or not more than $5,000 for multiple violations, in a single proceeding or a series of related proceedings.

*** Sec. 20.** AS 45.55.925(a) is amended to read:

(a) In addition to the civil penalties assessed under AS 45.55.920, a person who wilfully violates a provision of this chapter except **AS 45.55.160** [AS 45.55.030(e), 45.55.040(h), 45.55.075, OR 45.55.160], or who wilfully violates a regulation or order under this chapter, or who wilfully violates AS 45.55.160 knowing the statement made to be false or misleading in a material respect or the omission to be misleading by any material respect, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not less than one year nor more than five years, or both. Upon conviction of an individual for a felony under this chapter, imprisonment for not less than one year is mandatory. However, an individual may not be imprisoned for the violation of a regulation or order if the individual proves that the individual had no knowledge of the regulation or order. An indictment or information may not be returned under this chapter more than five years after the alleged violation.

*** Sec. 21.** AS 45.55.935(a) is repealed and reenacted to read:

(a) The administrator shall adopt regulations, consistent with the provisions of this chapter and with regulations adopted under AS 44.64.060, governing administrative hearings conducted by the office of administrative hearings

(AS 44.64.010) for orders issued under AS 45.55.920.

*** Sec. 22.** AS 45.55.950(a) is amended to read:

(a) The administrator may make, adopt, amend, and rescind the regulations, forms, and orders that are necessary to carry out this chapter [, INCLUDING REGULATIONS AND FORMS GOVERNING REGISTRATION STATEMENTS, APPLICATIONS, AND REPORTS, AND DEFINING TERMS, WHETHER OR NOT USED IN THIS CHAPTER INSOFAR AS THE DEFINITIONS ARE NOT INCONSISTENT WITH THIS CHAPTER. FOR THE PURPOSE OF REGULATIONS AND FORMS, THE ADMINISTRATOR MAY CLASSIFY SECURITIES, PERSONS, AND MATTERS WITHIN THE JURISDICTION OF THE ADMINISTRATOR, AND PRESCRIBE DIFFERENT REQUIREMENTS FOR DIFFERENT CLASSES].

*** Sec. 23.** AS 45.55.950(b) is amended to read:

(b) A regulation, form, or order may not be made, adopted, amended, or rescinded unless the administrator finds that the action is necessary or appropriate in the public interest [OR FOR THE PROTECTION OF INVESTORS AND CONSISTENT WITH THE PURPOSES FAIRLY INTENDED BY THE POLICY AND PROVISIONS OF THIS CHAPTER. IN ADOPTING REGULATIONS AND FORMS THE ADMINISTRATOR MAY COOPERATE WITH THE SECURITIES ADMINISTRATORS OF THE OTHER STATES AND THE SECURITIES AND EXCHANGE COMMISSION WITH A VIEW TO EFFECTUATING THE POLICY OF THIS SECTION TO ACHIEVE MAXIMUM UNIFORMITY IN THE FORM AND CONTENT OF REGISTRATION STATEMENTS, APPLICATIONS, AND REPORTS WHEREVER PRACTICABLE].

*** Sec. 24.** AS 45.55 is amended by adding a new section to read:

Sec. 45.55.985. Definition. In this chapter, unless the context otherwise requires, "administrator" means the commissioner of commerce, community, and economic development or a designee of the commissioner.

*** Sec. 25.** AS 45 is amended by adding a new chapter to read:

Chapter 56. Alaska Securities Act.

Article 1. General Provisions.

Sec. 45.56.105. Securities registration requirement. A person may not offer or sell a security in this state unless the security

(1) is a federal covered security;

(2) is registered under this chapter; or

(3) or transaction is exempt from registration under AS 45.56.205 - 45.56.250.

Article 2. Exemptions from Registration of Securities.

Sec. 45.56.205. Exempt securities. The following securities are exempt from the requirements of AS 45.56.105, 45.56.305 - 45.56.360, and 45.56.550:

(1) a security, including a revenue obligation or a separate security as defined in 17 C.F.R. 230.131 adopted under 15 U.S.C. 77a - 77aa (Securities Act of 1933), issued, insured, or guaranteed by the United States; by a state; by a political subdivision of a state; by a public authority, agency, or instrumentality of one or more states; by a political subdivision of one or more states; or by a person controlled or supervised by and acting as an instrumentality of the United States under authority granted by the United States Congress; or a certificate of deposit for any of the foregoing;

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

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

(A) an international banking institution;

(B) a banking institution organized under the laws of the United States; a member bank of the Federal Reserve System; or a depository institution a substantial portion of the business of which consists or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law or exercising fiduciary powers that are similar to those permitted

for national banks under the authority of the United States Comptroller of the Currency under 12 U.S.C. 92a; or

(C) any other depository institution, unless, by a regulation or order, the administrator proceeds under AS 45.56.250;

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

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

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

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

(C) a public utility holding company registered under 42 U.S.C. 16451 - 16481 (Energy Policy Act of 2005) or a subsidiary of the registered holding company within the meaning of that Act;

(6) a federal covered security specified in 15 U.S.C. 77r(b)(1) (Securities Act of 1933) or adopted by rule under that provision or a security listed or approved for listing on another securities market specified by regulation under this chapter; a put or call option contract; a warrant; a subscription right on or with respect to the security; an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934) and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934) or an offer or sale of the underlying security in connection with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written or issued; or an option or a derivative security designated by the Securities and Exchange Commission under 15 U.S.C. 78i(b) (Securities Exchange Act of 1934);

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

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

(B) file a request for exemption authorization for which a regulation adopted under this chapter may specify the

(i) scope of the exemption;

(ii) requirement of an offering statement;

(iii) filing of sales and advertising literature;

(iv) filing of consent to service of process complying with AS 45.56.630; and

(v) grounds for denial or suspension of the exemption; or

(C) register under AS 45.56.310;

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

to persons other than bona fide members of the cooperative;

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

(10) shares of membership stock in the Alaska Commercial Fishing and Agriculture Bank issued under AS 44.81.010 and other securities issued by that bank to members or in connection with loans to members.

Sec. 45.56.210. Exempt transactions. The following transactions are exempt from the requirements of AS 45.56.105, 45.56.305 - 45.56.360, and 45.56.550:

(1) an isolated nonissuer transaction, whether effected by or through a broker-dealer, if the seller is not a promoter or controlling person; the administrator may define by regulation or order who is a promoter or a controlling person;

(2) a nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this chapter, and a resale transaction by a sponsor of a unit investment trust registered under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), in a security of a class that has been outstanding in the hands of the public for at least 90 days, if, at the date of the transaction,

(A) the issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that does not have a specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with or an acquisition of an unidentified person;

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

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

(D) a nationally recognized securities manual or its electronic equivalent designated by a regulation adopted or order issued under this

chapter or a record filed with the Securities and Exchange Commission that is publicly available contains

(i) a description of the business and operations of the issuer;

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

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

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

(E) any one of the following requirements is met:

(i) the issuer of the security has a class of equity securities listed on a national securities exchange registered under 15 U.S.C. 78f (Securities Exchange Act of 1934) or designated for trading on the National Association of Securities Dealers Automated Quotation System;

(ii) the issuer of the security is a unit investment trust registered under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940);

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

(iv) the issuer of the security has total assets of at least $2,000,000 based on an audited balance sheet as of a date within 18 months before the date of the transaction or, in the case of a

reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization;

(3) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the Board of Governors of the Federal Reserve System;

(4) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in an outstanding security if the guarantor of the security files reports with the Securities and Exchange Commission under the reporting requirements of 15 U.S.C. 78m or 15 U.S.C. 78o (Securities Exchange Act of 1934);

(5) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security that

(A) is rated at the time of the transaction by a nationally recognized statistical rating organization as identified by regulations of the administrator in one of its four highest rating categories; or

(B) has a fixed maturity or a fixed interest or dividend, if

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

(ii) the issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not, within the previous 12 months, been a blank check, blind pool, or shell company that does not have a specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(6) a nonissuer transaction by or through a broker-dealer registered or

exempt from registration under this chapter effecting an unsolicited order or offer to purchase;

(7) a nonissuer transaction executed by a bona fide pledgee without the purpose of evading this chapter;

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

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

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

(11) a transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust or by an agreement for the sale of real estate or chattels, if

(A) the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidence of indebtedness, secured under those documents, is offered and sold as a unit;

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

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

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

(13) a sale or offer to sell to

(A) an institutional investor;

(B) a federal covered investment adviser; or

(C) any other person exempted by a regulation adopted or order issued under this chapter;

(14) a sale or offer to sell securities by or on behalf of an issuer if the transaction is part of a single issue in which

(A) not more than 25 purchasers in this state during any 12 consecutive months, other than a person designated in (13) of this section, regardless of whether the seller or any of the buyers is then present in this state;

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

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

(D) the issuer reasonably believes that all the purchasers in this state, other than those designated in (13) of this section, are purchasing for investment and not with a view to distribution;

(E) a legend is placed on the certificate or other document evidencing ownership of the security, and the legend states that the security is not registered under this chapter and cannot be resold without registration under this chapter or exemption from this chapter; and

(F) before a sale, each prospective buyer is furnished with information that is sufficient to make an informed investment decision; the information shall be furnished to the administrator upon request; in this subparagraph, "information that is sufficient to make an informed investment decision" includes a business plan, an income and expense statement, a balance sheet, a statement of risks, and a disclosure of any significant negative factors that may affect the outcome of the investment;

(15) a transaction under an offer to existing security holders of the issuer, including persons that, at the date of the transaction, are holders of convertible

securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state;

(16) an offer to sell, but not a sale of, a security not exempt from registration under 15 U.S.C. 77a - 77aa (Securities Act of 1933) if

(A) a registration, offering statement, or similar record as required under 15 U.S.C. 77a - 77aa (Securities Act of 1933) has been filed but is not effective, or the offer is made in compliance with 17 C.F.R. 230.165, adopted under 15 U.S.C. 77a - 77aa (Securities Act of 1933); and

(B) a stop order of which the offeror is aware has not been issued against the offeror by the administrator or the Securities and Exchange Commission, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

(17) an offer to sell, but not a sale of, a security exempt from registration under 15 U.S.C. 77a - 77aa (Securities Act of 1933) if

(A) a registration statement has been filed under this chapter but is not effective;

(B) a solicitation of interest is provided in a record to offerees in compliance with a regulation adopted by the administrator under this chapter; and

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

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

(19) a rescission offer, sale, or purchase under AS 45.56.665;

(20) an offer to sell or sale of a security to a person not a resident of

this state and not present in this state if the offer or sale does not constitute a violation of the laws of this state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this chapter;

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

(A) directors; general partners; managers and members if the issuer is a limited liability company; trustees, if the issuer is a business trust; officers; consultants; and advisors;

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

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

(D) insurance agents who are exclusive insurance agents of the issuer or the issuer's subsidiary or parent or who derive more than 50 percent of their annual income from those organizations;

(22) a transaction involving

(A) a stock dividend or equivalent equity distribution, regardless of whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock;

(B) a transaction incident to a right of conversion or judicially

approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in exchange for one or more outstanding securities, claims, or property interests and partly for cash; or

(C) the solicitation of tenders of securities by an offeror in a tender offer in compliance with 17 C.F.R. 230.162, adopted under 15 U.S.C. 77a - 77aa (Securities Act of 1933);

(23) a nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this paragraph or by a regulation adopted or order issued under this chapter; the issuer has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this paragraph or by a regulation adopted or order issued under this chapter, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing; for purposes of this paragraph, Canada, together with its provinces and territories, is a designated foreign jurisdiction, and TSX, Inc., formerly known as the Toronto Stock Exchange, Inc., is a designated securities exchange; after an administrative hearing in compliance with AS 45.56.650(c), the administrator, by a regulation adopted or order issued under this chapter, may revoke the designation of a securities exchange under this paragraph if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors;

(24) a sale by an issuer to the buyer of an enterprise or a business and the assets and liabilities of the enterprise or business if

(A) the transfer of stock to the buyer is solely incidental to the sale of the enterprise or business and its assets and liabilities;

(B) the seller provides the buyer with full access to the books and records of the enterprise or business; and

(C) a legend is placed on the certificate or other document

evidencing ownership of the security, stating that the security is not registered under this chapter and cannot be resold without registration under this chapter or exemption from it;

(25) an offer or sale of a certificate of interest or participation in oil, gas, or mining rights, titles, or leases, or in payments out of production under the rights, titles, or leases, if the purchaser

(A) is or has been, during the preceding two years, engaged primarily in the business of exploring for, mining, producing, or refining oil, gas, or minerals; or

(B) has been found by the administrator upon written application to be substantially engaged in the business of exploring for, mining, producing, or refining oil, gas, or minerals so as not to require the protection provided by this chapter;

(26) a transaction involving only family members, or involving only family members and the corporations, partnerships, limited liability companies, limited partnerships, limited liability partnerships, associations, joint-stock companies, or trusts that are organized, formed, or created by family members or at the direction of family members; in this paragraph, "family members" means persons who are related, including related by adoption, within the fourth degree of affinity or consanguinity; or

(27) a transaction relating to a security that is not part of an initial issue of stock covered by AS 45.55.138, but that is issued by a corporation organized under Alaska law under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act), if the corporation qualifies for exempt status under 43 U.SC. 1625(a).

Sec. 45.56.220. Small intrastate securities offerings. (a) An offer or sale of securities conducted solely in this state to a person who has established residency in this state, by an issuer in a transaction that meets the requirements of this section, is exempt from the requirements of AS 45.56.105, 45.56.305 - 45.56.360, and 45.56.550 and is subject to the following limitations:

(1) the issuer of the security shall be a for-profit corporation, another for-profit entity, or a business cooperative, have its principal place of business in this

state, and be licensed by the department;

(2) the transaction must meet the requirements of the federal exemption for intrastate offerings in 15 U.S.C. 77c(a)(11) (Securities Act of 1933) and 17 C.F.R. 230.147; the securities must be offered to and sold only to persons who have established residency in this state at the time of purchase; before any offer or sale under this exemption, the seller shall obtain documentary evidence from each prospective purchaser that provides the seller with a reasonable basis to believe the investor has established residency in this state;

(3) the sum of all cash and other consideration to be received for all sales of the security in reliance on this exemption may not exceed $1,000,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption;

(4) the issuer may not accept more than $10,000 from any single purchaser unless the purchaser is an accredited investor as defined by 17 C.F.R. 230.501;

(5) the issuer must reasonably believe that all purchasers of securities are purchasing for investment and not for sale in connection with a distribution of the security;

(6) a commission or remuneration may not be paid or given, directly or indirectly, for any person's participation in the offer or sale of securities for the issuer unless the person is registered as a broker-dealer, agent, investment adviser representative, or investment adviser under AS 45.56.405 - 45.56.440;

(7) all funds received from investors shall be deposited into a bank or depository institution authorized to do business in this state, and all funds shall be used in accordance with representations made to investors;

(8) not less than 10 days before the use of any general solicitation or within 15 days after the first sale of the security under this exemption, if general solicitation has not been used before the sale, whichever occurs first, the issuer shall provide a notice to the administrator as prescribed in regulations for this section; the notice must specify that the issuer is conducting an offering in reliance on this exemption and must contain the names and addresses of

(A) the issuer;

(B) officers, directors, and any control person of the issuer;

(C) all persons who will be involved in the offer or sale of securities on behalf of the issuer; and

(D) the bank or other depository institution in which investor funds will be deposited;

(9) the issuer may not be, either before or as a result of the offering,

(A) an investment company as defined by 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), or subject to the reporting requirements of 15 U.S.C. 78m or 78o (Securities Exchange Act of 1934); or

(B) a broker-dealer, agent, investment adviser representative, or investment adviser subject to AS 45.56.405 - 45.56.440;

(10) the issuer shall inform all purchasers that the securities have not been registered under AS 45.56.105, 45.56.305 - 45.56.360, and 45.56.550 and may not be resold unless the securities are registered or qualify for an exemption from registration under AS 45.56.205, 45.56.210, or 45.56.240; in addition, the issuer shall make the disclosures required by 17 C.F.R. 230.147(f);

(11) the issuer shall require all purchasers to sign the following statement at the time of sale: "I acknowledge that I am investing in a high-risk, speculative business venture, that I may lose all of my investment, and that I can afford the loss of my investment";

(12) this exemption may not be used in conjunction with any other exemption under this chapter, except the exemption to institutional investors under AS 45.56.405 and 45.56.435 and for offers and sales to controlling persons of the issuer; sales to controlling persons may not count toward the limitation in (3) of this subsection;

(13) this exemption may not be construed to remove any person from the anti-fraud provisions under AS 45.56.505 - 45.56.560, and the exemption may not be construed to provide relief from any other provision of this chapter other than as expressly stated.

(b) The administrator may by order deny or revoke the exemption specified in

this section with respect to a specific security if the administrator finds that the sale of the security would work or tend to work a fraud on the purchasers of the security. An order under this subsection may not operate retroactively. A person may not be considered to have violated AS 45.56.205 - 45.56.250 because of any offer or sale effected after the entry of an order under this subsection if the person sustains the burden of proof that the person did not know and, in the exercise of reasonable care, could not have known of the order.

(c) A person who makes application to the department for an exemption under this section shall be assessed a filing fee as prescribed in regulations for this section.

(d) In this section, "residency" has the meaning given in AS 01.10.055.

Sec. 45.56.230. Disqualifier. Exemption from registration under AS 45.56.205 - 45.56.250 is not available for a security or transaction if the issuer, or any of its officers, controlling persons, or promoters, is subject to a disqualifier described in the regulations adopted under 15 U.S.C. 78c(a)(39) (Dodd-Frank Wall Street Reform and Consumer Protection Act) as of the date of the transaction or offer.

Sec. 45.56.240. Waiver and modification. For any security or transaction or any type of security or transaction, the administrator may by order, waive, withdraw, or modify any of the requirements or conditions of AS 45.56.205 - 45.56.250.

Sec. 45.56.250. Denial, suspension, revocation, condition, or limitation of exemptions. (a) Except with respect to a federal covered security or a transaction involving a federal covered security, an order under this chapter may deny, suspend application of, condition, limit, or revoke an exemption created under AS 45.56.205(3)(C), (7), or (8), 45.56.210, or 45.56.220, or an exemption or waiver created under AS 45.56.240 with respect to a specific security, transaction, or offer. An order under this subsection may be issued only under the procedures in AS 45.56.360(d) or 45.56.650 and only prospectively.

(b) A person does not violate AS 45.56.105, 45.56.305 - 45.56.320, 45.56.340, 45.56.360, 45.56.550, or 45.56.665 by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know and, in the exercise of reasonable care, could not have known, of the order.

Article 3. Registration of Securities and Notice Filing of Federal Covered Securities.

Sec. 45.56.305. Securities registration by coordination. (a) A security for which a registration statement has been filed under 15 U.S.C. 77a - 77aa (Securities Act of 1933) in connection with the same offering may be registered by coordination under this section.

(b) A registration statement and accompanying records under this section must contain or be accompanied by the following records, in addition to the information specified in AS 45.56.320, and a consent to service of process complying with AS 45.56.630:

(1) a copy of the latest form of prospectus filed under 15 U.S.C. 77a - 77aa (Securities Act of 1933);

(2) if the administrator requires, a copy of the articles of incorporation and bylaws or their substantial equivalents currently in effect; a copy of any other information or any other records filed by the issuer under 15 U.S.C. 77a - 77aa (Securities Act of 1933) requested by the administrator; a copy of any agreement with or among underwriters; a copy of any indenture or other instrument governing the issuance of the security to be registered; and a specimen, copy, or description of the security that is required by a regulation adopted or order issued under this chapter; and

(3) an undertaking to forward each amendment to the federal prospectus, other than an amendment that delays the effective date of the registration statement, promptly after it is filed with the Securities and Exchange Commission.

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

(1) a stop order under (d) of this section or AS 45.56.360 or issued by the Securities and Exchange Commission is not in effect, and a proceeding is not pending against the issuer under AS 45.56.480; and

(2) the registration statement has been on file for at least 20 days or a shorter period provided by a regulation adopted or order issued under this chapter.

(d) The registrant shall promptly notify the administrator in a record of the date when the federal registration statement becomes effective and the content of any price amendment and shall promptly file a record containing the price amendment. If

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

(e) If the federal registration statement becomes effective before each of the conditions in this section is satisfied or is waived by the administrator, the registration statement is automatically effective under this chapter when all the conditions are satisfied or waived. If the registrant notifies the administrator of the date when the federal registration statement is expected to become effective, the administrator shall promptly notify the registrant by telephone or electronic means and promptly confirm this notice by a record, indicating whether all the conditions are satisfied or waived and whether the administrator intends the institution of a proceeding under AS 45.56.360. The notice by the administrator does not preclude the institution of a proceeding under AS 45.56.360.

Sec. 45.56.310. Securities registration by qualification. (a) A security may be registered by qualification under this section.

(b) A registration statement under this section must contain the information or records specified in AS 45.56.320, a consent to service of process complying with AS 45.56.630, and the following information or records:

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

(2) with respect to each director and officer of the issuer and other person having a similar status or performing similar functions, the person's name,

address, and principal occupation for the previous five years; the amount of securities of the issuer held by the person as of the 30th day before the filing of the registration statement; the amount of the securities covered by the registration statement to which the person has indicated an intention to subscribe; and a description of any material interest of the person in any material transaction with the issuer or a significant subsidiary effected within the previous three years or proposed to be effected;

(3) with respect to persons covered by (2) of this subsection, the aggregate sum of the remuneration paid to those persons during the previous 12 months and estimated to be paid during the next 12 months, directly or indirectly, by the issuer and all predecessors, parents, subsidiaries, and affiliates of the issuer;

(4) with respect to a person owning of record or owning beneficially, if known, 10 percent or more of the outstanding shares of any class of equity security of the issuer, the information specified in (2) of this subsection, other than the person's occupation;

(5) with respect to a promoter, if the issuer was organized within the previous three years, the information or records specified in (2) of this subsection, any amount paid to the promoter within that period or intended to be paid to the promoter, and the consideration for the payment;

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

(7) the capitalization and long-term debt, on both a current and pro forma basis, of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration, whether in the form of cash, physical assets, services, patents, goodwill, or anything else of value, for which the issuer or any subsidiary has issued its securities within the previous two years or is obligated to

issue its securities;

(8) the kind and amount of securities to be offered; the proposed offering price or the method by which the offering price is to be computed; any variation at which a proportion of the offering is to be made to a person or class of persons other than the underwriters, with a specification of the person or class; the basis on which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of each underwriter and each recipient of a finder's fee; a copy of any underwriting or selling group agreement under which the distribution is to be made, or the proposed form of an underwriting or selling group agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities that are to be offered other than through an underwriter;

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

(10) a description of any stock options or other security options outstanding or to be created in connection with the offering, and the amount of those options held or to be held by each person required to be named in (2), (4), (5), (6), or (8) of this subsection and by any person that holds or will hold 10 percent or more in

the aggregate of those options;

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

(12) a description of any pending litigation, action, or proceeding to which the issuer is a party and that materially affects the issuer's business or assets and any litigation, action, or proceeding known to be contemplated;

(13) a copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date of the registration statement to be used in connection with the offering and any solicitation of interest used in compliance with AS 45.56.210(17)(B);

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

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

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

(17) a balance sheet of the issuer as of a date within four months before the filing of the registration statement; a statement of income and a statement of cash flows for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the immediately previous fiscal year and the date

of the balance sheet, or for the period of the issuer's and any predecessor's existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of a business, the financial statements that would be required if that business were the registrant; and

(18) any additional information or records required by a regulation adopted or order issued under this chapter.

(c) A registration statement under this section becomes effective when the administrator orders that the registration is effective.

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

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

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

(3) payment under the sale; or

(4) delivery of the security under the sale.

Sec. 45.56.320. Securities registration filings. (a) A registration statement may be filed by the issuer, a person on whose behalf the offering is to be made, or a broker-dealer registered under this chapter.

(b) A person filing a registration statement shall pay a filing fee established by a regulation adopted under this chapter and consent to service of process as described under AS 45.56.630.

(c) A registration statement filed under AS 45.56.305 or 45.56.310 must specify

(1) the amount of securities to be offered in this state;

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

(3) any adverse order, judgment, or decree issued in connection with the offering by a state securities regulator, the Securities and Exchange Commission, or a court.

(d) A record filed under this chapter or former AS 45.55 within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the record is currently accurate.

(e) In the case of a nonissuer distribution, information or a record may not be required under (i) of this section or AS 45.56.310 unless it is known to the person filing the registration statement or to the person on whose behalf the distribution is to be made or unless it can be furnished by those persons without unreasonable effort or expense.

(f) A regulation adopted or order issued under this chapter may require as a condition of registration that a security issued within the previous five years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited in escrow and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security, either in this state or elsewhere. The conditions of any escrow or impoundment required under this subsection may be established by a regulation adopted or order issued under this chapter, but the administrator may not reject a depository institution solely because of its location in another state.

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

(h) Except while a stop order is in effect under AS 45.56.360, a registration statement is effective for one year after the effective date of the registration statement or for any longer period designated in an order under this chapter during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by

an underwriter or broker-dealer that is still offering part of an unsold allotment or subscription taken as a participant in the distribution. For the purposes of a nonissuer transaction, all outstanding securities of the same class identified in the registration statement as a security registered under this chapter are considered to be registered while the registration statement is effective. If any securities of the same class are outstanding, a registration statement may not be withdrawn until one year after the effective date of the registration statement. A registration statement may be withdrawn only with the approval of the administrator.

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

(j) A registration statement may be amended after the effective date of the registration statement. The post-effective amendment becomes effective when the administrator so orders. If a post-effective amendment is made to increase the number of securities specified to be offered or sold, the person filing the amendment shall pay a registration fee established by a regulation adopted under this chapter. A post-effective amendment relates back to the date of the offering of the additional securities being registered if, within one year after the date of the sale, the amendment is filed and the additional registration fee is paid.

Sec. 45.56.330. Notice filing of federal covered securities. (a) With respect to a federal covered security, as defined in 15 U.S.C. 77r(b) (Securities Act of 1933), that is not otherwise exempt under AS 45.56.205 - 45.56.240, a regulation adopted or order issued under this chapter may require the filing of any or all of the following records:

(1) before the initial offer of a federal covered security in this state, all records that are part of a federal registration statement filed with the Securities and Exchange Commission under 15 U.S.C. 77a - 77aa (Securities Act of 1933), a consent to service of process complying with AS 45.56.630 signed by the issuer, and the payment of a fee established in a regulation adopted under this chapter;

(2) after the initial offer of the federal covered security in this state, all

records that are part of an amendment to a federal registration statement filed with the Securities and Exchange Commission under 15 U.S.C. 77a - 77aa (Securities Act of 1933); and

(3) to the extent necessary or appropriate to compute fees, a report of the value of the federal covered securities sold or offered to persons present in this state if the sales data are not included in records filed with the Securities and Exchange Commission and payment of a fee established in a regulation adopted under this chapter.

(b) A notice filing under (a) of this section is effective for one year commencing on the later of the notice filing or the effectiveness of the offering filed with the Securities and Exchange Commission. On or before expiration, the issuer may renew a notice filing by filing with the Securities and Exchange Commission a copy of those records filed by the issuer that are required by a regulation adopted or order issued under this chapter to be filed and by paying a renewal fee established in a regulation adopted under this chapter. A previously filed consent to service of process complying with AS 45.56.630 may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

(c) With respect to a security that is a federal covered security under 15 U.S.C. 77r(b)(4)(D) (Securities Act of 1933), a regulation adopted under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as adopted by the Securities and Exchange Commission, and a consent to service of process complying with AS 45.56.630 signed by the issuer not later than 15 days after the first sale of the federal covered security in this state and the payment of a fee established in a regulation adopted under this chapter; and the payment of a fee established in a regulation adopted under this chapter for any late filing.

(d) Except with respect to a federal covered security under 15 U.S.C. 77r(b)(1) (Securities Act of 1933), if the administrator finds that there is a failure to comply with a notice or fee requirement of this section, the administrator may issue a stop order suspending the offer and sale of a federal covered security in this state. If the

deficiency is corrected, the stop order is void as of the time of its issuance and a penalty may not be imposed by the administrator.

Sec. 45.56.340. Viatical settlement interests. (a) Before the sale of a viatical settlement interest, an issuer shall provide a prospective buyer with information that is sufficient to make an informed investment decision. The issuer shall also provide the information to the administrator upon request if the issuer is not otherwise required to file the information with the administrator. In this subsection, "information that is sufficient to make an informed investment decision" includes state-mandated disclosure forms and a disclosure of any significant factors that may affect the outcome of the investment.

(b) Except as may be required in the course of conduct of the responsibilities of the administrator, an issuer of a viatical settlement interest may not disclose to another person the identity of the viator or insured of the insurance policy that is the subject of the viatical settlement interest. The viator may waive this prohibition against disclosure if the waiver is in writing and signed by the viator.

(c) The administrator shall regulate transactions between a viatical settlement provider or person acting as an agent of a viatical settlement provider and a subsequent investor, while the authority of the director of the division of insurance extends to the regulation of viatical settlement contracts under AS 21.96.110.

(d) In this section,

(1) "viatical settlement contract" has the meaning given in AS 21.96.110(h);

(2) "viatical settlement interest"

(A) means the entire interest or any fractional interest in a life insurance policy or in the death benefit under a life insurance policy that is the subject of a viatical settlement contract;

(B) does not include the initial purchase from the viator by a viatical settlement provider;

(3) "viatical settlement provider" has the meaning given in AS 21.96.110(h);

(4) "viator" has the meaning given in AS 21.96.110(h).

Sec. 45.56.350. Waiver and modification. The administrator may waive or modify, in whole or in part, any or all of the requirements of AS 45.56.305 and 45.56.320 or the requirement of any information or record in a registration statement or in a periodic report filed under AS 45.56.320(i).

Sec. 45.56.360. Denial, suspension, and revocation of securities registration. (a) The administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, a registration statement if the administrator finds that the order is in the public interest and that

(1) the registration statement as of the effective date of the registration statement or before the effective date in the case of an order denying effectiveness, an amendment under AS 45.56.320(j) as of the effective date of the amendment, or a report under AS 45.56.320(i) is incomplete in a material respect or contains a statement that, in the light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(2) this chapter or a regulation adopted, order issued, or condition imposed under this chapter has been wilfully violated in connection with the offering by

(A) the person filing the registration statement;

(B) the issuer, a partner, officer, or director of the issuer or a person having a similar status or performing a similar function;

(C) a promoter of the issuer;

(D) a person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or

(E) an underwriter;

(3) the security registered or sought to be registered is the subject of a permanent or temporary injunction of a court of competent jurisdiction or an administrative stop order or similar order issued under any federal, foreign, or state law other than this chapter applicable to the offering; the administrator may not institute a proceeding against an effective registration statement under this paragraph more than one year after the date of the order or injunction on which it is based, and

the administrator may not issue an order under this paragraph based on an order or injunction issued under the securities act of another state unless the order or injunction was based on conduct that would constitute, as of the date of the order, a ground for a stop order under this section;

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

(5) with respect to a security sought to be registered under AS 45.56.305, there has been a failure to comply with the undertaking required by AS 45.56.305(b)(3);

(6) the applicant or registrant has not paid the filing fee; the administrator shall void the order if the deficiency is corrected and the order was based solely on the nonpayment of the filing fee; or

(7) the offering

(A) will work or tend to work a fraud on purchasers or would operate to work or tend to work a fraud on purchasers;

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

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

(b) To the extent practicable, the administrator shall, by a regulation adopted or order issued under this chapter, publish standards that provide notice of conduct that violates (a)(7) of this section.

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

(d) The administrator may summarily revoke, deny, postpone, or suspend the effectiveness of a registration statement pending final determination of an administrative proceeding. Upon the issuance of the order, the administrator shall

promptly notify each person specified in (e) of this section that the order has been issued, the reasons for the revocation, denial, postponement, or suspension, and that, within 15 days after the receipt of a request in a record from the person, the matter will be scheduled for a hearing. If, within 30 days after the date of service of the order, a hearing is not requested and none is ordered by the administrator, the order becomes final. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing for each person subject to the order, may modify or vacate the order or extend the order until final determination.

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

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

(2) an opportunity for hearing conducted in the manner provided in AS 45.56.650(c); and

(3) findings of fact and conclusions of law in a record.

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

Article 4. Broker-Dealers, Agents, Investment Advisers, Investment Adviser Representatives, and Federal Covered Investment Advisers.

Sec. 45.56.405. Broker-dealer registration requirement and exemptions. (a) A person may not transact business in this state as a broker-dealer unless the person is registered under this chapter as a broker-dealer or is exempt from registration as a broker-dealer under (b) of this section.

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

(1) a broker-dealer without a place of business in this state if the broker-dealer's only transactions effected in this state are with

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

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

(C) an institutional investor;

(D) a nonaffiliated federal covered investment adviser with investments under management in excess of $100,000,000 acting for the account of others under discretionary authority in a signed record;

(E) a bona fide preexisting customer whose principal place of residence is not in this state if the person is registered as a broker-dealer under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934) or not required to be registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934) and is registered under the securities act of the state in which the customer maintains a principal place of residence;

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

(i) the broker-dealer is registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934) or not required to be registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934) and is registered under the securities act of the state in which the customer relationship was established and where the customer had maintained a principal place of residence; and

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

(G) not more than three customers in this state during the previous 12 months, in addition to those customers specified in (A) - (F) of this paragraph and under (H) of this paragraph if the broker-dealer is registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934) or not required to be registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934)

and is registered under the securities act of the state in which the broker-dealer has its principal place of business; and

(H) any other person exempted by a regulation adopted or order issued under this chapter; and

(2) a person that deals solely in United States government securities and is supervised as a dealer in government securities by the Board of Governors of the Federal Reserve System, the United States Comptroller of the Currency, or the Federal Deposit Insurance Corporation.

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

Sec. 45.56.410. Limited registration of Canadian broker-dealers and agents. (a) If a broker-dealer is registered under this section and its principal office is located in a province or territory of Canada that provides at least equivalent registration for a broker-dealer that is resident in the United States, a broker-dealer that is resident in Canada and does not have an office or other physical presence in this state may effect transactions in securities with or for or induce or attempt to induce the purchase or sale of a security by a person from Canada who is

(1) temporarily resident in this state and with whom the Canadian broker-dealer had a bona fide broker-dealer-client relationship before the person entered the United States; or

(2) resident in this state and whose transactions are in a self-directed tax-advantaged retirement plan in Canada if the person is the holder of or contributor to the plan.

(b) An agent who represents a Canadian broker-dealer registered under this section may, if the agent is registered under this section, effect transactions in securities in this state as permitted for the broker-dealer under (a) of this section.

(c) Subject to the requirements of (a) of this section, a Canadian broker-dealer may register under this section if the broker-dealer

(1) files an application in the form required by the jurisdiction in which the broker-dealer has its principal office;

(2) files a written consent to service of process under AS 45.56.630;

(3) is registered as a broker or dealer in good standing in the jurisdiction from which the broker-dealer is effecting transactions into this state and files evidence of the registration; and

(4) is a member of a self-regulating organization or stock exchange in Canada.

(d) An agent may register under this section to effect transactions in securities in this state if the agent represents a Canadian broker-dealer that is registered under this section, and the agent

(1) files an application in the form required by the jurisdiction in which the broker-dealer has its principal office;

(2) files a written consent to service of process under AS 45.56.630; and

(3) is registered and files evidence of good standing in the jurisdiction from which the agent is effecting transactions into this state.

(e) Registration under this section becomes effective on the 30th day after an application is filed unless it is made effective earlier by the administrator or a denial order is in effect and a proceeding is pending under AS 45.56.480.

(f) A Canadian broker-dealer registered under this section shall

(1) maintain provincial or territorial registration and membership in good standing in a self-regulating organization or stock exchange;

(2) provide the administrator on request with books and records relating to its business in this state as a broker-dealer;

(3) inform the administrator promptly of any criminal action taken against the broker-dealer or of any finding or sanction imposed on the broker-dealer as a result of regulatory action, including that of a self-regulating organization, involving fraud, theft, deceit, misrepresentation, or similar conduct; and

(4) disclose to its clients in this state that the broker-dealer and its agents are not subject to the full regulatory requirements of this chapter.

(g) An agent of a Canadian broker-dealer registered under this section shall

(1) maintain provincial or territorial registration in good standing; and

(2) inform the administrator promptly of any criminal action taken against the agent or of any finding or sanction imposed on the broker-dealer or agent as a result of regulatory action, including that of a self-regulating organization, involving fraud, theft, deceit, misrepresentation, or similar conduct.

(h) A Canadian broker-dealer or agent registered under this section may renew its registration by filing by midnight on December 31 of each year the most recent renewal application, if any, filed in the jurisdiction in which the broker-dealer or agent has its principal office or, if a renewal application is not required, the most recent application filed under (c)(1) or (d)(1) of this section.

(i) An applicant for registration or renewal registration under this section shall pay the fee for broker-dealers and agents required by this chapter.

(j) A Canadian broker-dealer or agent registered under this section may not effect transactions in this state except

(1) as permitted under (a) or (b) of this section;

(2) with or through

(A) the issuers of the securities involved in the transactions;

(B) other broker-dealers; or

(C) banks, savings institutions, trust companies, insurance companies, investment companies as defined in 15 U.S.C. 80a-3 (Investment Company Act of 1940), pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees;

or

(3) as otherwise permitted by this chapter.

(k) A Canadian broker-dealer or agent registered under this section and acting in accordance with the limitations in (j) of this section is exempt from all of the requirements of this chapter except the anti-fraud provisions under AS 45.56.505 and the requirements of this section. The registration of a Canadian broker-dealer or agent under this section may not be denied, suspended, or revoked except in accordance with the provisions of AS 45.56.480 for a breach of the anti-fraud provisions under AS 45.56.505 or the requirements of this section.

(*l*) In this section, "Canadian broker-dealer" means a broker-dealer that has its principal office in a province or territory of Canada.

Sec. 45.56.420. Registration exemption for merger and acquisition broker. (a) Except as provided in (b) and (c) of this section, a merger and acquisition broker is exempt from registration under AS 45.56.405.

(b) A merger and acquisition broker is not exempt from registration under AS 45.56.405 if the broker

(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 United States Securities and Exchange Commission under 15 U.S.C. 78*l*(b) (Securities Exchange Act of 1934) or with respect to which the issuer files, or is required to file, periodic information, documents, and reports under 15 U.S.C. 78o(d) (Securities Exchange Act of 1934); or

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

(c) A merger and acquisition broker is not exempt from registration under AS 45.56.405 if the broker is subject to

(1) suspension or revocation of registration under 15 U.S.C. 78o(b)(4) (Securities Exchange Act of 1934);

(2) a statutory disqualification described in 15 U.S.C. 78c(a)(39) (Securities Exchange Act of 1934);

(3) a disqualification under the rules adopted by the United States Securities and Exchange Commission under 15 U.S.C. 77d note (Dodd-Frank Wall Street Reform and Consumer Protection Act); or

(4) a final order described in 15 U.S.C. 78o(b)(4)(H) (Securities Exchange Act of 1934).

(d) This section may not be construed to limit any other authority of the department to exempt any person, or any class of persons, from a provision of this chapter, or a provision of a rule or regulation adopted under this chapter.

(e) In 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, limited liability company member, limited liability company manager, an officer who exercises executive responsibility, or an officer who has status or functions similar to an officer who exercises executive responsibility;

(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 that

(A) does not have any class of securities registered, or required to be registered, with the United States Securities and Exchange Commission under 15 U.S.C. 78*l*(b) (Securities Exchange Act of 1934), or with respect to which the company files, or is required to file, periodic information, documents, and reports under 15 U.S.C. 78o(d) (Securities Exchange Act of 1934); and

(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, 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 revenue of the company is less than $250,000,000;

(3) "merger and acquisition broker" means a broker, and a person associated with the broker, 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 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, if the broker reasonably believes that

(A) upon consummation of the transaction, a person acquiring securities or assets of the eligible privately held company, acting alone or in concert, will control and, directly or indirectly, 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 a person is offered securities in exchange for securities or assets of the eligible privately held company, the person will, before 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;

(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 United States Securities and Exchange Commission under 15 U.S.C. 78*l*(b), or with respect to which the company files, or is required to file, periodic information, documents, and reports under 15 U.S.C. 78o(d);

(B) has no assets or has nominal operations; and

(C) has

(i) no assets or has 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.

Sec. 45.56.430. Agent registration requirement and exemptions. (a) An individual may not transact business in this state as an agent unless the individual is registered under this chapter as an agent or is exempt from registration as an agent under (b) of this section.

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

(1) an individual who represents a broker-dealer in effecting transactions in this state limited to those described in 15 U.S.C. 78o(i);

(2) an individual who represents a broker-dealer that is exempt under AS 45.56.405(b) or 45.56.410;

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

(4) an individual who represents an issuer and who effects transactions in the issuer's securities exempted by AS 45.56.210, other than AS 45.56.210(11) and

(14);

(5) an individual who represents an issuer that effects transactions solely in federal covered securities of the issuer, but an individual who effects transactions in a federal covered security under 15 U.S.C. 77r(b)(3) or (b)(4)(D) (Securities Act of 1933) is not exempt if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;

(6) an individual who represents a broker-dealer registered in this state under AS 45.56.405(a) or exempt from registration under AS 45.56.405(b) in the offer and sale of securities for an account of a nonaffiliated federal covered investment adviser with investments under management in excess of $100,000,000 acting for the account of others under discretionary authority in a signed record;

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

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

(9) any other individual exempted by a regulation adopted or order issued under this chapter.

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

(d) A broker-dealer or an issuer engaged in offering, selling, or purchasing securities in this state may not employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under (a) of this section or exempt from registration under (b) of this section.

(e) An individual may not act as an agent for more than one broker-dealer or one issuer at a time, unless the broker-dealer or the issuer for which the agent acts is affiliated by direct or indirect common control or is authorized by a regulation or order issued under this chapter.

Sec. 45.56.435. Investment adviser registration requirement and

exemptions. (a) A person may not transact business in this state as an investment adviser unless the person is registered under this chapter as an investment adviser or is exempt from registration as an investment adviser under (b) of this section.

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

(1) a person without a place of business in this state that is registered under the securities act of the state in which the person has the person's principal place of business if the person's only clients in this state are

(A) federal covered investment advisers, investment advisers registered under this chapter, or broker-dealers registered under this chapter;

(B) institutional investors;

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

(D) exempt by a regulation adopted or order issued under this chapter;

(2) a person without a place of business in this state if the person has had, during the preceding 12 months, not more than five clients that are resident in this state in addition to those specified under (1) of this subsection; or

(3) any other person exempted by a regulation adopted or order issued under this chapter.

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

of the prohibitions of this subsection to the investment adviser.

(d) An investment adviser may not employ or associate with an individual required to be registered under this chapter as an investment adviser representative who transacts business in this state on behalf of the investment adviser unless the individual is registered under AS 45.56.440(a) or is exempt from registration under AS 45.56.440(b).

Sec. 45.56.440. Investment adviser representative registration requirement and exemptions. (a) An individual may not transact business in this state as an investment adviser representative unless the individual is registered under this chapter as an investment adviser representative or is exempt from registration as an investment adviser representative under (b) of this section.

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

(1) an individual who is employed by or associated with an investment adviser that is exempt from registration under AS 45.56.435(b) or a federal covered investment adviser that is excluded from the notice filing requirements of AS 45.56.445; and

(2) any other individual exempted by a regulation adopted or order issued under this chapter.

(c) The registration of an investment adviser representative is not effective while the investment adviser representative is not employed by or associated with an investment adviser registered under this chapter or a federal covered investment adviser that has made or is required to make a notice filing under AS 45.56.445.

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

(e) An individual acting as an investment adviser representative may not, directly or indirectly, conduct business in this state on behalf of an investment adviser or a federal covered investment adviser if the registration of the individual as an

investment adviser representative is suspended or revoked or the individual is barred from employment or association with an investment adviser or a federal covered investment adviser by an order under this chapter, the Securities and Exchange Commission, or a self-regulatory organization. Upon request from a federal covered investment adviser and for good cause, the administrator may by order, waive, in whole or in part, the application of the requirements of this subsection to the federal covered investment adviser.

(f) An investment adviser registered under this chapter, a federal covered investment adviser that has filed a notice under AS 45.56.445, or a broker-dealer registered under this chapter is not required to employ or associate with an individual as an investment adviser representative if the only compensation paid to the individual for a referral of investment advisory clients is paid to an investment adviser registered under this chapter, a federal covered investment adviser who has filed a notice under AS 45.56.445, or a broker-dealer registered under this chapter with which the individual is employed or associated as an investment adviser representative.

Sec. 45.56.445. Federal covered investment adviser notice filing requirement. (a) Except with respect to a federal covered investment adviser described in (b) of this section, a federal covered investment adviser may not transact business in this state as a federal covered investment adviser unless the federal covered investment adviser complies with (c) of this section.

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

(1) a federal covered investment adviser without a place of business in this state if the only clients of the federal covered investment adviser in this state are

(A) federal covered investment advisers, investment advisers registered under this chapter, and broker-dealers registered under this chapter;

(B) institutional investors;

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

(D) other clients specified by a regulation adopted or order issued under this chapter;

(2) a federal covered investment adviser without a place of business in this state if the person has had, during the preceding 12 months, not more than five clients that are resident in this state in addition to those specified under (1) of this subsection; and

(3) any other person excluded by a regulation adopted or order issued under this chapter.

(c) A person acting as a federal covered investment adviser not excluded under (b) of this section shall file a notice, a consent to service of process complying with AS 45.56.630, and the records that have been filed with the Securities and Exchange Commission under 15 U.S.C. 80b-1 - 80b-21 (Investment Advisers Act of 1940) as required by a regulation adopted or order issued under this chapter and shall pay the fees specified by regulation adopted under AS 45.56.470.

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

Sec. 45.56.450. Registration by broker-dealer, agent, investment adviser, and investment adviser representative. (a) A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application and a consent to service of process complying with AS 45.56.630 and by paying the fee specified in AS 45.56.470 and any reasonable fees charged by the designee of the administrator for processing the filing. The application must contain

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

(2) upon request by the administrator, any other financial or other information or record that the administrator determines is appropriate.

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

(c) If an order is not in effect, and a proceeding is not pending under AS 45.56.480, and the administrator has not initiated an investigation, registration becomes effective at noon on the 45th day after a completed application is filed, unless the registration is denied. A regulation adopted or order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the 45th day

after the filing of any amendment completing the application.

(d) A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under AS 45.56.480, a registration may be automatically renewed each year by filing the records required by a regulation adopted or order issued under this chapter, by paying the fee specified in AS 45.56.470, and by paying costs charged by the designee of the administrator for processing the filings.

(e) A regulation adopted or order issued under this chapter may impose other conditions, not inconsistent with 15 U.S.C. 77b, 77c, 77e, 77f, 77r, 77z-3, 77ddd, 78b - 78d, 78g, 78h, 78n, 78o, 78q, 78bb, 78ee, 78kk, 78mm, 80a-2, 80a-3, 80a-6, 80a-12, 80a-24, 80a-26, 80a-27, 80a-29, 80a-30, 80a-34, 80a-51, 80a-54, 80a-60, 80a-63, 80b-2, 80b-3a, 80b-5, 80b-10, 80b-18a, and 80b-20, and 29 U.S.C. 1002 (National Securities Markets Improvement Act of 1996). An order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration that are in the public interest and for the protection of investors.

Sec. 45.56.455. Succession and change in registration of broker-dealer or investment adviser. (a) A broker-dealer or investment adviser may succeed to the current registration of another broker-dealer or investment adviser or a notice filing of a federal covered investment adviser, and a federal covered investment adviser may succeed to the current registration of an investment adviser or notice filing of another federal covered investment adviser, by filing as a successor an application for registration under AS 45.56.405 or 45.56.435 or a notice under AS 45.56.445 for the unexpired portion of the current registration or notice filing.

(b) A broker-dealer or investment adviser that changes its form of organization or state of incorporation or organization may continue its registration by filing an amendment to its registration if the change does not involve a material change in its financial condition or management. The amendment becomes effective when filed or on a date designated by the registrant in its filing. The new organization is a successor to the original registrant for the purposes of this chapter. If there is a material change in financial condition or management, the broker-dealer or investment adviser shall file a new application for registration. A predecessor registered under this

chapter shall stop conducting its securities business other than winding down transactions and shall file for withdrawal of broker-dealer or investment adviser registration within 45 days after filing its amendment to effect succession.

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

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

Sec. 45.56.460. Termination of employment or association of agent and investment adviser representative and transfer of employment or association. (a) If an agent registered under this chapter terminates employment by or association with a broker-dealer or issuer, or if an investment adviser representative registered under this chapter terminates employment by or association with an investment adviser or federal covered investment adviser, or if either registrant terminates activities that require registration as an agent or investment adviser representative, the broker-dealer, issuer, investment adviser, or federal covered investment adviser shall promptly file a notice of termination. The registrant may file the notice of termination if the registrant learns that the broker-dealer, issuer, investment adviser, or federal covered investment adviser has not filed the notice.

(b) If an agent registered under this chapter terminates employment by or association with a broker-dealer registered under this chapter and begins employment by or association with another broker-dealer registered under this chapter, or if an investment adviser representative registered under this chapter terminates employment by or association with an investment adviser registered under this chapter or a federal covered investment adviser that has filed a notice under AS 45.56.445 and begins employment by or association with another investment adviser registered under this chapter or a federal covered investment adviser that has filed a notice under AS 45.56.445, then, within 30 days after the termination, upon the filing by or on behalf of the registrant of an application for registration that complies with the requirement of AS 45.56.450(a) and payment of the filing fee required under AS 45.56.470, the registration of the agent or investment adviser representative is

(1) immediately effective as of the date of the completed filing, if the agent's record or successor record in the Central Registration Depository operated by the Financial Industry Regulatory Authority or the investment adviser representative's record or successor record in the Investment Adviser Registration Depository operated by the Financial Industry Regulatory Authority does not contain a new or amended disciplinary disclosure within the previous 12 months; or

(2) temporarily effective as of the date of the completed filing, if the agent's record or successor record in the Central Registration Depository operated by the Financial Industry Regulatory Authority or the investment adviser representative's record or successor record in the Investment Adviser Registration Depository operated by the Financial Industry Regulatory Authority contains a new or amended disciplinary disclosure within the preceding 12 months.

(c) The administrator may withdraw a temporary registration if there are or were grounds for discipline as specified in AS 45.56.480 and the administrator does so within 30 days after the filing of the application. If the administrator does not withdraw the temporary registration within the 30-day period, registration becomes automatically effective on the 31st day after filing.

(d) The administrator may prevent the effectiveness of a transfer of an agent or investment adviser representative under (b)(1) or (2) of this section based on the public interest and the protection of investors.

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

Sec. 45.56.465. Withdrawal of registration of broker-dealer, agent, investment adviser, and investment adviser representative. Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser

representative becomes effective 60 days after the filing of the application to withdraw or within any shorter period as provided by a regulation adopted or order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon the conditions required by a regulation adopted or order issued under this chapter. The administrator may institute a revocation or suspension proceeding under AS 45.56.480 within one year after the withdrawal became effective automatically and issue a revocation or suspension order as of the last date on which registration was effective if a proceeding is not pending.

Sec. 45.56.470. Filing fees. (a) The administrator shall establish fees by regulation for

(1) an initial filing of an application as a broker-dealer and renewal of an application by a broker-dealer for registration;

(2) an application for registration as an agent and renewal of registration as an agent;

(3) an application for registration as an investment adviser and renewal of registration as an investment adviser;

(4) an application for registration as an investment adviser representative, a renewal of registration as an investment adviser representative, and a change of registration as an investment adviser representative; and

(5) an initial fee and annual notice fee for a federal covered investment adviser required to file a notice under AS 45.56.445.

(b) A person required to pay a filing or notice fee under this section may transmit the fee through or to a designee as provided by a regulation adopted or order issued under this chapter.

Sec. 45.56.475. Post registration requirements. (a) Subject to 15 U.S.C. 78o(i) or 80b-18a, a regulation adopted or order issued under this chapter may establish minimum financial requirements for broker-dealers registered or required to be registered under this chapter and investment advisers registered or required to be registered under this chapter.

(b) Subject to 15 U.S.C. 78o(i) or 80b-18a, a broker-dealer registered or

required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall file the financial reports required by a regulation adopted or order issued under this chapter. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) Subject to 15 U.S.C. 78o(i) or 80b-18a,

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

(2) broker-dealer records required to be maintained under (1) of this subsection may be maintained in any form of data storage acceptable under 15 U.S.C. 78q(a) if they are readily accessible to the administrator; and

(3) investment adviser records required to be maintained under (1) of this subsection may be maintained in any form of data storage required by a regulation adopted or order issued under this chapter.

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

(e) Subject to 15 U.S.C. 78o(i) or 80b-18a, a regulation adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount

established by a regulation adopted under this chapter. The administrator may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this chapter whose net capital exceeds, or of an investment adviser registered under this chapter whose minimum financial requirements exceed, the amounts required by a regulation adopted or order issued under this chapter. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in AS 45.56.660(j)(2).

(f) Subject to 15 U.S.C. 78o(i) or 80b-18a, an agent may not have custody of funds or securities of a customer except under the supervision of a broker-dealer, and an investment adviser representative may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A regulation adopted or order issued under this chapter may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

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

(h) A regulation adopted or order issued under this chapter may require an individual registered under AS 45.56.430 or 45.56.440 to participate in a continuing education program approved by the Securities and Exchange Commission and administered by a self-regulatory organization, or, in the absence of a continuing education program, a regulation adopted or order issued under this chapter may require continuing education for an individual registered under AS 45.56.440.

Sec. 45.56.480. Denial, revocation, suspension, withdrawal, restriction, condition, or limitation of registration. (a) If the administrator finds that the order is

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

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

(1) institute a revocation or suspension proceeding under this subsection based on an order issued under a law of another state that is reported to the administrator or a designee of the administrator more than three years after the date of the order on which it is based; or

(2) under (d)(5)(A) and (B) of this section, issue an order based on an order issued under the securities act of another state unless the other order was based on conduct for which (d) of this section would authorize the action had the conduct occurred in this state.

(c) If the administrator finds that the order is in the public interest and (d)(1) - (6), (8) - (10), (12), or (13) of this section authorize the action, an order under this chapter may censure, impose a bar, or impose a civil penalty of not more than $100,000 for a single violation on a registrant and, if the registrant is a broker-dealer or investment adviser, on a partner, officer, director, or person having a similar status or performing similar functions, or on a person directly or indirectly in control of the broker-dealer or investment adviser.

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

(1) has filed, within the previous 10 years under this chapter or former

AS 45.55, an application for registration in this state that, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(2) wilfully violated or wilfully failed to comply with this chapter or former AS 45.55 or a regulation adopted or order issued under this chapter or former AS 45.55 within the previous 10 years;

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

(4) is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or former AS 45.55, by a state, by the Securities and Exchange Commission, or by the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

(5) is the subject of an order issued after notice and opportunity for hearing by

(A) the securities or other financial services regulator of a state or the Securities and Exchange Commission or other federal agency denying, revoking, barring, or suspending registration as a broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative;

(B) the securities regulator of a state or the Securities and Exchange Commission against a broker-dealer, agent, investment adviser, investment adviser representative, or federal covered investment adviser;

(C) the Securities and Exchange Commission or a self-regulatory organization suspending or expelling the registrant from membership in the self-regulatory organization;

(D) a court adjudicating a United States Postal Service fraud order;

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

(F) a depository institution or financial services regulator suspending or barring the person from the depository institution or other financial services business;

(6) is the subject of an adjudication or determination, after notice and opportunity for hearing, by the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, a federal depository institution regulator, or a depository institution, insurance, or other financial services regulator of a state that the person wilfully violated 15 U.S.C. 77a - 77aa (Securities Act of 1933), 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934), 15 U.S.C. 80b-1 - 80b-21 (Investment Advisers Act of 1940), 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), or 7 U.S.C. 1 - 27 (Commodity Exchange Act), the securities or commodities law of a state, or a federal or state law under which a business involving investments, franchises, insurance, banking, or finance is regulated;

(7) is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the administrator may not enter an order against an applicant or registrant under this paragraph without a finding of insolvency as to the applicant or registrant;

(8) refuses to allow or otherwise impedes the administrator from conducting an audit or inspection under AS 45.56.475(d) or refuses access to a registrant's office to conduct an audit or inspection under AS 45.56.475(d);

(9) has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this chapter or former AS 45.55 or a regulation adopted or order issued under this chapter or former AS 45.55;

(10) has not paid the proper filing fee within 30 days after having been notified by the administrator of a deficiency, but the administrator shall vacate an

order under this paragraph when the deficiency is corrected;

(11) after notice and opportunity for a hearing, has been found

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

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

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

(12) is the subject of a cease and desist order issued by the Securities and Exchange Commission or issued under the securities, commodities, investment, franchise, banking, finance, or insurance laws of a state;

(13) has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business;

(14) is not qualified based on factors that may include training, experience, and knowledge of the securities business; however, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by (e) of this section; the administrator may require an applicant for registration under AS 45.56.430 or 45.56.440 who has not been registered in a state within the two years preceding the filing of an application in this state to complete successfully an examination; or

(15) is a person whose license renewal is denied under AS 14.43.148 or whose license issuance or renewal is denied under AS 25.27.244.

(e) A regulation adopted or order issued under this chapter may require that an examination, including an examination developed or approved by an organization of

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

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

(g) An order may not be issued under this section, except under (f) of this section, without appropriate notice to the applicant or registrant, and an opportunity for hearing under AS 45.56.650(c).

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

(i) The administrator may not institute a proceeding under (a) - (c) of this section based solely on material facts actually known by the administrator unless an investigation or the proceeding is instituted within one year after the administrator actually acquires knowledge of the material facts.

Article 5. Fraud and Liabilities.

Sec. 45.56.505. General fraud. A person may not, in connection with the

offer, sale, or purchase of a security, directly or indirectly,

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

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

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

Sec. 45.56.510. Prohibited conduct in providing investment advice. (a) A person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or adopts analyses or reports relating to securities may not

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

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

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

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

Sec. 45.56.520. Misleading filings. A person may not, in a document filed with the administrator or in a proceeding under this chapter, make or cause to be made an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

Sec. 45.56.530. Misrepresentations concerning registration or exemption.

The filing of an application for registration, a registration statement, a notice filing under this chapter, the registration of a person, the notice filing by a person, or the registration of a security under this chapter does not constitute a finding by the administrator that a record filed under this chapter is true, complete, and not misleading. The filing or registration or the availability of an exemption, exception, preemption, or exclusion for a security or a transaction does not mean that the administrator has passed on the merits or qualifications of, or recommended or given approval to, a person, security, or transaction. A person may not make, or cause to be made, to a purchaser, customer, client, or prospective customer or client a representation inconsistent with this section.

Sec. 45.56.540. Evidentiary burden. (a) In a civil action or administrative proceeding under this chapter, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the claim.

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

Sec. 45.56.550. Filing of sales and advertising literature. (a) Except as otherwise provided in (b) of this section, a regulation adopted or order issued under this chapter may require the filing of a prospectus, pamphlet, circular, form letter, advertisement, sales literature, or other advertising record relating to a security or investment advice, addressed or intended for distribution to prospective investors, including clients or prospective clients of a person registered or required to be registered as an investment adviser under this chapter.

(b) This section does not apply to sales and advertising literature specified in (a) of this section that relates to a federal covered security, a federal covered investment adviser, or a security or transaction exempted by AS 45.56.205, 45.56.210, 45.56.220, or 45.56.240, except as required under AS 45.56.205(7).

(c) The administrator may by regulation or order prohibit the publication, circulation, or use of any advertising considered false or misleading.

Sec. 45.56.560. Qualified immunity. A broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative is not

liable to another broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative for defamation relating to a statement that is contained in a record required by the administrator, a designee of the administrator, the Securities and Exchange Commission, or a self-regulatory organization, unless the person knew, or should have known at the time the statement was made, that it was false in a material respect or the person acted in reckless disregard of the statement's truth or falsity.

Article 6. Administration and Judicial Review.

Sec. 45.56.605. Administration. (a) The department shall administer this chapter.

(b) The administrator or an officer, employee, or designee of the administrator may not use for personal benefit or the benefit of others records or other information obtained by or filed with the administrator that is not public under AS 45.56.615(b). This chapter does not authorize the administrator or an officer, employee, or designee of the administrator to disclose the record or information, except in accordance with AS 45.56.615(c), 45.56.620, or 45.56.645.

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

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

Sec. 45.56.610. Administrative files and opinions. (a) The administrator shall maintain, or designate a person to maintain, a register of applications for registration of securities; registration statements; notice filings; applications for registration of

broker-dealers, agents, investment advisors, and investment adviser representatives; notice filings by federal covered investment advisors that are or have been effective under this chapter or former AS 45.55; notices of claims of exemption from registration or notice filing requirements contained in a record; orders issued under this chapter or former AS 45.55; and interpretative opinions or no-action determinations issued under this chapter. The register must be kept according to the existing retention schedule mandated by the department.

(b) The administrator shall make all regulations, forms, interpretative opinions, and orders available to the public.

(c) The administrator shall furnish a copy of a record that is a public record or a certification that the public record does not exist to a person upon request. A copy of the record certified or a certificate by the administrator of a record's nonexistence is prima facie evidence of a record or its nonexistence.

Sec. 45.56.615. Public records; confidentiality. (a) Except as otherwise provided in (b) of this section, records obtained by the administrator or filed under this chapter, including a record contained in or filed with a registration statement, application, notice filing, or report are public records and are available for public examination under AS 40.25.100 - 40.25.295 (Alaska Public Records Act).

(b) The following records are not public records under AS 40.25.100 - 40.25.295 (Alaska Public Records Act) and are not available for public examination under (a) of this section:

(1) a record obtained by the administrator in connection with an audit, examination or inspection under AS 45.56.475(d) or an investigation under AS 45.56.645;

(2) a part of a record filed in connection with a registration statement under AS 45.56.105 and 45.56.305 - 45.56.320 or a record under AS 45.56.475(d) that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law;

(3) a record that is not required to be provided to the administrator or filed under this chapter and is provided to the administrator only on the condition that

the record may not be subject to public examination or disclosure;

(4) a nonpublic record received from a person specified in AS 45.56.620(a); and

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

(c) If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in AS 45.56.620(a), the administrator may disclose a record obtained in connection with an audit or inspection under AS 45.56.475(d) or a record obtained in connection with an investigation under AS 45.56.645.

Sec. 45.56.620. Uniformity and cooperation with other agencies. (a) The administrator may cooperate, coordinate, consult, and, subject to AS 45.56.615, share records and information with the securities regulator of another state, Canada, a Canadian province or territory, a foreign jurisdiction, the Securities and Exchange Commission, the United States Department of Justice, the Commodity Futures Trading Commission, the Federal Trade Commission, the Securities Investor Protection Corporation, a self-regulatory organization, a national or international organization of securities regulators, a federal or state banking and insurance regulator, and a governmental law enforcement agency to bring about greater uniformity in securities matters among the federal government, self-regulatory organizations, states, and foreign governments.

(b) In cooperating, coordinating, consulting, and sharing records and information under this section and in acting by regulation, order, or waiver under this chapter, the administrator may take into consideration in carrying out the public interest the following general policies:

(1) maximizing effectiveness of regulation for the protection of investors;

(2) maximizing uniformity in federal and state regulatory standards; and

(3) minimizing burdens on the business of capital formation, without

adversely affecting essentials of investor protection.

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

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

(2) developing and maintaining uniform forms;

(3) conducting a joint examination or investigation;

(4) holding a joint administrative hearing;

(5) instituting and prosecuting a joint civil or administrative proceeding;

(6) sharing and exchanging personnel;

(7) coordinating registrations under AS 45.56.105 and 45.56.405 - 45.56.440 and exemptions under AS 45.56.240;

(8) sharing and exchanging records, subject to AS 45.56.615;

(9) formulating regulations, statements of policy, guidelines, forms, and interpretative opinions and releases;

(10) formulating common systems and procedures;

(11) notifying the public of proposed regulations, forms, statements of policy, and guidelines;

(12) attending conferences and other meetings among securities regulators, that may include representatives of governmental and private sector organizations involved in capital formation, considered necessary or appropriate to promote or achieve uniformity; and

(13) developing and maintaining a uniform exemption from registration for small issuers and taking other steps to reduce the burden of raising investment capital by small businesses.

Sec. 45.56.625. Securities investor education and training fund. The securities investor education and training fund is created as a special fund in the general fund to provide funds for the purposes specified in 45.56.605(d). The legislature may appropriate 33 percent of the money received by this state from civil

penalties under this chapter into the fund for securities investor education and training. Nothing in this section exempts money deposited into the fund from the requirements of AS 37.07 (Executive Budget Act) or dedicates money for a specific purpose.

Sec. 45.56.630. Service of process. (a) A consent to service of process complying with this section required by this chapter shall be signed and filed in the form required by a regulation adopted or order issued under this chapter. A consent appointing the administrator the person's agent for service of process in a noncriminal action or proceeding against the person or the person's successor or personal representative under this chapter or a regulation adopted or order issued under this chapter after the consent is filed has the same force and validity as if the service were made personally on the person filing the consent. A person that has filed a consent under this subsection in connection with a previous application for registration or notice filing need not file an additional consent.

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

(c) Service under (a) or (b) of this section may be made by providing a copy of the process to the office of the administrator, but the service is not effective unless

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

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

(d) Service under (c) of this section may be used in a proceeding before the administrator or by the administrator in a civil action in which the administrator is the moving party.

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

Sec. 45.56.635. Applicability of the chapter. (a) Unless the persons are exempt elsewhere in this chapter, this chapter applies to persons who buy or offer to buy when an offer to

(1) buy is made in this state; or

(2) sell is made and accepted in this state.

(b) Unless the person is exempt elsewhere in this chapter, this chapter applies to a person who sells or offers to sell when an offer to

(1) sell is made in this state; or

(2) buy is made and accepted in this state.

(c) For the purpose of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer

(1) originates from this state;

(2) is directed by the offeror to this state and received at the place to which it is directed or at a post office in this state in the case of a mailed offer;

(3) is for an interest or participation in an oil, gas, or mining right, title, or lease on land in this state, including submerged land, regardless of where the offer is made;

(4) is for an interest or participation in payments out of production under an oil, gas, or mining right, title, or lease on land in this state, including submerged land, regardless of where the offer is made;

(5) is for an interest or participation in real property located in this state, or in a corporation, a partnership, a limited liability company, a limited partnership, a limited liability partnership, an association, or a joint-stock company; jurisdiction under this paragraph may be exercised only when the exercise is consistent with the constitution of this state or of the United States.

(d) For the purpose of this section, an offer to buy or to sell is accepted in this state when acceptance is communicated to the offeror in this state and has not previously been communicated to the offeror, orally or in writing, outside this state. Acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs the acceptance to the offeror in this state reasonably believing the offeror to be in this state and the acceptance is received at the place to which it is directed or, in the case of a mailed acceptance, at a post office in this state.

(e) This chapter applies to investment advisers, federal covered advisers, and investment adviser representatives when any act instrumental in effecting prohibited conduct is done in this state, regardless of whether either party is then present in this state.

Sec. 45.56.640. Regulations, forms, orders, interpretative opinions, and hearings. (a) The administrator may

(1) issue forms and orders; after notice and comment, adopt and amend regulations necessary or appropriate to carry out this chapter; and repeal regulations, including regulations and forms governing registration statements, applications, notice filings, reports, and other records;

(2) by regulation, define terms, whether or not used in this chapter, but those definitions may not be inconsistent with this chapter; and

(3) by regulation, classify securities, persons, and transactions and adopt different requirements for different classes.

(b) Under this chapter, a regulation or form may not be adopted or amended, or an order issued or amended, unless the administrator finds that the regulation, form, order, or amendment is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes intended by this chapter. In adopting, amending, and repealing regulations and forms, AS 45.56.620 applies to achieve uniformity among the states and coordination with federal laws in the form and content of registration statements, applications, reports, and other records, including the adoption of uniform rules, forms, and procedures.

(c) Subject to 15 U.S.C. 78o(i) and 80b-18a, the administrator may require

that a financial statement filed under this chapter be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by regulation adopted or order issued under this chapter. A regulation adopted or order issued under this chapter may establish

(1) subject to 15 U.S.C. 78o(i) and 80b-18a, the form and content of financial statements required under this chapter;

(2) whether unconsolidated financial statements must be filed; and

(3) whether required financial statements must be audited by an independent certified public accountant.

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

(e) A hearing in an administrative proceeding under this chapter shall be conducted in public unless the administrative law judge or the administrator for good cause consistent with this chapter determines that the hearing may not be conducted in public.

(f) AS 44.62 (Administrative Procedure Act) applies to all regulations adopted or authorized under this chapter.

Sec. 45.56.645. Investigations and subpoenas. (a) The administrator may

(1) conduct public or private investigations in or outside of this state that the administrator considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this chapter or a regulation adopted or order issued under this chapter, or to aid in the enforcement of this chapter or in the adoption of regulations and forms under this chapter;

(2) require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the administrator determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or

proceeding is to be instituted; and

(3) publish a record concerning an action, proceeding, or an investigation under, or a violation of, this chapter or a regulation adopted or order issued under this chapter if the administrator determines it is necessary or appropriate in the public interest and for the protection of investors.

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

(c) If a person does not appear or refuses to testify, file a statement, produce records, or otherwise obey a subpoena as required by the administrator under this chapter, the administrator may refer the matter to the attorney general, who may bring an action in the superior court or a court of another state to enforce compliance. The court may

(1) hold the person in contempt;

(2) order the person to appear before the administrator;

(3) order the person to testify about the matter under investigation or in question;

(4) order the production of records;

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

(6) impose a civil penalty of not more than $100,000 for a single violation; and

(7) grant any other necessary or appropriate relief.

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

(e) A person is not excused from attending, testifying, filing a statement, producing a record or other evidence, or obeying a subpoena of the administrator under this chapter or in an action or proceeding instituted by the administrator under

this chapter on the ground that the required testimony, statement, record, or other evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If the person refuses to testify, file a statement, or produce a record or other evidence based on the individual's privilege against self-incrimination, the administrator may apply to the superior court to compel the testimony, the filing of the statement, the production of the record, or the giving of other evidence. The testimony, record, or other evidence compelled under an order of the superior court may not be used, directly or indirectly, against the individual in a criminal case, except in a prosecution for perjury, contempt, or otherwise failing to comply with the order.

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

Sec. 45.56.650. Administrative enforcement. (a) If the administrator determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a regulation adopted or order issued under this chapter or that a person has materially aided, is materially aiding, or is about to aid materially an act, practice, or course of business

constituting a violation of this chapter or a regulation adopted or order issued under this chapter, the administrator may issue an order

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

(2) denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under AS 45.56.405(b)(1)(D) or (F) or an investment adviser under AS 45.56.435(b)(1)(C); or

(3) denying, suspending, conditioning, or limiting an exemption as provided under AS 45.56.250.

(b) An order under (a) of this section is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty, restitution, or costs of investigation the administrator will seek, a statement of the reasons for the order, and notice that, within 15 days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the administrator within 30 days after the date of service of the order, the order, including the imposition of a civil penalty, the imposition of restitution, or requirement for payment of the costs of investigation sought in a statement in the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing provided to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered under (b) of this section, a hearing shall be conducted by the office of administrative hearings (AS 44.64.010), and AS 44.64.040 - 44.64.200 apply to and govern the hearing.

(d) In a final order under (b) of this section, the administrator may impose a civil penalty of not more than $100,000 for a single violation, unless the violation of this chapter is against an older person or a vulnerable adult. In addition to a civil penalty imposed under this subsection, a person or entity who engages in conduct

prohibited under this chapter against an older person or a vulnerable adult may be liable for an additional civil penalty of treble statutory damages. In determining whether to impose a supplemental civil penalty under this subsection, the administrator shall consider, in addition to other appropriate factors, the extent to which the following factors are present:

(1) whether the respondent knew that the respondent's conduct was directed to an older person or a vulnerable adult;

(2) whether the respondent's conduct caused an older person or a vulnerable adult to suffer

(A) severe loss or encumbrance of a primary residence, principal employment, or source of income; or

(B) substantial loss of property set aside for retirement or for personal and family care and maintenance; or

(3) whether the respondent's conduct caused substantial loss of payments received under a pension or retirement plan or a government benefits program.

(e) In a final order under (b) of this section, the administrator may

(1) impose restitution to any person in interest for any money or property, real or personal, that may have been acquired or transferred in violation of this chapter;

(2) charge the actual cost of an investigation or proceeding for a violation of this chapter or a regulation adopted or order issued under this chapter; and

(3) deny the violator of the use of any exemptions listed under this chapter.

(f) The administrator may petition the superior court to enter a judgment against a person who is a respondent in the order for the amount of the civil penalty levied against the person. Subject to AS 44.62.570, the filing of the petition for a judgment does not reopen the final order to further substantive review. A judgment entered under this subsection may be executed on and levied under in the manner provided in AS 09.35.

(g) If a person does not comply with an order under this section, the

administrator may petition a court of competent jurisdiction to enforce the order. The court may not require the administrator to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than $5,000 but not greater than $100,000 for each violation and may grant any other relief the court determines is just and proper in the circumstances.

Sec. 45.56.655. Civil enforcement. (a) If the administrator believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a regulation adopted or order issued under this chapter, or that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business that materially aids a violation of this chapter or a regulation adopted or order issued under this chapter, the administrator may maintain an action in the superior court to enjoin the act, practice, or course of business and to enforce compliance with this chapter or a regulation adopted or order issued under this chapter.

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

(1) issue a permanent or temporary injunction, restraining order, or declaratory judgment;

(2) order other appropriate or ancillary relief, which may include

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

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

(C) imposing a civil penalty of not more than $100,000 for a single violation, unless the violation of this chapter is against an older person or a vulnerable adult; in determining whether to impose a supplemental civil

penalty for a violation of this chapter against an older person or a vulnerable adult, the court shall consider, in addition to other appropriate factors, the extent to which the following factors are present:

(i) whether the respondent knew that the respondent's conduct was directed to an older person or a vulnerable adult;

(ii) whether the respondent's conduct caused an older person or a vulnerable adult to suffer severe loss or encumbrance of a primary residence, principal employment, or source of income; or substantial loss of property set aside for retirement or for personal and family care and maintenance; or

(iii) whether the respondent's conduct caused substantial loss of payments received under a pension or retirement plan or a government benefits program;

(D) imposing an order of rescission, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or former AS 45.55 or a regulation adopted or order issued under this chapter or former AS 45.55;

(E) imposing an order of restitution to any person in interest for any money or property, real or personal, that may have been acquired or transferred in violation of this chapter; and

(F) ordering the payment of prejudgment and post judgment interest; or

(3) order other relief that the court considers appropriate.

(c) The administrator may not be required to post a bond in an action or proceeding under this chapter.

(d) After an order issued by the court under (b) of this section becomes final and all rights of appeal are exhausted, the administrator may petition the superior court to enter a judgment against a person who is a respondent in the order for the amount of the civil penalty levied against the person. Subject to AS 44.62.570, the filing of the petition for a judgment does not reopen the final order to further substantive review. A judgment entered under this subsection may be executed on and levied under in the

manner provided in AS 09.35.

Sec. 45.56.660. Civil liability. (a) Enforcement of civil liability under this section is subject to P.L. 105-353 (Securities Litigation Uniform Standards Act of 1998).

(b) A person is liable to the purchaser if the person sells a security in violation of AS 45.56.105, or by means of an untrue statement of a material fact or an omission to state a material fact necessary to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did not know and, in the exercise of reasonable care, could not have known of the untruth or omission. An action under this subsection is governed by the following:

(1) the purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the purchase, costs, and attorney fees as determined by the court, upon the tender of the security, or for actual damages as provided in (3) of this subsection;

(2) the tender referred to in (1) of this subsection may be made any time before entry of judgment; tender requires only notice in a record of ownership of the security and willingness to exchange the security for the amount specified; a purchaser that no longer owns the security may recover actual damages as provided in (3) of this subsection;

(3) actual damages in an action arising under this subsection are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the purchase, costs, and attorney fees as determined by the court.

(c) A person is liable to the seller if the person buys a security by means of an untrue statement of a material fact or omission to state a material fact necessary to make the statement made, in light of the circumstances under which it is made, not misleading, the seller not knowing of the untruth or omission, and the purchaser not

sustaining the burden of proof that the purchaser did not know and, in the exercise of reasonable care, could not have known of the untruth or omission. An action under this subsection is governed by the following:

(1) the seller may maintain an action to recover the security and any income received on the security, costs, and attorney fees as determined by the court, upon the tender of the purchase price, or for actual damages as provided in (3) of this subsection;

(2) the tender referred to in (1) of this subsection may be made any time before entry of judgment; tender requires only notice in a record of the present ability to pay the amount tendered and willingness to take delivery of the security for the amount specified; if the purchaser no longer owns the security, the seller may recover actual damages as provided in (3) of this subsection;

(3) actual damages in an action arising under this subsection are the difference between the price at which the security was sold and the value the security would have had at the time of the sale in the absence of the purchaser's conduct causing liability, and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the sale of the security, costs, and attorney fees as determined by the court.

(d) A person acting as a broker-dealer or agent that sells or buys a security in violation of AS 45.56.405(a), 45.56.435(a), or 45.56.530 is liable to the customer. The customer, if a purchaser, may maintain an action for recovery of actual damages as specified in (b)(1) - (3) of this section or, if a seller, for a remedy as specified in (c)(1) - (3) of this section.

(e) A person acting as an investment adviser or investment adviser representative that provides investment advice for compensation in violation of AS 45.56.435(a), 45.56.440(a), or 45.56.530 is liable to the client. The client may maintain an action to recover the consideration paid for the advice, interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of payment, costs, and attorney fees as determined by the court.

(f) A person that receives, directly or indirectly, any consideration for providing investment advice to another person and that employs a device, scheme, or

artifice to defraud the other person or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit on the other person is liable to the other person. An action under this subsection is governed by the following:

(1) the person defrauded may maintain an action to recover the consideration paid for the advice and the amount of any actual damages caused by the fraudulent conduct, interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the fraudulent conduct, costs, and reasonable attorney fees as determined by the court, less the amount of any income received as a result of the fraudulent conduct;

(2) this subsection does not apply to a broker-dealer or its agents if the investment advice provided is solely incidental to transacting business as a broker-dealer and special compensation is not received for the investment advice.

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

(1) a person that directly or indirectly controls a person liable under (b) - (f) of this section, unless the controlling person sustains the burden of proof that the person did not know and, in the exercise of reasonable care, could not have known of the existence of conduct because of which the liability is alleged to exist;

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

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

(4) a person that is a broker-dealer, agent, investment adviser, or investment adviser representative that materially aids the conduct giving rise to the

liability under (b) - (f) of this section, unless the person sustains the burden of proof that the person did not know and, in the exercise of reasonable care, could not have known of the existence of conduct because of which the liability is alleged to exist.

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

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

(j) A person may not obtain relief under (b) of this section

(1) for a violation of AS 45.56.105, or under (d) or (e) of this section, unless the action is instituted within three years after the violation occurred; or

(2) other than for a violation of AS 45.56.105, or under (c) or (f) of this section, unless the action is instituted within the earlier of two years after discovery of the facts constituting the violation or five years after the violation.

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

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

(m) The rights and remedies provided by this chapter are in addition to any other rights or remedies that may exist, but this chapter does not create a cause of action not specified in this section or AS 45.56.475(e).

Sec. 45.56.665. Rescission offers. (a) A purchaser, seller, or recipient of investment advice may not maintain an action under AS 45.56.660 if

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

(A) an offer stating the respect in which liability under AS 45.56.660 may have arisen and fairly advising the purchaser, seller, or recipient of investment advice of that person's rights in connection with the

offer and any financial or other information necessary to correct all material misrepresentations or omissions in the information that was required by this chapter to be furnished to that person at the time of the purchase, sale, or investment advice;

(B) if the basis for relief under this section may have been a violation of AS 45.56.660(b), an offer to repurchase the security for cash, payable on delivery of the security, equal to the consideration paid, and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the purchase, less the amount of any income received on the security, or, if the purchaser no longer owns the security, an offer to pay the purchaser, upon acceptance of the offer, damages in an amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it, and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the purchase in cash equal to the damages computed in the manner provided in this subparagraph;

(C) if the basis for relief under this section may have been a violation of AS 45.56.660(c), an offer to tender the security, on payment by the seller of an amount equal to the purchase price paid, less income received on the security by the purchaser and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the sale, or, if the purchaser no longer owns the security, an offer to pay the seller, upon acceptance of the offer, in cash, damages in the amount of the difference between the price at which the security was purchased and the value the security would have had at the time of the purchase in the absence of the purchaser's conduct that may have caused liability and interest at the legal rate of interest in AS 09.30.070, or eight percent a year, whichever is greater, from the date of the sale;

(D) if the basis for relief under this section may have been a violation of AS 45.56.660(d); and if the customer is a purchaser, an offer to pay as specified in (B) of this paragraph; or, if the customer is a seller, an offer

to tender or to pay as specified in (C) of this paragraph;

(E) if the basis for relief under this section may have been a violation of AS 45.56.660(e), an offer to reimburse in cash the consideration paid for the advice and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of payment; or

(F) if the basis for relief under this section may have been a violation of AS 45.56.660(f), an offer to reimburse in cash the consideration paid for the advice, the amount of any actual damages that may have been caused by the conduct, and interest at the legal rate of interest under AS 09.30.070, or eight percent a year, whichever is greater, from the date of the violation causing the loss;

(2) the offer under (1) of this subsection states that it must be accepted by the purchaser, seller, or recipient of investment advice within 30 days after the date of its receipt by the purchaser, seller, or recipient of investment advice or any shorter period of not less than three days that the administrator, by order, specifies;

(3) the offeror has the present ability to pay the amount offered or to tender the security under (1) of this subsection;

(4) the offer under (1) of this subsection is delivered to the purchaser, seller, or recipient of investment advice or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice; and

(5) the purchaser, seller, or recipient of investment advice that accepts the offer under (1) of this subsection, in a record, within the period specified under (2) of this subsection, is paid in accordance with the terms of the offer.

(b) The offer under this section shall be filed with the administrator 10 business days before the offering and conform in form and content with a regulation adopted under this chapter.

Sec. 45.56.670. Criminal enforcement. (a) A person who intentionally violates this chapter, a regulation adopted under this chapter, or an order issued under this chapter, except AS 45.56.550 or the notice filing requirements of AS 45.56.330 or 45.56.445, is guilty of a class C felony punishable by imprisonment under AS 12.55.125 or by a fine of not more than $100,000, or by both. A person convicted

of violating a regulation or order issued under this chapter may be fined, but may not be imprisoned, if the person did not know of the regulation or order.

(b) A person who intentionally alters, destroys, shreds, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to alter or impair the record, document, or object for use in an official proceeding under this chapter, is guilty of a class C felony. A person convicted of violating this subsection is punishable by imprisonment as provided in AS 12.55.125, by a fine of not more than $500,000, or by both.

(c) The attorney general, with or without a reference from the administrator, may institute criminal proceedings under this chapter.

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

(e) In this section, "intentionally" has the meaning given in AS 11.81.900(a).

Sec. 45.56.675. Judicial review. (a) A person may obtain judicial review by the superior court of a final order issued by the administrator under this chapter by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. The notice of appeal shall be filed within 30 days after the order becomes final under AS 44.64.060.

(b) A regulation adopted under this chapter is subject to judicial review under AS 44.62.300.

Article 7. Miscellaneous and Additional General Provisions.

Sec. 45.56.710. Reimbursement of expenses incident to examination or investigation. (a) The administrator may require an issuer, broker-dealer, agent, investment adviser representative, federal covered adviser, or investment adviser to reimburse the administrator for actual travel expenses and per diem incurred in connection with an examination or investigation under this chapter.

(b) The administrator may by regulation or order adopt a schedule of charges for annual examination and investigation of issuers, broker-dealers, agents, investment adviser representatives, federal covered advisers, and investment advisers.

(c) If an issuer, broker-dealer, agent, investment adviser representative, federal covered adviser, or investment adviser fails to pay the fees and expenses provided for

in this section, the fees and expenses shall be paid out of funds of the administrator in the same manner as other disbursements made by the administrator. The amounts paid from the funds of the administrator are a lien on all of the assets and property of the issuer, broker-dealer, agent, investment adviser representative, federal covered adviser, or investment adviser, and the amount may be recovered by the attorney general on behalf of this state.

(d) Failure of the issuer, broker-dealer, agent, investment adviser representative, federal covered adviser, or investment adviser to pay fees and expenses under this section is a willful violation of this chapter, and the violation falls within the provisions of AS 45.56.350, 45.56.440, and 45.56.615.

Sec. 45.56.720. Electronic records and signatures. This chapter modifies, limits, and supersedes 15 U.S.C. 7001 - 7031 (Electronic Signatures in Global and National Commerce Act), but does not modify, limit, or supersede 15 U.S.C. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b). This chapter authorizes the filing of records and signatures, when specified by provisions of this chapter or by a regulation adopted or order issued under this chapter, in a manner consistent with 15 U.S.C. 7004(a).

Sec. 45.56.730. References to federal statutes. In this chapter, a reference to the following federal statutes, including a statute within a spanned reference, means those statutes and the rules and regulations adopted under those statutes, as in effect on the date of enactment of this chapter, or as later amended:

(1) 7 U.S.C. 1 - 27 (Commodity Exchange Act);

(2) 15 U.S.C. 77a - 77aa (Securities Act of 1933);

(3) 15 U.S.C. 77b, 77k, 77m, 77p, 77r, 77v, 77z-1 - 77z-3, 77aa, 77ccc, 77ddd, 77mmm, 77sss, 78a, 78c, 78d, 78g, 78n, 78o, 78o-4, 78o-5, 78s, 78t, 78u, 78u-4, 78z, 78bb, 78ee, 78kk, 78*ll*, 80a-2, 80a-3, 80a-12, 80a-18, 80a-29, 80a-30, 80b-3, and 80b-18a (Securities Litigation Uniform Standards Act of 1998);

(4) 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934);

(5) 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940);

(6) 15 U.S.C. 80b-1 - 80b-21 (Investment Advisers Act of 1940);

(7) 15 U.S.C. 661 - 697g (Small Business Investment Act of 1958);

(8) 15 U.S.C. 7001 - 7031 (Electronic Signatures in Global and National Commerce Act);

(9) 26 U.S.C. (Internal Revenue Code);

(10) 29 U.S.C. 1001 - 1461 (Employee Retirement Income Security Act of 1974);

(11) 42 U.S.C. 16451 - 16481 (Energy Policy Act of 2005).

Sec. 45.56.740. References to federal agencies. A reference in this chapter to an agency or department of the United States is also a reference to a successor agency or department.

Sec. 45.56.900. Definitions. In this chapter, unless the context otherwise requires,

(1) "administrator" means the commissioner of commerce, community, and economic development or a designee of the commissioner;

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

(3) "bank" means

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

(B) a member bank of the Federal Reserve System;

(C) any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the United States Comptroller of the Currency under 12 U.S.C. 92a, that is supervised and examined by a state or federal agency having supervision over banks, and that is not operated for the purpose of

evading this chapter; and

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

(4) "broker-dealer" means a person engaged in the business of effecting transactions in securities for the accounts of others or for the person's own account; the term does not include

(A) an agent;

(B) an issuer;

(C) a bank, trust company organized or chartered under the laws of this state, or savings institution if its activities as a broker-dealer are limited to those specified in 15 U.S.C. 78c(a)(4)(B)(i) - (vi), (viii) - (x), and (xi) if limited to unsolicited transactions, or 15 U.S.C. 78c(a)(5)(B) and (C), or a bank that satisfies the conditions described in 15 U.S.C. 78c(a)(4);

(D) an international banking institution; or

(E) a person excluded by a regulation adopted or order issued under this chapter;

(5) "defraud" includes engaging in common law deceit;

(6) "department" means the Department of Commerce, Community, and Economic Development;

(7) "depository institution" means

(A) a bank; or

(B) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law; the term does not include

(i) an insurance company or other organization primarily engaged in the business of insurance;

(ii) a Morris Plan bank; or

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

(8) "federal covered investment adviser" means a person registered under 15 U.S.C. 80b-1 - 80b-21 (Investment Advisers Act of 1940);

(9) "federal covered security" means a security that is, or upon completion of a transaction will be, a covered security under 15 U.S.C. 77r(b) (Securities Act of 1933) or rules or regulations adopted under that provision;

(10) "filing" means the receipt under this chapter of a record by the administrator or a designee of the administrator;

(11) "former AS 45.55" means AS 45.55 as it existed immediately before July 1, 2016;

(12) "fraud" and "deceit" include common law deceit;

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

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

(A) a depository institution, a trust company organized or chartered under the laws of this state, or an international banking institution;

(B) an insurance company;

(C) a separate account of an insurance company;

(D) an investment company as defined in 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940);

(E) a broker-dealer registered under 15 U.S.C. 78a – 78pp (Securities Exchange Act of 1934);

(F) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of $10,000,000 or its investment decisions are made by a named fiduciary, as defined in 29 U.S.C. 1102(a)(2) (Employee Retirement Income Security Act of 1974), that is a broker-dealer registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934), an investment

adviser registered or exempt from registration under 15 U.S.C. 80b-1 - 80b-21 (Investment Advisers Act of 1940), an investment adviser registered under this chapter, a depository institution, or an insurance company;

(G) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees if the plan has total assets in excess of $10,000,000 or its investment decisions are made by a legally designated public official or by a named fiduciary, as defined in 29 U.S.C. 1102(a)(2) (Employee Retirement Income Security Act of 1974), that is a broker-dealer registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934), an investment adviser registered or exempt from registration under 15 U.S.C. 80b-1 - 80b-21 (Investment Advisers Act of 1940), an investment adviser registered under this chapter, a depository institution, or an insurance company;

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

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

(J) a small business investment company licensed by the United States Small Business Administration under 15 U.S.C. 681(c) (Small Business Investment Act of 1958) with total assets in excess of $10,000,000;

(K) a private business development company as defined in 15 U.S.C. 80b-2(a)(22) (Investment Advisers Act of 1940) with total assets in excess of $10,000,000;

(L) a federal covered investment adviser acting for its own

account;

(M) a qualified institutional buyer, as defined in 17 C.F.R. 230.144A, other than 17 C.F.R. 230.144A(a)(1)(i)(H), adopted under 15 U.S.C. 77a - 77aa (Securities Act of 1933);

(N) a major United States institutional investor, as defined in 17 C.F.R. 240.15a-6(b)(4)(i), adopted under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934);

(O) any other person, other than an individual, of institutional character with total assets in excess of $10,000,000 not organized for the specific purpose of evading this chapter; or

(P) any other person specified by regulation adopted or order issued under this chapter;

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

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

(17) "international banking institution" means an international financial institution of which the United States is a member and whose securities are exempt from registration under 15 U.S.C. 77a - 77aa (Securities Act of 1933);

(18) "investment adviser" means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or produces analyses or reports concerning securities; the term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation; the term does not include

(A) an investment adviser representative;

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

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

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

(E) a federal covered investment adviser;

(F) a bank, a trust company organized or chartered under the laws of this state, or a savings institution;

(G) any other person that is excluded by 15 U.S.C. 80b-1 - 80b-21 (Investment Advisers Act of 1940) from the definition of investment adviser; or

(H) any other person excluded by a regulation adopted or order issued under this chapter;

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

(A) performs only clerical or ministerial acts;

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

(C) is employed by or associated with a federal covered investment adviser, unless the individual has a place of business in this state, as

that term is defined by rule adopted under 15 U.S.C. 80b-3a (Investment Advisers Act of 1940) and is

(i) an investment adviser representative, as that term is defined by rule adopted under 15 U.S.C. 80b-3a (Investment Advisers Act of 1940); or

(ii) not a supervised person, as that term is defined in 15 U.S.C. 80b-2(a)(25) (Investment Advisers Act of 1940); or

(D) is excluded by a regulation adopted or order issued under this chapter;

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

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

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

(C) the issuer of a fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty is the owner of an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale;

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

(22) "offer to purchase" includes an attempt or offer to obtain, or solicitation of an offer to sell, a security or interest in a security for value; the term

does not include a tender offer that is subject to 15 U.S.C. 78n(d) (Securities Exchange Act of 1934);

(23) "older person" means a natural person who is 60 years of age or older;

(24) "person" means an individual, a corporation, a partnership, a limited liability company, a limited partnership, a limited liability partnership, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(25) "place of business" of a broker-dealer, an investment adviser, or a federal covered investment adviser means

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

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

(26) "price amendment" means the amendment to a registration statement filed under 15 U.S.C. 77a - 77aa (Securities Act of 1933) or, if an amendment is not filed, the prospectus or prospectus supplement filed under 15 U.S.C. 77a - 77aa (Securities Act of 1933) that includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent on the offering price;

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

(28) "record," except in the phrases "of record," "official record," and "public record," means information that is inscribed on a tangible medium or that is

stored in an electronic or other medium and is retrievable in perceivable form;

(29) "sale" includes every contract of sale, contract to sell, or disposition of a security or interest in a security for value, and "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value; both terms include

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

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

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

(30) "Securities and Exchange Commission" means the United States Securities and Exchange Commission;

(31) "securities business" means a business that provides the services provided by

(A) investment advisers, federal covered investment advisers, or investment adviser representatives; or

(B) broker-dealers, issuers, or agents of broker-dealers or issuers;

(32) "security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; viatical settlement; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest in or based on the value of a put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities; put, call, straddle, option, or privilege entered into on a

national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing; the term

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

(B) does not include a participation agreement entered under AS 14.40.802 or an insurance or endowment policy subject to AS 21;

(C) does not include an interest in a contributory or noncontributory pension or welfare plan subject to 29 U.S.C. 1001 - 1461 (Employee Retirement Income Security Act of 1974);

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

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

(F) includes a viatical settlement interest;

(33) "self-regulatory organization" means a national securities exchange registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934), a national securities association of broker-dealers registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934), a clearing agency registered under 15 U.S.C. 78a - 78pp (Securities Exchange Act of 1934), or the Municipal Securities Rulemaking Board established under 15 U.S.C. 78o-4 (Securities Exchange Act of 1934);

(34) "sign" means, with present intent to authenticate or adopt a record,

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

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

(35) "state" means a state of the United States, the District of

Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(36) "vulnerable adult" means a person 18 years of age or older who, because of incapacity, mental illness, mental deficiency, physical illness, physical disability, advanced age, chronic use of drugs, chronic intoxication, fraud, confinement, dementia, or Alzheimer's disease, is unable to meet the person's own needs or to seek help without assistance.

Sec. 45.56.995. Short title. This chapter may be cited as the Alaska Securities Act.

*** Sec. 26.** AS 45.63.080(a) is amended to read:

(a) AS 45.63.010, 45.63.015, 45.63.020, and AS 45.63.030(c) and (d) do not apply to a sale or attempted sale

(1) of a security regulated under **AS 45.56** [AS 45.55] or a security that is exempted by **AS 45.56.205** [AS 45.55.900] from regulation under **AS 45.56** [AS 45.55];

(2) by a person registered with the United States Securities and Exchange Commission when acting within the scope of the person's Securities and Exchange Commission license;

(3) by an issuer, or a subsidiary of an issuer, of a class of securities that is

(A) subject to **15 U.S.C. 78a - 78pp** [15 U.S.C. 78a - 78*lll*] (Securities Exchange Act of 1934); and

(B) either registered under **15 U.S.C. 78a - 78pp** [15 U.S.C. 78a - 78*lll*] (Securities Exchange Act of 1934) or exempt from registration under 15 U.S.C. 78l(g)(2)(A) - (C) or (E) - (H);

(4) by a real estate broker, associate real estate broker, or real estate salesperson licensed under AS 08.88 and acting in a capacity covered by the license;

(5) by a person who has a certificate of registration under AS 08.18 to operate as a contractor and is acting in a capacity covered by the certificate of registration;

(6) by an embalmer or funeral director licensed under AS 08.42 and

acting in a capacity covered by the license;

(7) by an insurance agent, general agent, broker, solicitor, or adjuster licensed under AS 21.27 and acting in a capacity covered by the license;

(8) by a person who is primarily soliciting the sale of a subscription to, or advertising in, a newspaper of general circulation;

(9) by a charitable organization or paid solicitor if the organization or solicitor is registered to make charitable solicitations under AS 45.68 and is acting in a capacity that is covered by the registration;

(10) by a person who is primarily soliciting the sale of a sound recording or book

(A) if the person

(i) has no minimum purchase requirements;

(ii) provides written notice of the buyer's right to cancel at any time; and

(iii) allows the buyer to return the sound recording or book and obtain a full refund; or

(B) through a membership in a book or record club

(i) where the club provides the buyer with a form that the buyer may use to instruct the club not to ship the offered merchandise; and

(ii) that is regulated by the Federal Trade Commission as a negative option plan under 16 C.F.R. Part 425;

(11) by a publisher, or a publisher's agent operating under a written agreement between a publisher and the agent, who is soliciting the sale of a publisher's magazine if

(A) the buyer has the right to review the magazine and cancel the subscription for the magazine within seven days after receipt of the magazine or at the time the invoice is received by the buyer, whichever is later; a cancellation request is timely if the request is mailed, properly addressed and postmarked, postage prepaid, within seven days after receipt of the magazine;

(B) the right of cancellation and refund is fully disclosed in

writing to the buyer before or at the time the initial invoice is received by the buyer;

(12) of services provided by a cable television system operating under a franchise issued by a municipality;

(13) by a person who is soliciting for a business, or for an affiliate of a business, that is regulated by the Regulatory Commission of Alaska;

(14) by a person whose solicitation is solely for telephone answering services provided by the person or the person's employer;

(15) of property from a mail order catalog that is published on a regular, periodic basis and that describes or pictures the items for sale and prominently provides the specific price of each item;

(16) by a supervised financial institution or the parent, subsidiary, or affiliate of a supervised financial institution; in this paragraph, "supervised financial institution" means a commercial bank, savings bank, mutual savings bank, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or other financial institution if the financial institution is subject to regulation by this state or the United States;

(17) by an insurer or the parent, subsidiary, or affiliate of an insurer;

(18) by a person who solicits a sale by a contact by telephonic means without intending to complete the sales presentation during the contact, who does not complete the sales presentation during the contact, and who only completes the sales presentation at a later meeting in person, unless at the later meeting the solicitor attempts to collect payment for property or services delivered before the later meeting;

(19) of an item of personal property, including a food product, that is made by hand by an individual, if the sale or attempted sale of the item is made by the individual who made the item; in this paragraph, "made by hand" includes the use of ordinary household devices if the majority of the value of the item is added by the labor of the individual.

*** Sec. 27.** AS 45.66.220 is amended to read:

Sec. 45.66.220. Exemptions. This chapter does not apply to a sale of or an

offer to sell

(1) a business opportunity if the total amount of the payments to be made by the buyer under the contract is less than $250;

(2) a franchise under **16 C.F.R. Part 436** [16 C.F.R. 436];

(3) an ongoing business operated by the seller that is to be sold in its entirety;

(4) a business opportunity to an ongoing business if the seller will provide products, equipment, supplies, or services that are to be sold by the buyer in connection with the buyer's ongoing business;

(5) sales demonstration equipment, materials, or samples for use in sales demonstrations and not for resale, or product inventory sold to the buyer at a bona fide wholesale price;

(6) a business opportunity by an executor, an administrator, a marshal, a receiver, a trustee in bankruptcy, or a guardian or conservator, or under a judicial sale;

(7) a security registered under **AS 45.56** [AS 45.55] or a security that is exempted by **AS 45.56.205** [AS 45.55.900] from registration under **AS 45.56** [AS 45.55];

(8) a business opportunity if the sale or offer is made by a person registered with the United States Securities and Exchange Commission when acting within the scope of the person's Securities and Exchange Commission license or by a person registered by the state under **AS 45.56** [AS 45.55] when acting within the scope of registration;

(9) a business opportunity by an issuer or a subsidiary of an issuer of a class of securities that is

(A) subject to **15 U.S.C. 78a - 78pp** [15 U.S.C. 78a - 78*lll*] (Securities Exchange Act of 1934); and

(B) registered under **15 U.S.C. 78a - 78pp** [15 U.S.C. 78a - 78*lll*] (Securities Exchange Act of 1934) unless exempt from registration under 15 U.S.C. 78l(g)(2)(A) - (C) or (E) - (H);

(10) a business opportunity in which the buyer is

(A) a bank, savings and loan association, trust company, insurance company, credit union, or investment company under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), pension or profit sharing trust, or other financial institution or institutional buyer; or

(B) a broker-dealer registered under **AS 45.56.405** [AS 45.55];

(11) a business opportunity that involves a marketing plan made in conjunction with the registration of a trademark or service mark under 15 U.S.C. 1051 - 1127 (Trademark Act of 1946) if the seller has a minimum net worth of $1,000,000 as determined on the basis of the seller's most recent audited financial statement prepared within 13 months of the first offer to sell in this state; net worth may be determined on a consolidated basis if one person owns at least 80 percent of the seller and that one person expressly guarantees the obligations of the seller that arise under the sale or offer claimed to be exempt under this paragraph; or

(12) a business opportunity in which either the seller or the buyer is licensed as a real estate broker, associate real estate broker, or real estate salesperson under AS 08.88 and the sale or offer is regulated by AS 08.88.

*** Sec. 28.** AS 45.66.900(11) is amended to read:

(11) "securities or investment laws" means **AS 45.56** [AS 45.55] (Alaska Securities Act) or a substantially similar statute of another jurisdiction, **15 U.S.C. 77a - 77aa** [15 U.S.C. 77a - 77bbbb] (Securities Exchange Act of 1933), **15 U.S.C. 78a - 78pp** [15 U.S.C. 78a - 78*lll*] (Securities Exchange Act of 1934), or 15 U.S.C. 80a-1 - 80b-21 (Investment Company Act of 1940/Investment Advisers Act of 1940);

*** Sec. 29.** AS 45.55.010, 45.55.020, 45.55.023, 45.55.025, 45.55.027, 45.55.028, 45.55.030, 45.55.035, 45.55.040, 45.55.050, 45.55.060, 45.55.070, 45.55.075, 45.55.080, 45.55.090, 45.55.100, 45.55.110, 45.55.120, 45.55.150, 45.55.155, 45.55.170, 45.55.900, 45.55.905(c), 45.55.915, 45.55.930, 45.55.935(b), 45.55.970, 45.55.980, 45.55.990, and 45.55.995 are repealed.

*** Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENTS. (a) The provisions of AS 45.56.630(c)

- (e), enacted by sec. 25 of this Act, have the effect of changing Rules 4 and 5, Alaska Rules of Civil Procedure, by allowing service on the administrator in certain cases.

(b) The provisions of AS 45.56.650(f), enacted by sec. 25 of this Act, have the effect of changing Rule 54, Alaska Rules of Civil Procedure, by expanding the definition of judgments to include final judgments of the administrator issued under AS 45.56.650, enacted by sec. 25 of this Act.

(c) The provisions of AS 45.56.650(g), enacted by sec. 25 of this Act, have the effect of changing Rule 90, Alaska Rules of Civil Procedure, by changing the contempt procedure in certain cases.

(d) The provisions of AS 45.56.655(c), enacted by sec. 25 of this Act, have the effect of changing Rule 65, Alaska Rules of Civil Procedure, by changing the procedure for injunctions in certain cases by prohibiting requiring the administrator to post a bond.

(e) The provisions of AS 45.56.675(a), enacted by sec. 25 of this Act, have the effect of changing Rule 602, Alaska Rules of Appellate Procedure, by changing the time for filing a notice of appeal.

*** Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Commerce, Community, and Economic Development may adopt regulations necessary to implement AS 45.56, enacted by sec. 25 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of this Act.

*** Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: APPLICATION OF ACT TO EXISTING PROCEEDINGS AND EXISTING RIGHTS AND DUTIES. (a) Former AS 45.55 exclusively governs all actions or proceedings that are pending on the effective date of sec. 25 of this Act or that may be instituted based on conduct occurring before the effective date of sec. 25 of this Act, but a civil action may not be maintained to enforce any liability under former AS 45.55, unless instituted within any period of limitation that applied when the cause of action accrued or within five years after the effective date of this Act, whichever is earlier.

(b) All effective registrations under former AS 45.55 and all administrative orders

relating to the registrations, regulations, statements of policy, interpretative opinions, declaratory rulings, determinations to take no action, and conditions imposed on the registrations under former AS 45.55 remain in effect while they would have remained in effect if this Act had not been enacted. They are considered to have been filed, issued, or imposed under this Act, but are exclusively governed by former AS 45.55, unless removed or replaced by the administrator.

(c) Former AS 45.55 exclusively applies to an offer or sale made within one year after the effective date of sec. 25 of this Act under an offering made in good faith before the effective date of sec. 25 of this Act based on an exemption available under former AS 45.55.

(d) In this section, "former AS 45.55" means AS 45.55 as it existed immediately before July 1, 2016.

*** Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REVISOR'S INSTRUCTION. The revisor of statutes is requested to change the chapter heading of AS 45.55 from "Alaska Securities Act" to "Alaska Native Claims Settlement Act Corporations Proxy Solicitations and Initial Issuance of Stock."

*** Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. AS 45.56.630(c) - (e), 45.56.650(f) and (g), 45.56.655(c), and 45.56.675(a), enacted by sec. 25 of this Act, take effect only if sec. 30 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

*** Sec. 35.** This Act takes effect July 1, 2016.