

Part 14

Part 14 Chapter 2: NOTICE FILING AND REGISTRATION OF SECURITIES

Subchapter 1: REGISTRATION BY COORDINATION AND QUALIFICATION

Rule 2.01 Coordination Application and Contents. Application for registration of securities by coordination shall be submitted on NASAA Form U-1, the Uniform Application to Register Securities. The application shall include a registration statement submitted pursuant to Section 75-71-303 of the Act which shall contain all information and documents required by that Section, all information required by Section 75-71-305 of the Act, and the filing fee as calculated by Section 75-71-310(c) of the Act. However, upon written request, the twenty (20) day filing period requirement set out in Section 75-71-303(c)(2) of the Act may be waived. A separate application and a separate registration fee must be filed for each type, kind, class, series, or portfolio of security offered. Any documents or exhibits previously on file may be incorporated by reference. Quarterly reports and semiannual reports shall not be filed unless requested by the Division. Advertising and sales material shall be filed with the Division. Source: *Miss. Code Ann.* §§ 75-71-303, 305 (2016).

Rule 2.03 Qualification Application and Contents. Application for registration of securities by qualification shall be submitted on an Application for Registration by Qualification. The application shall include a registration statement submitted pursuant to Section 75-71-304 of the Act, which shall contain all information required by that Section; the information and documents required by Section 75-71-305 of the Act; and the filing fee as calculated by Section 75-71-310(c) of the Act.

Source: *Miss. Code Ann.* §§ 75-71-304, 305 (2016).

Rule 2.04 Invest Mississippi Crowdfunding Simplified Registration Statement. By authority delegated to the Secretary of State in Section 75-71-307 of the Act, and for the purposes of simplifying the registration statement for smaller offerings, the Division has adopted the Invest Mississippi Crowdfunding Simplified Registration Statement to be used as the registration statement for securities being registered under this Rule and sold in offerings in which the aggregate offering price does not exceed the maximum amount specified herein. This Rule offers an alternative method for state registration for issuers that are exempt from federal registration pursuant to Rule 504 of the SEC Regulation D, 17 C.F.R. Section 230.504, promulgated pursuant to the Securities Act of 1933, 15 U.S.C. Sections 77a, *et seq.*, and any amendments thereto.

M. Definitions. The following terms, as used in this Rule, shall have the meaning ascribed to them below unless the context requires otherwise:

14. **Accredited investor** is defined in 17 C. F. R. Section 230.501(a) as currently enacted or as amended, and a non-accredited investor means an investor who does not meet the definition of an accredited investor.

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15. **Annual Income** means:

- c. For individuals, income is determined as the sum of the individual's:
 - vii. Wages, salaries, commissions, bonuses, and tips from all jobs before deductions for taxes, dues, or other items;
 - viii. Self-employment net income (after business expenses);

ix. Retirement pensions from companies and unions; federal, state, and local governments; and the U.S. military;

x. Monthly income from annuities, IRAs, or KEOGH retirement plans;

xi. Interest, dividends, and rental income; and

xii. Partner, shareholder, and beneficiary income as reported to the Internal Revenue Service on Schedule K-1 (Form 1065) (a reported loss on Schedule K-1 is counted against the sum of income).

d. For entities, income is determined as the revenue in excess of expenses, including depreciation, determined before taxes and as filed with the Mississippi Department of Revenue or the Internal Revenue Service on the entity's last tax return.

16. **Bank** means a depository institution that is organized or chartered under the laws of this state or of the United States, is authorized to do business in this state, and is located in this state. For purposes of this Rule, a credit union is included in the definition of bank.

17. **IMC Statement** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Simplified Registration Statement."

18. **Intermediary** means a person that is registered with the Division pursuant to this Rule as an intermediary who has been or will be retained by the issuer in conducting the offering and sales of securities through an Internet website. An intermediary can be a broker-dealer or agent that is registered with the Division or a bank or an intermediary funding portal.

19. **Intermediary Funding Portal** is a person operating an Internet website that is not a bank, broker-dealer, or agent registered under the Act.

20. **Intermediary Registration Form** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Intermediary Registration Form." A person registering as an Intermediary pursuant to this Rule must select on the form whether it is registering as a Bank, Broker-Dealer, or Intermediary Funding Portal.

21. **Issuer** means a limited liability company or business corporation formed under the laws of this state that seeks to conduct an offering of securities in reliance on this Rule.

22. **Minimum Target Offering Amount** means fifty percent (50%) of the total offering amount of an offering made by the issuer in reliance on this Rule which amount shall be set out on the IMC Statement.

23. **Net Worth** means the amount by which an investor's assets exceed liabilities, excluding the investor's primary residence, as defined in 17 C.F.R. Section 230.501(a)(5)(i).

24. **Offering Deadline** means the date stated in the IMC Statement by which the sum of the offering proceeds held in escrow will equal the minimum target offering amount or investors may request a refund of their investment.

25. **Qualified Purchaser** is defined in Section 2(a)(51) of the Investment Company Act of 1940, as currently enacted or as amended.

26. **Rule 504** means Rule 504 of the SEC Regulation D, 17 C.F.R. Section 230.504, promulgated pursuant to the Securities Act of 1933, 15 U.S.C. Sections 77a, *et*

seq., and any amendments thereto.

N. *Short-form registration statement.* For any offer or sale of securities offered or sold in compliance with Rule 504, the IMC Statement shall be used as the registration statement required to be filed with the Division under this Rule. A copy of the IMC Statement is available upon request. Any offer or sale of securities offered or sold in compliance with this Rule must satisfy the following conditions and limitations:

13. The issuer of the securities is a business corporation or limited liability company formed under the laws of this state, with a principal place of business in this state, and authorized to do business in this state;

14. The issuer is not, either before or as a result of the offering, an investment company, as defined in Section 3 of the Investment Company Act of 1940, 15 U.S.C. Section 80a-3, or subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. Sections 78m and 78o(d);

15. The aggregate amount sold to all investors by the issuer, including any amount sold in reliance on the simplified registration provided under this Rule during the twelve

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(12) month period preceding the date of such transaction, is not more than Five Million Dollars (\$5,000,000.00).

e. If the issuer has been in existence for twelve (12) months or more the issuer must provide to each prospective investor a balance sheet and statement of income and expense of its most recently completed fiscal year and interim quarterly financial statements if the issuer's fiscal year ended more than ninety (90) days prior to the date of the IMC Statement.

f. If the issuer has been in existence for less than twelve (12) months, the issuer must provide to each prospective investor a balance sheet and statement of income and expense for the time period since its existence.

g. The issuer shall include the issuer's financial projections of income and expense for two (2) years from the date of the IMC Statement.

h. The financial statements, which may be unaudited, shall be signed by the principal executive officer of the issuer who shall certify under penalties of perjury that the statements therein are true, complete, and correct in all material respects to the best of the signer's knowledge.

16. The aggregate amount sold to any single investor by multiple issuers in reliance on this Rule during the twelve (12) month period preceding the date of such transaction:

d. For accredited investors, the aggregate amount sold by multiple issuers to any single accredited investor does not exceed the greater of:

iii. If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married) and have the expectation to make the same amount in the current year, five percent (5%) of the investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or

iv. If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).

e. For non-accredited investors, the aggregate amount sold to a single nonaccredited investor by multiple issuers does not exceed the greater of:

iv. Five Thousand Dollars (\$5,000.00);

v. If the investor has had an annual income of less than Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or

less than Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married), five percent (5%) of the investor's annual income; or
vi. If the investor's net worth is less than One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth.

f. For investors that are qualified purchasers, there shall be no aggregate limit on the amount the qualified purchaser investor can purchase from a single issuer or multiple issuers in offerings conducted pursuant to this Rule.

17. No remuneration shall be paid or given, directly or indirectly, for any person's participation in the offer or sale of the securities for the issuer unless the person is registered as an intermediary as such term is defined in Subsection (A)(5) of this Rule.

18. All funds received from investors shall be deposited into a Bank and all the funds shall be used in accordance with the representations made to investors and in accordance with the terms of an escrow agreement which provides that:

h. The investor funds will be deposited into an escrow account in a Bank, with the Bank acting as escrow agent;

i. For each investment, the issuer will provide to the escrow agent a copy of the subscription agreement setting forth the names, addresses, and respective amounts paid by each investor whose funds comprise each deposit;

j. The issuer must raise the minimum target offering amount specified as necessary to implement the business plan by the offering deadline before the escrow agent may release the offering proceeds to the issuer upon joint written notice from the issuer and the intermediary;

k. If the issuer does not raise the minimum target offering amount by the offering deadline, investors will have the option to obtain a refund of their investment by providing written notice, including electronic mail, to the intermediary, which shall provide written notice to the issuer and the escrow agent at which time the escrow agent shall return the investor's amount contributed;

l. All offering proceeds not returned to the investor by the escrow agent after the offering deadline, as provided above, will be released to the issuer when the escrow agent has received written notice from the issuer or the intermediary to release the remaining proceeds to the issuer, or they may be returned to the investors at the issuer's option if the issuer or the intermediary provides written notice to the escrow agent authorizing and instructing the escrow agent to return the remaining investors amounts contributed;

m. All offering proceeds not returned to the investor or released to the issuer after twelve (12) months from date of receipt may be returned to the investor by the

escrow agent to the last known address of the investor, or if not, shall be submitted to the State Treasurer in accordance with the unclaimed property

laws; and

n. The escrow agent may contract with the issuer to collect reasonable fees for its escrow services regardless of whether the minimum target offering amount is reached.

19. No offerings or sales of securities shall be made in reliance on this Rule until the issuer files the IMC Statement in writing or in electronic form with the Division, completed with specificity as required by the instructions in the Statement, and as required by the Division, in writing or in electronic form as specified by the Division and the issuer is issued a Certification of Invest Mississippi Crowdfunding Registration from the Division. The issuer must also include in such filing a copy of the escrow agreement as required by Subsection (B)(6) above, all other exhibits to the IMC Statement as otherwise specified by the Division, and any other documents or information the Division may require to administer and enforce the requirements of this Rule.

20. Registration by this Rule shall become effective on the issuance of a Certification of Invest Mississippi Crowdfunding Registration by the Division which shall be issued within five (5) business days of receiving the completed IMC Statement and all other exhibits to the IMC Statement, except as otherwise specified by the Division.

21. The completed IMC Statement, including exhibits, shall be provided to the relevant intermediary and shall be made available to potential investors after the Certification of Invest Mississippi Crowdfunding Registration has been issued by the Division.

22. The issuer shall inform all investors under this Rule that the securities have not been registered under federal securities law.

23. Prior to the consummation of a sale, the issuer shall require the prospective investor to certify in writing or electronically as follows:

d. The investor's name, address, Social Security number, annual income, net worth, and state of residency; and, if applicable, that the investor is either an accredited investor or a qualified purchaser;

e. The aggregate amount of securities sold to the investor in reliance on this Rule during the twelve (12) month period preceding the date of the purchase, together with the securities to be sold by the issuer to the investor:

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iii. For accredited investors that are not qualified purchasers the investor has not invested more than the greater of:

(c) If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married) and have the expectation to make the same amount in the current year, five percent (5%) of the investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or

(d) If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).

iv. For non-accredited investors, that the investor has not invested more than the greater of:

(d) Five Thousand Dollars (\$5,000.00);

(e) If the investor has had an annual income of less than Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or less than Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married), five percent (5%) of the investor's annual income; or

(f) If the investor's net worth is less than One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth.

f. The issuer must maintain the above certifications and provide ready access to the records to the Division upon request. The Division may access, inspect, and review such records.

24. Securities may only be registered pursuant to this Rule if they meet the requirements set forth in Rule 504.

O. Offers and sales of securities pursuant to this Rule shall be made exclusively through an Internet website that is operated by an intermediary. Each issuer and intermediary shall comply with the following:

13. Before any offer or sale of securities, the issuer must provide evidence to the intermediary that the issuer is organized under the laws of this state with a principal place of business in this state and is authorized to do business in this state.

14. An intermediary is not required to register as a broker-dealer under the Act if all the following apply with respect to the Internet website and its operator:

g. They do not offer investment advice or recommendations;

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h. They do not solicit purchases, sales, or offers to buy the securities offered or displayed on the Internet website;

i. They do not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Internet website;

j. They do not hold, manage, possess, or otherwise handle investor funds or securities, unless it is a bank operating as an escrow agent for the offering;

k. They do not identify, promote, or otherwise refer to any individual security offered on the Internet website in any advertising for the Internet website; and

l. Neither the intermediary, nor any director, executive officer, general partner, twenty percent (20%) or greater beneficial owner, managing member, or other person with management authority over the intermediary, has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify an issuer under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)-(c)).

15. Subject to Subsection (12) below, persons desiring to be an Intermediary must register as an Intermediary with the Division.

d. Registered broker-dealers may register to be an intermediary by filing the

Intermediary Registration Form with the Division, a copy of which is available upon request. No filing fee shall be required for registered broker-dealers acting as intermediaries. The Form shall include the following information:

- iv. The identity, contact information, and location for the broker-dealer, including the broker-dealer's CRD number;
 - v. Confirmation that the broker-dealer is authorized to do business in this state; and
 - vi. Confirmation that the broker-dealer is using an Internet website to offer and sell securities pursuant to this Rule.
- e. A bank may register to be an Intermediary by filing the Intermediary Registration Form with the Division, a copy of which is available upon request. No filing fee shall be required for banks acting as intermediaries. The Form shall include the following information:

- v. The identity, contact information, and location for the bank;
- vi. The bank is authorized to do business in this state;

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vii. The bank is using an Internet website to offer and sell securities pursuant to this Rule; and

viii. The bank meets the requirements set forth in Subsection (C)(2) of this Rule.

f. An Internet website operator may register to be an intermediary by filing the Intermediary Registration Form, a copy of which is available upon request, ~~accompanied by a nonrefundable filing fee of Two Hundred Dollars (\$200.00);~~ that includes the following information:

- vi. The identity, contact information, and location for the intermediary funding portal;
- vii. Confirmation that the intermediary funding portal is authorized to do business in this state;
- viii. Confirmation that the intermediary funding portal is using an Internet website to offer and sell securities pursuant this Rule;
- ix. Confirmation that the intermediary funding portal meets the requirements set forth in Subsection (C)(2) of this Rule; and
- x. Any other information the Division considers necessary or appropriate in the public interest and for the protection of investors, including the financial responsibility, business repute or qualifications of the Internet website operator and to determine whether the operator can carry out the requirements of this Rule and will comply with this Rule.

16. The intermediary funding portal is not required to register as a broker-dealer under Subsection (4) above if the intermediary funding portal is a funding portal registered under the Securities Act of 1933 (15 U.S.C. 77d-1) and the SEC rules under authority of Section 3(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(h)) and P.L.112-106, § 304, governing funding portals.

17. Registration as an intermediary expires at the close of the calendar year, but subsequent registration for the succeeding year shall be issued upon filing of a renewal form, a copy of which is available upon request and upon payment of the appropriate filing fee.

18. The issuer must maintain records of all offers and sales of securities effected through the intermediary and must provide the Division, upon request, ready access to the records.

19. The intermediary shall maintain and preserve for a period of five (5) years from either the date of the document or communication or the date of the closing or termination of the securities offering, whichever is later, the following records related to offers and sales made of the issuer's securities effected by the

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intermediary through the intermediary's Internet website and related to transactions in which the intermediary receives compensation from the issuer for such services, including but not limited to:

k. Records of compensation received for acting as an intermediary for an issuer, including the name of the payor, the date of payment, and name of the issuer;

l. For each offering effected by the intermediary through the intermediary's Internet website, the issuer's name and the name, address, and amount of purchase for each investor in such offering;

m. Copies of information provided by the intermediary to investors, prospective purchasers, and issuers offering securities through the intermediary;

n. Any agreements and/or contracts between the intermediary and an issuer, prospective purchaser, or investor;

o. Any information used to establish that an issuer is a resident of this state;

p. Any information used to establish the residency of a prospective purchaser or investor;

q. Any information used to establish that a prospective purchaser or investor is an accredited investor or qualified purchaser;

r. Any correspondence or other communications with issuers, prospective purchasers, and/or investors;

s. Any information made available through the Internet website relating to an offering; and

t. Ledgers (or other records) that reflect all assets and liabilities, income and expense, and capital accounts of the intermediary.

20. The records and the Internet website portal of an Intermediary or Intermediary applicant under this Rule are subject to reasonable, periodic, special, or other audits or inspections by the Division, in or outside this state, as the Division 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 Division may copy and remove for audit or inspection copies of all records the Division reasonably considers necessary or appropriate to conduct the audit or inspection. The Division may assess a reasonable charge for conducting an audit or inspection under this Rule.

21. The intermediary:

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e. Shall not hold, manage, possess, or handle investor funds or securities unless it is a bank operating as an escrow agent for the offering;

f. Shall perform a background and securities enforcement regulatory history check on each person holding a position listed in Subsection (I) of this Rule to

determine if such person is subject to any disqualification described in Subsection (I) of this Rule.

g. Shall ensure that all offering proceeds are only provided to the issuer when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount and shall allow investors to cancel their commitments to invest and obtain a refund if the minimum target offering amount is not raised by the offering deadline;

h. Shall ensure that each investor answers questions demonstrating:

iii. An understanding of the level of risk generally applicable to investments in startups and small issuers; and

iv. An understanding of the risk of illiquidity, including an acknowledgment that there is no ready market for the sale of the securities acquired from an offering under this Rule; that it may be difficult or impossible for the investor to sell or otherwise dispose of an investment under this Rule and the investor may be required to hold and bear the financial risks of this investment indefinitely.

22. The intermediary shall not purchase or receive more than fifteen percent (15%) of the securities in the offering and shall prohibit its directors, officers, or partners (or any person occupying a similar status or performing a similar function) from having any financial interest in an issuer using its services as an intermediary, unless the financial interest in the aggregate does not exceed fifteen percent (15%) of the ownership of the issuer.

23. All communications between the issuer, prospective purchasers, or investors taking place during the offer of securities pursuant to this Rule must occur through the intermediary's Internet website. Notwithstanding the foregoing, the issuer or the intermediary may distribute a notice limited to the statement that the issuer is conducting an offering, the name of the intermediary through which the offering is being conducted, and a link directing the potential investor to the intermediary's website.

24. If any change occurs that affects the intermediary's registration, the intermediary must notify the Division within thirty (30) days after the change occurs. Within thirty (30) days of the delivery of the notice to the Division, the intermediary shall, unless otherwise permitted or directed by the Division, cease and desist from operating as an intermediary pursuant to this Rule and shall, within five (5) business days, notify each issuer for which it is conducting offerings that the intermediary's registration has been revoked.

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P. *Report.* For so long as securities registered under this Rule are outstanding, the issuer shall provide a quarterly report to the issuer's investors. The report required by this Rule shall be free of charge. An issuer may satisfy the reporting requirement of this Rule if the information is made available within forty-five (45) days of the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. The issuer must provide a written copy of the report to any investor upon request. The issuer shall make each such quarterly report available to the Division upon request. The report must contain each of the following:

3. Compensation received by each director and executive officer, including cash

compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received; and

4. An analysis by management of the issuer of the business operations and financial condition of the issuer, such as a recent financial statement and profit and loss statement.

Q. The Division and every investor or prospective purchaser shall be notified within thirty (30) days of any material change in the issuer's information submitted in accordance with this Rule.

R. A Certificate of Invest Mississippi Crowdfunding Registration is effective for one (1) year after its effective date. Applicants for registration under this Rule may re-register a security by submitting a report for sales of the securities sold in this state for the preceding twelve (12) month period.

S. The issuer must file a sales report with the Division within thirty (30) days of termination, expiration, abandonment, withdrawal, or completion of the offering in a form prescribed by the Division.

T. Offers and sales to controlling persons shall not count toward the limitation in Subsection (B)(4) of this Rule. A controlling person is an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.

U. *Disqualification.* The simplified registration allowed by this Rule shall not apply if the issuer, any of its executive officers, directors, managing members, persons with twenty percent (20%) or greater beneficial ownership, persons with management authority over the issuer, promoters, or selling agents, or any officer, director or partner of any selling agent has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify the person under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)-(c)).

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V. Nothing in this Rule shall be construed to alleviate any person from the anti-fraud provisions of the Act, nor shall such simplified registration be construed to provide relief from any other provisions of the Act other than as expressly stated.

W. The Division may deny, refuse to renew, condition, limit, suspend, or revoke the registration of an intermediary for any reason as determined by the Secretary of State in his sole discretion.

X. The Secretary of State may by order waive any of the conditions of registration of the offering or the intermediary or other requirements set forth in this Rule.

Source: *Miss. Code Ann.* §75-71-307 (2016).

Rule 2.05 Prospectus.

C. An applicant for registration of securities by coordination or qualification must file a prospectus with the Division containing a full and complete disclosure of all material information relating to the issuer and the offering and sale of the securities being registered.

D. The prospectus must be provided to a prospective purchaser prior to the consummation of the sale of any securities offered thereby.

Source: *Miss. Code Ann.* §§ 75-71-303(b)(1), 304(e), 605 (2016).

Rule 2.07 Legend Requirement.

C. Every submitted prospectus must carry the following legend displayed in a prominent manner:

“THESE SECURITIES ARE OFFERED PURSUANT TO A CERTIFICATION OF REGISTRATION ISSUED BY THE SECRETARY OF STATE OF MISSISSIPPI. THE SECRETARY OF STATE DOES NOT RECOMMEND OR ENDORSE THE PURCHASE OF ANY SECURITIES, NOR DOES THE SECRETARY OF STATE PASS UPON THE TRUTH, MERITS, OR COMPLETENESS OF ANY PROSPECTUS OR ANY OTHER INFORMATION FILED WITH THE SECRETARY OF STATE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.”

D. However, any prospectus, registration statement, or offering statement filed pursuant to the Securities Act of 1933 which depicts the SEC’s generic legend will be considered in conformity with the preceding requirement.

Source: *Miss. Code Ann.* § 75-71-605(a)(1) (2016).

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Rule 2.09 Solicitation of Interest/Preliminary Prospectus.

E. A preliminary prospectus may be distributed in this state pursuant to a registration by coordination or qualification by a broker-dealer or by an issuer provided an application to register the securities is pending before the SEC, if required, and an application to register the securities is pending before the Division.

F. A preliminary prospectus may not be further distributed if the applicant has been notified by the Division that the application for registration is substantially deficient, and that the circulation of a preliminary prospectus is not appropriate in light of the deficient application.

G. The outside front cover page of such prospectus shall bear, in red ink, the caption “Preliminary Prospectus,” the date of its issuance, and the following statement printed in type as large as that generally in the body thereof:

“A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE SECRETARY OF STATE OF MISSISSIPPI, BUT HAS NOT YET BECOME EFFECTIVE. INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. THESE SECURITIES MAY NOT BE SOLD NOR MAY OFFERS TO BUY BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION STATEMENT BECOMES EFFECTIVE.”

H. However, any preliminary prospectus filed pursuant to the Securities Act of 1933 which depicts the SEC’s generic legend will be considered in conformity with the preceding requirement.

Source: *Miss. Code Ann.* §§ 75-71-202(17)(B), 605(a)(1) (2016).

Rule 2.11 Dilution.

D. Where registered securities are being offered publicly and there is no established market for those securities, the prospectus or offering memorandum must contain a paragraph entitled “DILUTION”-- showing the method used in arriving at the book value of all shares outstanding upon completion of the offering.

E. To determine the book value of all shares outstanding upon completion of the offering, add the net proceeds of the public offering (the amount remaining after deducting commissions and expenses of the offering) to the net tangible book value of the company before the offering, and divide this resulting dollar amount by the total number of shares to be outstanding upon completion of the offering.

F. Equity shares sold to the public shall not have dilution in excess of seventy-five percent (75%), or such offering may be subject to rejection by the Division.

Source: *Miss. Code Ann.* § 75-71-605(a)(1) (2016).

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Rule 2.13 Expense Limitations. The NASAA Statement of Policy regarding underwriting expenses, underwriter's warrants, selling expenses, and selling security holders shall be the basis of review for offerings, excluding federal covered securities, filed with the Division.

Source: *Miss. Code Ann.* §§ 75-71-605(a); 608(b), 608(c)(9) (2016).

Rule 2.15 NASAA Statements of Policy. In cooperation with the securities administrators of other states, and with a view to effectuating a policy to achieve maximum uniformity of regulations regarding the registration of securities and investment advisory registrants and enforcement of anti-fraud laws, unless a specific rule promulgated herein or a state statute conflicts with the NASAA Policy, in which case the specific rule or statute will control, NASAA Statements of Policy, as published, will provide the basis for review for transactions or activities set forth in the Statements of Policy. Other NASAA Statements, as published, shall be applied as needed unless such Policy conflicts with a specific rule promulgated herein or a state statute.

Source: *Miss. Code Ann.* §§ 75-71-605(a), 608(b), 608(c)(9) (2016).

Rule 2.17 Certification of Registration/Re-registration of Securities.

C. Registration in this state by coordination or qualification shall become effective upon the earlier of the time prescribed in Section 75-71-303(c) or Section 75-71-304(c) of the Act or the date of the issuance of a Certification of Registration by the Division.

D. A Certification of Registration is effective for one (1) year after its effective date.

Applicants for registration by coordination or qualification may re-register a security by submitting a report for sales of the securities sold in this state for the preceding twelve (12) month period, and paying the filing fee as set forth in Section 75-71-310(c) of the Act and Rule 4.03(B) of these Rules.

Source: *Miss. Code Ann.* §§ 75-71-304(c), 310 (2016).

Rule 2.19 Amended Certification of Registration.

D. To amend a registration, the following must be submitted:

3. An amended NASAA Form U-1, accompanied by a fee as specified in Rule 4.19, which shows:

c. Any material changes in any papers, forms, or other exhibits previously filed with the Division; or

d. A sworn statement that no material changes have been made in any papers, forms, or other exhibits previously filed with the Division; and

4. A sales report on the securities initially registered.

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E. To amend the name on the Certification of Registration, a complete NASAA Form U-1, NASAA Form U-2 (Uniform Consent to Service of Process), NASAA Form U-2A (Uniform Form of Corporate Resolution), and a fee as specified in Rule 4.19 must be filed with the Division. The exhibits to NASAA Form U-1 are not required for name

changes.

F. When the requirements of the Act and the Rules pertaining to an amended registration statement have been satisfied, an Amended Certification of Registration will be issued having the same effective date as the original Certification of Registration.

Source: *Miss. Code Ann.* § 75-71-305(j) (2016).

Rule 2.21 Notice of Withdrawal or Completion of Offering of Securities under Registration by Coordination or Qualification.

C. Notices of withdrawal of an offering must be made in writing and filed with the Division.

D. Whenever an offering of securities under Sections 75-71-303 or 304 of the Act has been completed, notice of completion of the offering shall be filed within sixty (60) days of completion stating (1) the name of the issuer, (2) a description of the securities registered in this state, (3) the aggregate amount of securities registered in this state, (4) the aggregate amount of securities sold in this state, and (5) the date the offering was completed.

Source: *Miss. Code Ann.* §§ 75-71-305(i), 605 (2016).

Rule 2.23 Subscription Agreements. All Mississippi investors must personally sign their subscription agreements when purchasing securities. Any program which allows an agent, fiduciary, trustee, legal representative, consultant, etc. of the investor to sign a subscription agreement in lieu of the investor signing must be amended accordingly.

The Division will object to the use of subscription agreements which require purchasers of securities to acknowledge that:

D. The purchaser has read the prospectus;

E. The purchaser has relied only on the prospectus and not upon any representations made by any person; and

F. The purchaser understands the risks of the investment.

Source: *Miss. Code Ann.* § 75-71-305(g) (2016).

Subchapter 2: FILING OF FEDERAL COVERED SECURITIES

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Rule 2.25 Notice Filings for Offerings of Investment Company Securities.

J. Prior to the offer or sale of a security which is a covered security under Section 18(b)(2) of the Securities Act of 1933, **including securities issued by an open-end management investment company, a face-amount certificate company, or a unit investment trust**, the issuer must submit to the Division or its designee the following:

4. A completed NASAA Form NF, signed either manually or electronically;

5. A completed NASAA Form U-2, signed either manually or electronically; and

6. A fee as specified in Section 75-71-310(a) of the Act **and Rule 4.01(A)**.

K. Upon written request of the Division and within the time period set forth in the request, the issuer must submit to the Division a copy of any document identified in the request that is part of the federal registration statement filed with the SEC or is part of an amendment to such federal registration statement.

L. The Division requires a separate notice filing for each portfolio, series, type, kind, or class of securities to be offered or sold in this state. Each portfolio, series, type, kind, or class of securities offered in this state in a single prospectus must pay a separate notice filing fee.

M. An issuer who has filed a NASAA Form U-2 in connection with a previous notice filing

need not file another.

N. *Duration of notice filing.*

3. Except as provided in Subsection (E)(2), a notice filing under Subsection (A) of this Rule is effective for the period of time as provided in Section 75-71-302(b) of the Act.

4. To facilitate the coordination of expiration dates with other states, the issuer may request a specific term of effectiveness which does not exceed one (1) year.

O. *Renewal.* On or before the expiration of the effective period, a notice filing may be renewed by submitting to the Division or its designee another notice and payment of the applicable fee in accordance with Section 75-71-310(a) of the Act and Rule 4.01(A). Such notice must include: (1) the name of the issuer, (2) a description of the securities filed in this state, and (3) the aggregate amount of securities sold in this state over the preceding twelve (12) month period.

P. *Termination.* Whenever an offering of securities under Section 75-71-302(a) of the Act has been completed, notice of completion, termination, or withdrawal of the offering and a fee as set forth in Rule 4.01(A)(3) shall be filed within sixty (60) days of completion stating (1) the name of the issuer, (2) a description of the securities filed in this state, (3) the aggregate amount of securities sold in this state, and (4) the date the offering was completed.

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Q. *Amendments.* The materials filed pursuant to Subsection (A) of this Rule may be amended by forwarding the corrected information and a fee as set forth in Rule 4.19 to the Division or its designee on a revised Form NF and requesting that the file be amended accordingly. Amendments are effective upon receipt by the Division or its designee.

R. *Recognized designee.*

3. The Division may authorize and recognize a designee to receive notice filings under this Rule on behalf of the Division. Such filings include but are not limited to notices, fees, and all documents that are part of a federal registration statement filed with the SEC under the Securities Act of 1933.

4. The designation provided in this Rule is for the sole purpose of receiving notice filings, including but not limited to notices, fees, and all documents, on behalf of the Division and then transmitting those documents to the Division, or for any other purpose which the Division may prescribe by order or release.

Source: *Miss. Code Ann.* §§ 75-71-302(a)(b), 310(a) (2016).

~~Rule 2.27 Reserved. Amount of Securities Notice Filing Procedure. Pursuant to Section 75-71-310(a) of the Act, any person filing a notice described in Section 75-71-302(a) of the Act involving securities issued by an open-end management investment company, a face amount certificate company, or a unit investment trust shall file a notice filing.~~

~~A. Initial filing. A notice filer filing a NASAA Form NF shall pay to the Division a minimum of Three Hundred Dollars (\$300.00) with the initial notice filing.~~

~~B. Renewals. An annual renewal notice must be filed with the Division on or before the expiration of the effective period. Such renewal notice must be accompanied by a payment to the Division of a sales report fee representing that amount due for sales of the securities in this state for the preceding twelve (12) month period, as calculated by the formula set out in Section 75-71-310(a) of the Act. The sales report fee shall be~~

~~one-tenth of one percent (1/10th of 1%) of the previous year's sales in this state, with a minimum fee of Three Hundred Dollars (\$300.00) and a maximum fee of One Thousand Dollars (\$1,000.00) annually.~~

~~C. In all other respects, the filing shall be handled as any other notice filing.~~

~~Source: Miss. Code Ann. § 75-71-302(a) (2016).~~

Rule 2.29 Notice Filings for Rule 506 Offerings.

F. An issuer offering a security that is a covered security under Section 18(b)(4)(E) of the Securities Act of 1933 must submit to the Division or its designee, no later than fifteen (15) days after the first sale of such federal covered security in this state unless the end

40 of that period falls on a Saturday, Sunday, or state or federal holiday, in which case the due date would be the first business day following, a conformed copy of an electronically filed SEC Form D as filed with the SEC in the version of that form accepted at the time of filing by the SEC for filings made pursuant to the Securities Act of 1933, Regulation D, Rule 230.506, the fee set forth in Section 75-71-310(b) of the Act and any late fee (if applicable) as set forth in Section 75-71-310(b) of the Act.

G. All filings or submissions under this Rule shall be made electronically through a state portal approved by the Division.

H. If the offering includes multiple issuers filing on the same Form D a separate fee shall be paid for each issuer issuing securities in this state.

I. *Sales Report.* When an offering is not completed within twelve (12) months of the date of initial notice filing, a sales report ~~and the nonrefundable sales report fee of Fifty Dollars (\$50.00)~~ must be submitted to the Division. The report must include: (1) the name of the issuer, (2) a description of the securities filed in this state, and (3) the aggregate amount of securities sold in this state.

J. *Termination.* Whenever an offering of securities under Section 75-71-302(c) of the Act has been completed, notice of termination of the offering ~~and the fee as set forth in Rule 4.01(B)(4)~~ shall be filed within sixty (60) days of completion stating: (1) the name of the issuer, (2) a description of the securities filed in Mississippi, (3) the aggregate amount of securities sold in this state, and (4) the date the offering was completed.

Source: *Miss. Code Ann.* §§ 75-71-302(c), 310(b) (2016).

Rule 2.31 Notice Filings for Regulation A Tier 2 Offerings. The following provisions apply to offerings made under Tier 2 of federal Regulation A and Section 18(b)(4) of the Securities Act of 1933:

E. *Initial filing.*

3. An issuer that has sold securities in this state in an offering exempt under Tier 2 of federal Regulation A shall submit to the Division no later than fifteen (15) days after the first sale of such security in this state the following:

e. A completed Regulation A – Tier 2 notice filing form or copies of all documents filed with the SEC;

f. A consent to service of process on Form U-2 if not filing on the Regulation A – Tier 2 notice filing form;

g. The filing fee prescribed by Section 75-71-310(b) of the Act; and

h. Any late fee (if applicable) as set forth in Section 75-71-310(b) of the Act.

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4. The initial notice filing is effective for twelve (12) months from the date of the

filing with the Division.

F. *Renewal*. For each additional twelve (12) month period in which the same offering is continued, an issuer conducting a Tier 2 offering under federal Regulation A may renew its notice filing by filing the following with the Division on or before the expiration of the notice filing **the Regulation A – Tier 2 notice filing form marked “renewal” and/or a cover letter requesting renewal.** ÷

~~1. The Regulation A – Tier 2 notice filing form marked “renewal” and/or a cover letter requesting renewal; and~~

~~2. A nonrefundable renewal fee of Fifty Dollars (\$50.00).~~

G. *Amendment*. An issuer may increase the amount of securities offered in this state by submitting to the Division a Regulation A – Tier 2 notice filing form marked “amendment” or other document describing the transaction.

H. All filings or submissions under this Rule may be made electronically through a portal approved by the Division.

Source: *Miss Code Ann.* §§ 75-71-302(e), 310(b), 605.

Rule 2.33. Notice Filings for Title III Federal Crowdfunding Offerings. The following provisions apply to offerings made under federal Regulation Crowdfunding and Section 18(b)(4) of the Securities Act of 1933:

E. *Initial filing*.

4. An issuer that offers and sells securities in this state in an offering exempt under federal Regulation Crowdfunding shall file the following with the Division:

e. A completed Uniform Notice of Federal Crowdfunding Offering form or copies of all documents filed with the SEC;

f. A consent to service of process on Form U-2 if not filing on the Uniform Notice of Federal Crowdfunding Offering form;

g. The filing fee prescribed by Section 75-71-310(b) of the Act; and

h. Any late fee (if applicable) as set forth in Section 75-71-310(b) of the Act.

5. If the issuer has its principal place of business in this state, the filing required under Subsection (A) of this Rule shall be filed with the Division within fifteen days of when the issuer makes its initial Form C filing concerning the offering with the SEC. If the issuer does not have its principal place of business in this state but

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residents of this state have purchased fifty percent (50%) or greater of the aggregate amount of the offering, the filing required under Subsection (A) of this Rule shall be filed with the Division when the issuer becomes aware that such purchases have met this threshold and in no event later than fifteen (15) days from the date of completion of the offering.

6. The initial notice filing is effective for twelve (12) months from the date of the filing with the Division.

F. *Renewal*. For each additional twelve (12) month period in which the same offering is continued, an issuer conducting an offering under federal Regulation Crowdfunding may renew its notice filing by filing **the following** with the Division on or before the expiration of the notice filing **a completed Uniform Notice of Federal Crowdfunding Offering form marked “renewal” and/or a cover letter requesting renewal.** ÷

~~1. A completed Uniform Notice of Federal Crowdfunding Offering form marked “renewal” and/or a cover letter requesting renewal; and~~

~~2. The nonrefundable renewal fee of Fifty Dollars (\$50.00).~~

G. *Amendment.* An issuer may increase the amount of securities offered in this state by submitting to the Division a completed Uniform Notice of Federal Crowdfunding Offering form marked “amendment” or other document describing the transaction.

H. All filings or submissions under this Rule may be made electronically through a portal approved by the Division.

Source: *Miss Code Ann.* §§ 75-71-302(e), 310(b), 605.

Chapter 4—Fee Schedules

Subchapter 1—Notice Filing and Registration Fees for Securities Offerings

Rule 4.01. Notice filers. A. *Notice Filings for Federal Covered Securities Under Section 18(b)(2).*

1. Filers shall submit to the Division a nonrefundable initial filing fee of one-tenth of one percent (1/10th of 1%) of the dollar amount to be registered, with a minimum fee of Three Hundred Dollars (\$300.00) and a maximum fee of One Thousand Dollars (\$1,000.00).

2. Filers shall submit to the Division a nonrefundable renewal filing fee of one-tenth of one percent (1/10th of 1%) of the dollar amount sold in the preceding year, with a minimum fee of Three Hundred Dollars (\$300.00) and a maximum fee of One Thousand Dollars (\$1,000.00) annually.

Eliminated: 3. When the offering is complete, terminated, or withdrawn, a nonrefundable filing fee of one-tenth of one percent (1/10th of 1%) (with a minimum fee of Three Hundred Dollars (\$300.00) and a maximum fee of One Thousand Dollars (\$1,000.00) annually) is required, along with a termination report, for sales which took place between the date of the last renewal and the completion of the offering.

B. *Notice Filings for Federal Covered Securities Under Section 18(b)(4).*

1. Filers shall submit to the Division a nonrefundable filing fee of Three Hundred Dollars (\$300.00).

2. If the filing fee is not submitted to the Division on or before the date prescribed by the Rules, the Division may impose a late filing fee of one percent (1%) of the amount sold in this state up to a maximum penalty of Five Thousand Dollars (\$5,000.00).

Eliminated: 3. When an offering is not completed, terminated, or withdrawn within twelve (12) months of the date of the initial notice filing, a sales report as set forth in Rule 2.29(D) and the nonrefundable sales report fee of Fifty Dollars (\$50.00) must be submitted to the Division.

Eliminated: 4. When an offering under Rule 2.29 is completed, terminated, or withdrawn, notice of completion of the offering as set forth in Rule 2.29(E) and the nonrefundable sales report fee of Fifty Dollars (\$50.00) must be submitted to the Division.

Source: *Miss. Code Ann.* §§ 75-71-310, 605 (2016).

Rule 4.03. Registration by coordination or qualification.

A. Filers shall submit to the Division an initial registration fee of one-tenth of one percent (1/10th of 1%) of the dollar amount to be registered that year, with a minimum fee of Three Hundred Dollars (\$300.00) and a maximum fee of One Thousand Dollars (\$1,000.00).

B. Registration is effective for one (1) year after its effective date. Applicants for registration by coordination or qualification may re-register a security by paying the registration fee of one-tenth of one percent (1/10th of 1%) of the dollar amount to be registered that year, with a minimum fee of Three Hundred Dollars (\$300.00) and a maximum fee of One Thousand Dollars (\$1,000.00), annually.

Source: *Miss. Code Ann.* § 75-71-310(c)(1) (2016).

Subchapter 2—Exemption Filing Fees for Securities Offerings

Rule 4.05. Reserved.

Eliminated: Rule 4.07. Exemption from registration for certain offerings by domestic issuers.

Filers claiming this exemption shall pay a filing fee of Three Hundred Dollars (\$300.00).

Source: *Miss. Code Ann.* §§ 75-71-203, 605 (2016).

Eliminated: Rule 4.09. Accredited investor exemption. Filers claiming this exemption shall pay a filing fee of Three Hundred Dollars (\$300.00).

Source: *Miss. Code Ann.* §§ 75-71-203, 605 (2016).

Eliminated: Rule 4.11. Viatical settlement investment contracts. A. Filers claiming an exemption from registration for viatical settlement contracts shall pay a filing fee of Five Hundred Dollars (\$500.00).

B. Sales agents of Viatical Settlement Investment Contracts shall pay a filing fee of Fifty Dollars (\$50.00), and shall pay a yearly renewal fee of Fifty Dollars (\$50.00).

Source: *Miss. Code Ann.* §§ 75-71-203, 605 (2016).

Subchapter 3- SECURITIES PROFESSIONALS FILING FEES

Rule 4.13 Broker-Dealers.

F. Except for issuer agents as provided for in Rule 4.17, any person filing an initial application for registration as a broker-dealer and any person filing a renewal registration as a broker-dealer shall submit to the Division a registration or renewal fee of Two Hundred Dollars (\$200.00).

G. Except for issuer agents as provided for in Rule 4.17, any person filing an application for registration as an agent and any person filing a renewal registration as an agent shall submit to the Division a registration or renewal fee of Fifty Dollars (\$50.00).

H. Broker-dealers that are members of FINRA and agents who are associated with brokerdealers that are members of FINRA shall submit their initial filing and renewal fees to the CRD.

I. Any person notice filing as a broker-dealer pursuant to Rule 5.33 shall submit to the Division a notice filing or renewal fee of Two Hundred Dollars (\$200.00).

J. Any person notice filing as a broker-dealer agent pursuant to Rule 5.33 shall submit to the Division a notice filing or renewal fee of Fifty Dollars (\$50.00).

Source: *Miss. Code Ann.* § 75-71-410 (2016).

Rule 4.15 Investment Advisers.

E. Any person filing an application for registration as an investment adviser and any person filing a renewal registration as an investment adviser shall submit to the Division a registration or renewal fee of Two Hundred Dollars (\$200.00).

F. Any person filing an application for registration as an investment adviser representative, any person filing a renewal registration as an investment adviser representative, and any person filing a change of registration as an investment adviser representative shall submit to the Division a registration, renewal, or change of registration fee of Fifty Dollars (\$50.00).

G. Any person filing an initial fee or annual notice fee for a federal covered investment adviser required to file a notice under Section 75-71-405 of the Act shall submit to the Division an initial fee or annual notice fee of Two Hundred Dollars (\$200.00).

H. Investment advisers and investment adviser representatives shall submit these fees to IARD.

Source: *Miss. Code Ann.* § 75-71-410 (2016).

Rule 4.17 Issuer Agents. Any person filing an application for registration as an issuer agent, or any person filing a renewal registration as an issuer agent, and any person filing a change of
Rule 4.17 Issuer Agents. Any person filing an application for registration as an issuer agent, or any person filing a renewal registration as an issuer agent, and any person filing a change of

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registration as an issuer agent, shall submit to the Division a registration, or renewal, or change of registration fee of Fifty Dollars (\$50.00) and a copy of Form U4.

Source: *Miss. Code Ann.* § 75-71-410 (2016).

Subchapter 4—Miscellaneous Fees

Rule 4.19. Amendments. A filing fee to increase the amount of securities registered in this state shall be paid to the Division; said fee shall be calculated as set forth in Section 75-71-310~~(e)(2)~~ of the Act. ~~For all other amendments, including notice filings, a filing fee of One Hundred Fifty Dollars (\$150.00) is required.~~

Source: *Miss. Code Ann.* §§ 75-71-302, 305(j), 605 (2016).

Eliminated: Rule 4.21. Document copying. Parties requesting copies of documents on file with the Division may be charged a fee in accordance with the effective fee schedule for a Request for Public Records.

Source: *Miss. Code Ann.* § 75-71-606(c) (2016).

Rule 4.23. Certificates of authenticity. Certificates of Authenticity and Certifications that a public record does not exist may be requested from the Division at a fee of Twenty-Five Dollars (\$25.00) per Certificate.

Source: *Miss. Code Ann.* § 75-71-606(c) (2016).

Eliminated: Rule 4.25. Additional expenses. Any actual expense or cost incurred by the Division in complying with any request shall be charged to the requesting party. The Division may require payment in advance of the estimated cost of compliance with a particular request. In the event the estimated cost exceeds the actual cost, reimbursement will be made.

Source:

Miss. Code Ann. § 75-71-605 (2016).

Part 14 Chapter 7: EXEMPTIONS

Rule 7.01 Reserved.

Rule 7.03 Exemption from Registration for Certain Offerings by Domestic Issuers. By authority delegated to the Secretary of State in Section 75-71-203 of the Act, transactions pursuant to the following requirements are determined to be exempt from the registration requirements of the Act:

A. The sale of its securities by an issuer organized in this state to not more than thirty-five

(35) persons within a twelve (12) month period beginning with the date of filing for exemption under this Rule, whether residents or non-residents, provided that the issuer reasonably believes that the purchasers are acquiring the securities for investment purposes only and not for the purpose of resale. Purchasers of the issuer's securities which are registered pursuant to Section 75-71-303 or Section 75-71-304 of the Act shall not be considered in computing the number of purchasers during the twelve (12) month period.

B. Prior to the receipt of consideration or the delivery of a subscription agreement by an investor which results from an offer being made in reliance upon this exemption, the issuer shall file with the Division:

1. A notice on a form prescribed by the Division; and
2. The prospectus, private placement memorandum, offering circular, or similar document, which shall contain a full disclosure of material information to be furnished by the issuer to offerees. The use of the Small Corporate Offering Registration Form (SCOR), a copy of which is available upon request, may be acceptable for compliance with this Subsection. ~~and~~

~~3. A filing fee as specified in Rule 4.07.~~

C. Securities issued under the provisions of this Rule shall be without payment of commission, compensation, or remuneration, directly or indirectly, except where it shall have been determined by the Division prior to the initial purchase under this exemption, that such commission, compensation, or remuneration is allowable.

D. Offerings or sales of securities pursuant to this Rule shall be made only by duly elected and acting officers of the issuers, or by the general partner of a limited partnership, or by a broker-dealer and his agents registered under the Act.

E. The following legend shall be printed in all capitals on the prospectus, private placement memorandum, offering circular, or similar document used in connection with an offering under this Rule:

“IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE SECURITIES AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS

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AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES AGENCY OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY GENERALLY NOT BE TRANSFERRED OR RESOLD FOR A PERIOD OF ONE (1) YEAR. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.”

F. Neither the issuer nor any person acting on its behalf shall offer, offer to sell, offer for sale, or sell the securities by means of any form of general solicitation or general advertising, including, but not limited to, the following:

1. Any advertisement, article, notice, or other communication published in any newspaper, magazine, or similar medium or broadcast over television or radio;
2. Any seminar or meeting unless otherwise approved by the Division; or
3. Any letter, circular, notice, or other written communication unless the communication contains the information required by this Rule or unless otherwise ordered by the Division.

G. For the purposes of computing the number of investors under this Rule:

1. There shall be counted as one investor any corporation, partnership, association, joint stock company, trust, or unincorporated organization, unless such entity was organized for the specific purpose of acquiring the securities offered, in which case each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser;
2. A purchase by a husband and wife in the joint names of both husband and wife shall be deemed to be made by a single investor; and
3. The original limited partner who purchased an interest in the limited partnership primarily to enable the limited partnership to be formed and whose interest will be extinguished once the offering of the limited partnership interest has terminated shall not be considered to be a purchaser.

H. Securities exempt under the provisions of this Rule may not be transferred for one (1) year after the date of purchase except in a transaction which is exempt from registration or in a transaction which complies with the registration requirements of the Act.

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I. The Division and every purchaser or offeree shall be notified within five (5) business days of any material change in the information submitted in accordance with this Rule.

J. No sales may be made until a written Acknowledgment of Notice Filing has been issued by the Division.

K. For offerings that exceed one (1) year, notification that the offering is continuing must be filed with the Division annually.

L. A notice of termination or completion of the transactions exempted under this Rule must be filed with the Division within thirty (30) days of termination or completion of the offering.

Source: *Miss. Code Ann.* §§ 75-71-203, 605(a)(3) (2016).

Rule 7.05 Securities Markets Exemption. Only Tier I (or the equivalent thereof) securities listed on the following securities markets are entitled to exemption from registration pursuant to Section 75-71-201(6) of the Act:

- A. American Stock Exchange (excluding Emerging Company Marketplace (ECM) listings)
- B. Boston Stock Exchange
- C. Chicago Board Options Exchange
- D. Chicago Stock Exchange
- E. New York Stock Exchange
- F. Philadelphia Stock Exchange
- G. NASDAQ/National Market System

Source: *Miss. Code Ann.* §§ 75-71-201(6) (2016).

Rule 7.07 Recognized Securities Manuals. A recognized securities manual shall be deemed to include the following:

- A. Mergent's Industrial Manual;

B. Mergent's Municipal and Government Manual;
C. Mergent's Transportation Manual;
D. Mergent's Public Utility Manual;

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E. Mergent's Bank and Finance Manual;
F. Mergent's OTC Industrial Manual;
G. Mergent's International Manual;
H. OTCQX Market and OTCQB Market; and
I. Periodic supplements to each recognized securities manual.

Source: *Miss. Code Ann.* § 75-71-202(2)(D) (2016)

Rule 7.09 NASDAQ/NMS Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules exempting certain transactions from the registration requirements of the Act, the following shall be exempt from Section 75-71-301 of the Act: An offer or sale of a security designated or approved for designation upon notice of issuance on the National Association of Securities Dealers Automated Quotation National Market System, or any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so designated or approved, or any warrant or right to purchase or subscribe to any of the foregoing.

Source: *Miss. Code Ann.* §75-71-202(2)(E)(i) (2016).

Rule 7.11 Internet Solicitations Exemption.

A. **Internet** means the global information system comprised of independent computer networks which are interconnected and share information without the use of a central processing center by use of the Transmission Control Protocol/Internet Protocol (TCP/IP) suite, to include without limitation, the World Wide Web, proprietary or "common carrier" electronic delivery systems, or similar medium.

B. **Internet Offer** means a communication regarding the offering of securities within the meaning of Sections 75-71-102(19), (26), and 75-71-105 of the Act, made on the Internet and directed generally to anyone who has access to the Internet, including persons in this state.

C. *Exemption.* The Division finds that registration is not necessary or appropriate for the protection of investors in connection with Internet Offers, provided:

1. The Internet Offer indicates, directly or indirectly, that the securities are not being offered to residents of this state;
2. The Internet Offer is not specifically directed to any person in this state by, or on behalf of, the issuer of the securities; and

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3. No sales of the issuer's securities are made in this state as a result of the Internet Offering.

Source: *Miss. Code Ann.* § 75-71-203 (2016).

Rule 7.13 Exemption of Certain Cooperative Securities. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules, the Secretary of State finds that it is not in the public interest or necessary for the protection of investors to require registration under Section 75-71-301 of the Act of the following securities transactions:

A. Any transaction in a membership, equity interest, or retention certificate, issued by a cooperative, corporation, or nonprofit corporation organized under the cooperative, business corporation, or nonprofit corporation laws, respectively, of any state, and

operated as a nonprofit membership cooperative (collectively a “cooperative”), if:

1. Not traded to the public;
2. Each member of the cooperative has one vote with respect to matters that must be approved by the members of the cooperative or has a number of votes that are in proportion to the amount of business transacted (patronage) with the cooperative and not in proportion to the number of shares of ownership interests held by the member in the cooperative;
3. The governing documents of the cooperative provide that the shares or other ownership interests can be held only by persons or parties who patronize the cooperative;
4. The governing documents of the cooperative provide that no dividends shall be paid or no distributions shall be made except for cash patronage dividends or noncash patronage dividends; and
5. No person receives any commission or other compensation directly or indirectly as a result of or based upon the sale of such securities.

B. Any transaction in an instrument, certificate, or like security issued by a cooperative as defined in Subsection (A) of this Rule in lieu of a cash patronage dividend to a member of the cooperative.

Source: *Miss. Code Ann.* §75-71-201, 203 (2016).

Rule 7.15 Exemption of Certain Securities of Cross-Border Transactions. Pursuant to Section 75-71-203 of the Act, the Secretary of State finds that it is not in the public interest or necessary for the protection of investors to require registration under Section 75-71-301 of the Act of an offer or sale of a security effected by a person exempted from the broker-dealer registration requirements under Rule 5.33.

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Source: *Miss. Code Ann.* § 75-71-203 (2016).

Rule 7.17 Accredited Investor Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules, the following transaction involving any offer or sale of a security by an issuer in a transaction that meets the requirements of this Rule is exempt from the registration requirements of the Act:

- A. Sales of securities shall be made only to persons who are or the issuer reasonably believes are accredited investors. “Accredited investor” is defined in 17 C.F.R. Section 230.501(a) as currently enacted or as amended.
- B. The exemption is not available to an issuer in the development stage that either has no specific business plan or purpose or had indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies or other entity or person.
- C. The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within twelve (12) months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under Article 3 of the Act or to an accredited investor pursuant to an exemption available under the Act.
- D. The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the

issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:

1. Within the last five (5) years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC;
2. Within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;
3. Is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or
4. Is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily, or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

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E. Subsection (D)(1) of this Rule shall not apply if:

1. The party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment, or decree creating the disqualification was entered against such party;
2. Before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or
3. The issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this Subsection.

F. A general announcement of the proposed offering may be made by any means. The general announcement shall include only the following information, unless additional information is specifically permitted by the Secretary of State.

1. The name, address, and telephone number of the issuer of the securities;
2. The name, a brief description, and price (if known) of any security to be issued;
3. A brief description of the business of the issuer in twenty-five (25) words or less;
4. The type, number, and aggregate amount of securities being offered;
5. The name, address, and telephone number of the person to contact for additional information; and;
6. A statement that:
 - a. Sales will only be made to accredited investors;
 - b. No money or other consideration is being solicited or will be accepted by way of this general announcement; and
 - c. The securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold pursuant to an exemption from registration.

G. The issuer, in connection with an offer, may provide information in addition to the general announcement under Subsection (E) of this Rule, if such information:

1. Is delivered through an electronic database that is restricted to persons who have

been prequalified as accredited investors; or

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2. Is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.

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

I. Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this Rule.

J. The issuer shall file with the Division a notice of transaction, a consent to service of process, and a copy of the general announcement, ~~and a fee as specified in Rule 4.09~~ within fifteen (15) days after the first sale in this state.

Source: *Miss. Code Ann.* §§ 75-71-203, 401-404, 605(a)(1),(3), 605(b), 608(c), 610(e) (2016).

Rule 7.19 Broker-Dealers, Investment Advisers, Broker-Dealer Agents, and Investment Adviser Representatives Using the Internet. Broker-dealers, investment advisers, broker-dealer agents (hereinafter “BD agents”), and investment adviser agents/representatives (hereinafter “IA reps”) who use the Internet, the World Wide Web, and similar proprietary or common carrier electronic systems (collectively, hereinafter the “Internet”) to distribute information on available products and services through certain communications made on the Internet directed generally to anyone having access to the Internet, and transmitted through postings on Bulletin Boards, displays on “Home Pages” or similar methods (hereinafter “Internet Communications”) shall not be deemed to be “transacting business” in this state for purposes of Sections 75-71-401 and 75-71-404 of the Act based solely on that fact if the following conditions are observed:

A. The Internet Communication contains a legend in which it is clearly stated that:

1. The broker-dealer, investment adviser, BD agent, or IA rep in question may only transact business in this state if first registered, excluded or exempted from state broker-dealer, investment adviser, BD agent, or IA rep registration requirements, as may be; and

2. Follow-up, individualized responses to persons in this state by such broker-dealer, investment adviser, BD agent, or IA rep that involve either the effecting or attempting to effect transactions in securities, or the rendering of personalized investment advice for compensation, as may be, will not be made absent compliance with state broker-dealer, investment adviser, BD agent, or IA rep registration requirements, or an applicable exemption or exclusion;

B. The Internet Communication contains a mechanism, including and without limitation, technical “firewalls” or other implemented policies and procedures, designed to

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reasonably ensure that prior to any subsequent direct communication with prospective customers or clients in this state, said broker-dealer, investment adviser, BD agent, or IA rep is first registered in this state or qualifies for an exemption or exclusion from such requirement. Nothing in this Subsection (B) shall be construed to relieve a state registered broker-dealer, investment adviser, BD agent, or IA rep from any applicable securities registration requirement in this state;

C. The Internet Communication does not involve either effecting or attempting to effect transactions in securities, or the rendering of personalized investment advice for

compensation, as may be, in this state over the Internet, but is limited to the dissemination of general information on products and services; and

D. In the case of a BD agent or IA rep:

1. The affiliation with the broker-dealer or investment adviser of the BD agent or IA rep is prominently disclosed within the Internet Communication;
2. The broker-dealer or investment adviser with whom the BD agent or IA rep is associated retains responsibility for reviewing and approving the content of any Internet Communication by a BD agent or IA rep;
3. The broker-dealer or investment adviser with whom the BD agent or IA rep is associated first authorizes the distribution of information on the particular products and services through the Internet Communication; and
4. In disseminating information through the Internet Communication, the BD agent or IA rep acts within the scope of the authority granted by the broker-dealer or investment adviser;

E. The position expressed in this Rule extends to state broker-dealer, investment adviser, BD agent and IA rep registration requirements only and does not excuse compliance with applicable securities registration, anti-fraud, or related provisions;

F. Nothing in this Rule shall be construed to affect the activities of any broker-dealer, investment adviser, BD agent, or IA rep engaged in business in this state that is not subject to the jurisdiction of the Mississippi Secretary of State as a result of the National Securities Markets Improvements Act of 1996, as amended.

Source: *Miss. Code Ann.* §§ 75-71-203; 401-404; 605(a)(1),(3); 605(b); 608(c); 610(e) (2016).

Rule 7.21 Invest Mississippi Crowdfunding Intrastate Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act, the Division has adopted an exemption from the registration requirements of the Act for any offer or sale of securities offered or sold in compliance with Section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. Section 77c(a)(11), and SEC Rule 147, 17 C.F.R. Section 230.147 or such federal laws as are enacted or rules that are adopted by the SEC that govern intrastate Internet crowdfunding offerings and any

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amendments thereto, which also satisfy the further conditions and limitations set forth in this Rule below.

A. *Definitions.* The following terms, as used in this Rule, shall have the meaning ascribed to them below unless the context requires otherwise:

1. **Accredited Investor** is defined in 17 C.F.R. Section 230.501(a), as currently enacted or as amended, and a non-accredited investor means an investor who does not meet the definition of an accredited investor.

2. **Annual Income** means:

a. For individuals, income is determined as the sum of the individual's:

i. Wages, salaries, commissions, bonuses, and tips from all jobs before deductions for taxes, dues or other items;

ii. Self-employment net income (after business expenses);

iii. Retirement pensions from companies and unions; federal, state, and local governments; and the U.S. military;

iv. Monthly income from annuities, IRAs, or KEOGH retirement plans;

v. Interest, dividends, and rental income; and
vi. Partner, shareholder, and beneficiary income as reported to the Internal Revenue Service on Schedule K-1 (Form 1065) (a reported loss on Schedule K-1 is counted against the sum of income).

b. For entities, income is determined as the revenue in excess of expenses, including depreciation, determined before taxes and as filed with the Mississippi Department of Revenue or the Internal Revenue Service on the entity's last tax return.

3. **Bank** means a depository institution that is organized or chartered under the laws of this state or of the United States, is authorized to do business in this state, and is located in this state. For the purposes of this Rule, a credit union is included in the definition of bank.

4. **IMC Form** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Form."

5. **Intermediary** means a person that is registered with the Division pursuant to this Rule to be an intermediary who has been or will be retained by the issuer in conducting the offering and sales of securities through an Internet website. An intermediary can be a broker-dealer or agent that is registered with the Division or a bank or an intermediary funding portal.

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6. **Intermediary Funding Portal** is a person operating an Internet website that is not a bank, broker-dealer, or agent registered under the Act.

7. **Intermediary Registration Form** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Intermediary Registration Form." A person registering as an Intermediary pursuant to this Rule must select on the form whether registering as a Bank, Broker-Dealer, or Intermediary Funding Portal.

8. **Issuer** means a limited liability company or business corporation formed under the laws of this state that seeks to conduct an offering of securities in reliance on the exemption provided in this Rule.

9. **Minimum Target Offering Amount** means fifty percent (50%) of the total offering amount of an offering made by the issuer in reliance on the exemption provided in this Rule which amount shall be set out on the IMC Form.

10. **Net Worth** means the amount by which an investor's assets exceed liabilities, excluding the investor's primary residence, as defined in 17 C.F.R. Section 230.501(a)(5)(i).

11. **Offering Deadline** means the date stated in the IMC Form by which the sum of the offering proceeds held in escrow will equal the minimum target offering amount or investors may request a refund of their investment.

12. **Qualified Purchaser** is defined in Section 2(a)(51) of the Investment Company Act of 1940, as currently enacted or as amended.

B. In order to comply with this Rule, the following conditions and limitations are required in order to be exempt from the registration requirements of the Act:

1. The securities must be sold only to persons who are residents of this state at the time of purchase.

2. The issuer of the securities is a business corporation or limited liability company

with a principal place of business in this state and authorized to do business in this state.

3. The issuer is not, either before or as a result of the offering, an investment company, as defined in Section 3 of the Investment Company Act of 1940, 15 U.S.C. Section 80a-3, or subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. Sections 78m and 78o(d).

4. The aggregate amount sold to all investors by the issuer, including any amount sold in reliance on the exemption provided under this Rule during the twelve (12) month period preceding the date of such transaction, is not more than:

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c. One Million Dollars (\$1,000,000.00), if the issuer has not undergone and made available to each prospective investor the documentation resulting from a financial audit of its most recently completed fiscal year; or

d. Two Million Dollars (\$2,000,000.00), if the issuer has undergone and made available to each prospective investor the documentation resulting from a financial audit of its most recently completed fiscal year.

The documentation in a financial audit to be made available to each prospective investor shall consist of a balance sheet and a statement of income and expense for the issuer's most recently completed fiscal year if the issuer has been in existence for twelve (12) months or more and shall be certified by an independent certified public accountant. The financial statements must be prepared in accordance with Generally Accepted Accounting Principles ("US GAAP"), complete with footnote disclosure. If the issuer has been in existence for fewer than twelve (12) months, the issuer must provide to each prospective investor a balance sheet and statement of income and expense for the time period since its existence. If the issuer is not providing a financial audit, then the issuer must provide to each prospective investor an unaudited balance sheet and statement of income and expense of its most recently completed fiscal year. In addition, regardless of whether the annual financial statements are audited or unaudited, the documentation to be made available to each prospective investor shall also include interim unaudited quarterly financial statements if the issuer's fiscal year ended more than ninety (90) days prior to the date of the IMC Form; and shall include the issuer's financial projections of income and expense for two (2) years from the date of the IMC Form. The non-audited financial statements shall be signed by the principal executive officer of the issuer who shall certify under penalties of perjury that the statements therein are true, complete and correct in all material respects to the best of the signer's knowledge.

5. The aggregate amount sold to any single investor by multiple issuers in reliance on the exemption provided in this Rule during the twelve (12) month period preceding the date of such transaction:

a. For accredited investors, the aggregate amount sold by multiple issuers to any single accredited investor does not exceed the greater of:

i. If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married) and have the expectation to make the same amount in the current

year, five percent (5%) of the investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or

ii. If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).

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b. For non-accredited investors, the aggregate amount sold to a single nonaccredited investor by multiple issuers does not exceed the greater of:

i. Five Thousand Dollars (\$5,000.00);

ii. If the investor has had an annual income of less than Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or less than Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married), five percent (5%) of the investor's annual income; or

iii. If the investor's net worth is less than One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth.

c. For investors that are qualified purchasers there shall be no aggregate limit on the amount the qualified purchaser investor can purchase from a single issuer or multiple issuers in offerings conducted pursuant to this Rule.

6. No remuneration shall be paid or given, directly or indirectly, for any person's participation in the offer or sale of the securities for the issuer unless the person is registered as an intermediary as such term is defined in Subsection (A)(5) of this Rule.

7. All funds received from investors shall be deposited into a bank and all the funds shall be used in accordance with the representations made to investors and in accordance with the terms of an escrow agreement which provides that:

a. The investor funds will be deposited into an escrow account in a Bank, with the Bank acting as escrow agent;

b. For each investment, the issuer will provide to the escrow agent a copy of the subscription agreement setting forth the names, addresses, and respective amounts paid by each investor whose funds comprise each deposit;

c. The issuer must raise the minimum target offering amount specified as necessary to implement the business plan by the offering deadline before the escrow agent may release the offering proceeds to the issuer upon joint written notice from the issuer and the intermediary;

d. If the issuer does not raise the minimum target offering amount by the offering deadline, investors will have the option to obtain a refund of their investment by providing written notice to the intermediary, which shall provide written notice to the issuer and the escrow agent, at which time the escrow agent shall return the investor's amount contributed. Written notice includes electronic mail.

e. All offering proceeds not returned to the investor by the escrow agent after the offering deadline as provided above will be released to the issuer when the escrow agent has received written notice from the issuer or the intermediary to

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release the remaining proceeds to the issuer, or they may be returned to the investors at the issuer's option if the issuer or the intermediary provides written

notice to the escrow agent authorizing and instructing the escrow agent to return the remaining investors amounts contributed; and

f. All offering proceeds not returned to the investor or released to the issuer after twelve (12) months from the date of receipt may be returned to the investor by the escrow agent to the last known address of the investor, or if not, shall be submitted to the state treasurer in accordance with the unclaimed property laws.

g. The escrow agent may contract with the issuer to collect reasonable fees for its escrow services regardless of whether the minimum target offering amount is reached.

8. No offerings or sales of securities shall be made in reliance on this exemption until the issuer files the IMC Form in writing or in electronic form with the Division, completed with specificity as required by the instructions in the IMC Form, and the issuer receives an Acknowledgment of Completed Invest Mississippi Crowdfunding Form from the Division. The issuer must also include in such filing a copy of the escrow agreement as required by Subsection (B)(7) above, all other exhibits to the IMC Form except as otherwise specified by the Division, and any other documents or information the Division may require. A copy of the IMC Form is available upon request.

9. The Division will issue a written Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form within five (5) business days after receiving the completed IMC Form and all other exhibits to the IMC Form except as otherwise specified by the Division. Incomplete IMC Forms, IMC Forms with responses that are not specific as required by this Rule and the instructions, or IMC Forms with missing exhibits will be returned to the issuer for completion and/or resubmission. No offerings or sales may be made in this state until the written Acknowledgment has been issued.

10. The completed IMC Form, including exhibits, shall be provided to the relevant intermediary and shall be made available to potential investors after the Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form has been issued by the Division.

11. The issuer shall inform all investors that the securities have not been registered under federal or state securities law and the securities are subject to limitations on resale.

12. Prior to the consummation of a sale, the issuer shall require the prospective investor to certify in writing or electronically as follows:

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a. The investor's name, address, social security number, annual income, and net worth, that each investor is a resident of this state and, if applicable, either an accredited investor or a qualified purchaser; and

b. The aggregate amount of securities sold to the investor in reliance on the exemption provided in this Rule during the twelve (12) month period preceding the date of the purchase, together with the securities to be sold by the issuer to the investor:

i. For accredited investors that are not qualified purchasers the investor has not invested more than the greater of:

(a) If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married) and have the expectation to make the same amount in the current year, five percent (5%) of the investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or

(b) If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).

ii. For non-accredited investors, that the investor has not invested more than the greater of:

(a) Five Thousand Dollars (\$5,000.00);

(b) If the investor has had an annual income of less than Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or less than Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married), five percent (5%) of the investor's annual income; or

(c) If the investor's net worth is less than One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth.

c. The issuer must maintain the above certifications and provide ready access to the records to the Division, upon request. The Division may access, inspect, and review such records.

13. Offers and sales of securities pursuant to this Rule must be made in compliance with any rules adopted by the SEC that govern intrastate Internet crowdfunding offerings and any amendments thereto.

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C. Offers and sales of securities pursuant to this Rule shall be made exclusively through an Internet website that is operated by an intermediary. Each issuer and intermediary shall comply with the following:

1. Before any offer or sale of securities, the issuer must provide to the intermediary evidence of the issuer's state of organization, evidence that the issuer has a principal place of business in this state, and evidence that the issuer is authorized to do business in this state.

2. An intermediary is not required to register as a broker-dealer under the Act if all the following apply with respect to the Internet website and its operator:

a. It does not offer investment advice or recommendations;

b. It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Internet website;

c. It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Internet website;

d. It does not hold, manage, possess, or otherwise handle investor funds or securities, unless it is a bank operating as an escrow agent for the offering;

e. It does not identify, promote, or otherwise refer to any individual security offered on the Internet website in any advertising for the Internet website; and

f. Neither the intermediary, nor any director, executive officer, general partner, twenty percent (20 %) or greater beneficial owner, managing member, or other person with management authority over the intermediary has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify an issuer under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)-(c)).

3. Subject to Subsection (13) below, persons desiring to be an intermediary must register as an Intermediary with the Division.

a. Registered broker-dealers may register to be an intermediary by filing the Intermediary Registration Form with the Division, a copy of which is available upon request. No filing fee shall be required for registered broker-dealers acting as intermediaries. The Form shall include the following information:

i. The identity, contact information, and location for the broker-dealer, including the broker-dealer's CRD number;

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ii. That the broker-dealer is authorized to do business in this state; and

iii. That the broker-dealer is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule.

b. A Bank may register to be an intermediary by filing the Intermediary Registration Form with the Division, a copy of which is available upon request. No filing fee shall be required for banks acting as intermediaries. The Form shall include the following information:

i. The identity, contact information, and location for the bank;

ii. That the bank is authorized to do business in this state;

iii. That the bank is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule; and

iv. That the bank meets the requirements set forth in Subsection (C)(2) of this Rule.

c. An Internet website operator may register to be an intermediary by filing the Intermediary Registration Form, a copy of which is available upon request, ~~accompanied by a nonrefundable annual filing fee of Two Hundred Dollars (\$200.00)~~, that includes the following information:

i. The identity, contact information, and location for the intermediary funding portal;

ii. That the intermediary funding portal is authorized to do business in this state;

iii. That the intermediary funding portal is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule;

iv. That the intermediary funding portal meets the requirements set forth in Subsection (C)(2) of this Rule; and

v. Any other information the Division considers necessary or appropriate in the public interest and for the protection of investors, including the financial responsibility, business repute, or qualifications of the Internet

website operator and to determine whether the operator can carry out the requirements of this Rule and will comply with this Rule.

4. The intermediary funding portal is not required to register as a broker-dealer under Subsection (3) above if the intermediary funding portal is a funding portal registered under the Securities Act of 1933 (15 U.S.C. 77d-1) and the SEC rules under authority of Section 3(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (h)) and P.L.112-106, Section 304, governing funding portals.

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5. Registration as an intermediary expires at the close of the calendar year, but subsequent registration for the following year shall be issued upon filing of a renewal form, a copy of which is available upon request, ~~and upon payment of the appropriate renewal fee.~~

6. The issuer must maintain records of all offers and sales of securities effected through the intermediary and must provide to the Division, upon request, ready access to the records.

7. The intermediary shall maintain and preserve for a period of five (5) years from either the date of the document or communication or the date of the closing or termination of the securities offering, whichever is later, the following records related to offers and sales made of issuer securities effected by the intermediary through the intermediary's Internet website and related to transactions in which the intermediary receives compensation from the issuer for such services, including but not limited to:

a. Records of compensation received for acting as an intermediary, including the name of the payor, the date of payment, and name of the issuer;

b. For each offering effected by the intermediary through the intermediary's Internet website, the issuer's name and the name, address, and amount of purchase for each investor in such offering;

c. Copies of information provided by the intermediary to issuers offering securities through the intermediary, prospective purchasers, and investors;

d. Any agreements and/or contracts between the intermediary and an issuer, to prospective purchaser, or investor;

e. Any information used to establish the issuer's state of organization, principal place of business, and its authorization to do business in this state;

f. Any information used to establish that a prospective purchaser or investor is a resident of this state;

g. Any information used to establish that a prospective purchaser or investor is an accredited investor or qualified purchaser;

h. Any correspondence or other communications with issuers, prospective purchasers, and/or investors;

i. Any information made available through the Internet website relating to an offering; and

j. Ledgers (or other records) that reflect all assets and liabilities, income and expense, and capital accounts.

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8. The records and the Internet website portal of an intermediary or intermediary applicant under this Rule are subject to reasonable periodic, special, or other audits

or inspections by the Division, in or outside this state, as the Division 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 Division may copy and remove for audit or inspection copies of all records the Division reasonably considers necessary or appropriate to conduct the audit or inspection. The Division may assess a reasonable charge for conducting an audit or inspection under this Rule.

9. The intermediary:

a. Shall limit website access to the sale of securities conducted pursuant to this Rule to only residents of this state;

b. Shall not hold, manage, possess, or handle investor funds or securities, unless it is a bank operating as an escrow agent for the offering;

c. Shall ensure that each investor answers questions demonstrating:

i. An understanding of the level of risk generally applicable to investments in startups and small issuers; and

ii. An understanding of the risk of illiquidity, including an acknowledgment that there is no ready market for the sale of the securities acquired from an offering under this Rule. It may be difficult or impossible for the investor to sell or otherwise dispose of an investment under this Rule and the investor may be required to hold and bear the financial risks of this investment indefinitely.

d. Shall perform a background and securities enforcement regulatory history check on each person holding a position listed in Subsection (J) of this Rule to determine if such person is subject to any disqualification as described in Subsection (J) of this Rule.

e. Shall ensure that all offering proceeds are only provided to the issuer when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount and allow investors to cancel their commitments to invest and obtain a refund if the minimum target offering amount is not raised by the offering deadline.

10. The intermediary shall not purchase or receive more than fifteen percent (15%) of the securities in the offering and shall prohibit its directors, officers, or partners (or any person occupying a similar status or performing a similar function) from having any financial interest in an issuer using its services as an intermediary,

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unless the financial interest in the aggregate does not exceed fifteen percent (15%) of the ownership of the issuer.

11. All communications between the issuer, prospective purchasers, or investors that take place during the offer of securities pursuant to this Rule must occur through the intermediary's Internet website. Notwithstanding the foregoing, the issuer or the intermediary may distribute a notice within this state limited to the statement that the issuer is conducting an offering, the name of the intermediary through which the offering is being conducted and a link directing the potential investor to the intermediary's website. The notice must contain a disclaimer reflecting that the offering is limited to residents of this state and that sales of the securities appearing on the Internet website are limited to persons that are residents of this state.

12. The website operated by the Intermediary must meet the following requirements:

- a. The website must contain a disclaimer reflecting that sales of the securities appearing on the website are limited to persons that are residents of this state;
- b. Evidence of residency within this state is required before a sale is made to a prospective purchaser. An affirmative representation made by a prospective purchaser that the prospective purchaser is a resident of this state and proof of a valid Mississippi driver license or official personal identification card issued by the State of Mississippi will be considered sufficient evidence that the individual is a resident of this state.

13. If any change occurs that affects the intermediary's registration, the intermediary must notify the Division within thirty (30) days after the change occurs. Within thirty (30) days of the delivery of the notice to the Division, the intermediary shall, unless otherwise permitted or directed by the Division, cease and desist from operating as an intermediary pursuant to this Rule and shall, within five (5) business days, notify each issuer for which it is conducting offerings that the intermediary's registration has been revoked.

D. *Report.* For so long as securities issued under the exemption provided in this Rule are outstanding, the issuer shall provide a quarterly report to the issuer's investors. The report required by this Rule shall be free of charge. An issuer may satisfy the reporting requirement of this Rule if the information is made available within forty-five (45) days of the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. An issuer must provide a written copy of the report to any investor upon request. The issuer shall make each such quarterly report available to the Division upon request. The report must contain each of the following:

1. Compensation received by each director and executive officer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received; and

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2. An analysis by management of the issuer of the business operations and financial condition of the issuer, such as a recent financial statement and profit and loss statement.

E. Securities exempt under the provisions of this Rule may not be transferred for one (1) year after the date of purchase except in a transaction which is exempt from registration or in a transaction which complies with the registration requirements of the Act.

F. The Division and every investor or prospective purchaser shall be notified within thirty (30) days of any material change in the issuer's information submitted in accordance with this Rule.

G. For offerings that exceed one (1) year, notification that the offering is continuing must be filed with the Division annually.

H. The issuer must file a sales report with the Division within thirty (30) days of termination, expiration, abandonment, or completion of the offering in a form prescribed by the Division.

I. All sales that are part of the same offering and are made in reliance on this exemption must meet all of the terms and conditions of this exemption, except, offers and sales to controlling persons shall not count toward the limitation in Subsection (B)(4) of this

Rule. A controlling person is an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.

J. *Disqualification.* The exemption allowed by this Rule shall not apply if an issuer, any of its executive officers, directors, managing members, persons with twenty percent (20%) or greater beneficial ownership, persons with management authority over the issuer, promoters, selling agents, or any officer, director or partner of any selling agent has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify the person under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)-(c)).

K. Nothing in this exemption shall be construed to alleviate any person from the anti-fraud provisions of the Act, nor shall such exemption be construed to provide relief from any other provisions of the Act other than as expressly stated.

L. The Division may deny, refuse to renew, condition, limit, suspend, or revoke the intermediary's registration as an intermediary for any reason as determined by the Secretary of State in his sole discretion.

M. The Secretary of State may by order waive any conditions of registration of intermediaries or other requirements set forth in this Rule.

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Source: *Miss. Code Ann.* §75-71-203 (2016).

Rule 7.23 Invest Mississippi Crowdfunding Small Offering Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act, the Division has adopted an exemption from the registration requirements of the Act for any offer or sale of securities offered or sold in compliance with Section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. Section 77c(a)(11), and SEC Rule 147, 17 C.F.R. Section 230.147, or such federal laws as are enacted or rules that are adopted by the SEC that govern intrastate Internet crowdfunding offerings and any amendments thereto, which also satisfy the further conditions and limitations set forth in this Rule below.

A. *Definitions.* This Rule incorporates the Definitions set forth in Rule 7.21.

B. In order to comply with this Rule and be exempt from the registration requirements of the Act, the following conditions and limitations are required to be met:

1. The securities must be sold only to persons who are residents of this state at the time of purchase. Prior to making any sale under this exemption, the issuer must obtain reasonable documentation that the investor is a Mississippi resident.

Reasonable documentation includes, but is not limited to:

a. A current Mississippi Driver's License or personal identification card;
b. A document that indicates the prospective purchaser owns or occupies property in the state as his principal residence, such as a current voter registration or official business mail from a state or federal agency.

2. The issuer of the securities is a business corporation or limited liability company with a principal place of business in this state and authorized to do business in this state.

3. The issuer is not, either before or as a result of the offering, an investment company, as defined in Section 3 of the Investment Company Act of 1940, 15 U.S.C. Section 8a-3, or subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. Sections 78m and 78o(d).
4. The aggregate amount sold to all investors by the issuer, including any amount sold in reliance on the exemption provided under this Rule during the twelve (12) month period preceding the date of such transaction, is not more than Three Hundred Thousand Dollars (\$300,000.00).
5. The aggregate amount sold to any single investor by multiple issuers in reliance on the exemption provided in this Rule during the twelve (12) month period preceding the date of such transaction:

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- a. For accredited investors, the aggregate amount sold by multiple issuers to any single accredited investor does not exceed the greater of:
 - i. If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) (together with a spouse if married) and have the expectation to make the same amount in the current year, five percent (5%) of the investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or
 - ii. If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).
 - b. For non-accredited investors, the aggregate amount sold to a single nonaccredited investor by multiple issuers does not exceed Five Thousand Dollars (\$5,000.00).
 - c. For investors that are qualified purchasers, there shall be no aggregate limit on the amount the qualified purchaser investor can purchase from a single issuer or multiple issuers in offerings conducted pursuant to this Rule.
6. The number of investors in a single offering under this exemption shall not exceed five hundred (500) investors. For purposes of computing the number of investors under this Rule:
 - a. There shall be counted as one investor any corporation, partnership, association, joint stock company, trust, or unincorporated organization, unless such entity was organized for the specific purpose of acquiring the securities offered, in which case each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser;
 - b. A purchase by a husband and wife in the joint names of both husband and wife shall be deemed to be made by a single investor; and
 - c. An original member or shareholder of the issuer who purchased an interest in the entity primarily to enable the entity to be formed and whose interest will be extinguished once the offering has terminated shall not be considered to be a purchaser.
 7. Securities issued under the provisions of this Rule shall be without payment of commission, compensation, or remuneration, directly or indirectly, except where it is reported to the Division and determined by the Division that such commission or

compensation is allowable. Such determination must be made prior to the initial purchase under this Rule.

8. Offerings or sales of securities pursuant to this Rule shall be made only by duly elected and acting officers of the issuer, or by a broker-dealer and its agents registered under the Act.

C. Required Filings. Prior to the receipt of consideration from an investor, or the delivery of a subscription agreement or other promissory note to an investor which results from an offer being made in reliance upon this exemption, the issuer shall file with the Division:

1. A notice on a form prescribed by the Division;
2. The prospectus, private placement memorandum, offering circular, or similar document, which shall contain a full disclosure of material information to be furnished by the issuer to offerees, including the offering limitations set forth in Subsection (B)(1-7), above. The use of the Small Corporate Offering Registration Form (SCOR), a copy of which is available upon request, may be acceptable for compliance with this subsection; and
3. A consent to service of process.

D. No Bank Escrow Agent Required. An issuer relying on this exemption shall not be required to use a bank escrow agent. If the issuer chooses to use a bank escrow agent, the provisions of Rule 7.21(B)(7) apply ~~govern~~.

E. If the issuer elects to not use a bank escrow agent, it must use either (1) or (2) below:

1. A segregated account in a Bank. The segregated account must be exclusively for the investors' funds raised by use of this exemption and:

- i. The total sum of investor funds shall be held in trust and shall not be deployed by the issuer until the Minimum Target Offering Amount is met by the Offering Deadline.
- ii. The issuer shall be responsible for the prudent processing, safeguarding, and accounting for the funds entrusted to it by the investors and placed in the segregated account.
- iii. No person who is not a duly elected and acting officer, if the issuer is a corporation, or member or manager, if the issuer is a limited liability company, of the issuer shall be a signatory on the segregated account.

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iv. The issuer shall keep and make readily available complete records of the transactions of the segregated account for inspection by the Division. The bank transaction records of an issuer under this Rule are subject to the reasonable periodic, special, or other audits, or inspections, access or review by the Division. The Division may copy, and remove for audit or inspection copies of, all records the Division reasonably considers necessary or appropriate to conduct the audit or inspection.

v. In the event the Minimum Target Offering Amount and/or Offering Deadline are not met, the issuer shall be responsible for the return of all investor funds upon request by the investor. The offer must provide a form for investors to request return of their investment if the Minimum Target Offering Amount and/or the Offering Deadline are not met.

vi. In no case, except for the very limited exception set forth below, prior to the expiration of the Offering Deadline, and the satisfaction of the Minimum Target Offering Amount, shall the investors' funds be commingled with the profits or operating or other capital of the Issuer.

The only exception is the case of funds reasonably sufficient to pay for account fees, obtain a waiver of account fees, or to keep the account open.

The issuer assumes the responsibility to pay for the costs of check orders, bank fees, credit card fees, insufficient fund fees and other fees that may be deducted from the account. These expenses should be anticipated in advance so a reasonable amount of money can be deposited into the account to cover the expenses prior to their deduction by the bank.

3. All funds received by the issuer from investors under this exemption shall be held in trust by an attorney licensed to practice law in Mississippi who shall deposit the funds in a depository institution authorized to do business in Mississippi until such time as the Minimum Target Offering Amount is attained or the Offering Deadline has lapsed.

F. *No Portal Required.* An issuer exempt under this Rule may, but shall not be required to, use an Intermediary Funding Portal. If the issuer elects to not use an Intermediary Funding Portal, the issuer:

1. Shall ensure that each investor answers questions demonstrating:

a. An understanding of the level of risk generally applicable to investments in startups and small issuers; and

b. An understanding of the risk of illiquidity, including an acknowledgment that there is no ready market for the sale of the securities acquired from an offering under this Rule; it may be difficult or impossible for the investor to sell or

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otherwise dispose of an investment under this Rule and the investor may be required to hold and bear the financial risks of this investment indefinitely.

2. Shall perform a background and securities enforcement regulatory history check on each person holding a position listed in Subsection (S) of this Rule to determine if such person is subject to any disqualification as described in Subsection (S) of this Rule.

3. Shall ensure that no offering proceeds are deployed as capital or otherwise used by the issuer until the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount and shall allow investors to cancel their commitments to invest and obtain a refund if the minimum target offering amount is not raised by the offering deadline.

4. In addition to the record keeping required by Subsection (G) below, the issuer must keep a record of each deposit into the segregated account (or attorney trust account) representing the purchase of the issuer's securities for each investor. The records must be sufficient to verify that for each sale of securities the issuer made a corresponding deposit into the segregated account in the amount of the sale within two (2) business days of the sale.

G. *Record Keeping.* The issuer shall maintain and preserve for a period of five (5) years from the date of the closing or termination of the securities offering the following records related to offers and sales made of the issuer's securities, including but not

limited to:

1. Copies of information provided to prospective purchasers;
2. All executed subscription agreements between the issuer and any purchaser;
3. Any information used to establish the issuer's state of organization and principal place of business, and its authorization to do business in this state;
4. Any correspondence or other communications with prospective purchasers, and/or investors, including any contracts or agreements secondary or pursuant to the subscription agreement;
5. All advertisement or other forms of solicitation, including any information made available through the issuer's website or social media presence relating to an offering;
6. Ledgers (or other records) that reflect all assets and liabilities, income and expense, and capital accounts; and

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7. All banking and deposit records.

H. *Report.* For so long as securities issued under the exemption provided in this Rule are outstanding, the issuer shall provide a quarterly report to the issuer's investors. The report required by this Rule shall be free of charge. An issuer may satisfy the reporting requirement of this Rule if the information is made available by electronic means within forty-five (45) days of the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. An issuer must provide a written copy of the report to any investor upon request. The issuer shall make each such quarterly report available to the Division upon request. The report must contain each of the following:

1. Compensation received by each director, executive officer or manager, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received; and
2. An analysis by management of the issuer of the business operations and financial condition of the issuer, such as a recent balance sheet and profit and loss statement.

I. *General Solicitation.* A general announcement of the proposed offering may be made by any means, including social media or internet websites, subject to the following restrictions:

1. Advertising or soliciting on the issuer's own social media account or website is permitted, but the issuer shall construct the website or social media page so that potential investors "click through" to a dedicated internal website page solely for the purpose of explaining the limited offering; and
 - a. The issuer shall prominently indicate on the internal website page for soliciting investors the legend set forth in Subsection (K) below;
 - b. The dedicated internal website page shall provide means of contact between the issuer and potential investors to facilitate the actual investment, including the delivery of a written subscription agreement and all offering documents to the prospective investor for his review prior to the sale; the issuer shall not allow purchase of securities through its website;
 - c. The issuer may make available to all potential investors the documents referenced in Subsection (C)(2) in downloadable and printable form but must verify receipt and review by the prospective investor prior to executing any

sale;

d. The dedicated internal website page shall inform all prospective purchasers that a segregated account (or attorney trust account) will hold all purchasers'

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funds in trust until the Minimum Target Offering Amount and Offering Deadline are met;

e. The dedicated internal website page shall set forth the Minimum Target Offering Amount (not less than 50% of the total offering amount) and Offering Deadline date;

f. The dedicated internal website page shall set forth the total offering amount made by the issuer in reliance on the exemption provided in this Rule, not to exceed Three Hundred Thousand Dollars (\$300,000.00);

g. The issuer shall also prominently display the general requirements of the exemption in some form on the dedicated internal website page:

i. That the offering is only made to Mississippi residents;

ii. That the Minimum Target Offering Amount is at least 50% of the total Target Offering Amount;

iii. That all investors are entitled to a refund of their investment dollars if the Minimum Target Offering Amount is not met by the Offering Deadline;

h. The issuer shall include a printable form for investors to request the return of their investment if the Minimum Target Offering Amount is not met by the Offering Deadline.

2. Advertising or soliciting investment on social media or internet websites other than the social media accounts or internet website of the issuer shall be strictly limited to:

a. A general advertisement that the issuer is seeking investment;

b. A company name and/or logo;

c. A "click-through" link to the dedicated website page set forth above.

3. All other forms of general solicitation, whether print or other media, must provide the material disclosures as set forth in Subsection (C)(2) above and same disclosures and legends as set forth in Subsection (K) below; and

4. All radio, television, or other broadcast advertising or solicitation for investment shall be strictly limited to the following:

a. The issuer may announce that it is seeking investment for its enterprise;

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b. The issuer may seek to direct potential investors to the dedicated page of its website, or to its telephone number.

c. These restrictions do not infringe on an issuer's right to advertise its products or services, and are only intend to restrict the advertisement or solicitation of investment.

J. No offerings or sales of securities shall be made in reliance on this exemption until the issuer files the IMC Form, in writing or in electronic form with the Division, completed with specificity as required by the instructions in the IMC Form, and the issuer receives an Acknowledgment of Completed Invest Mississippi Crowdfunding Form from the Division. The issuer must also submit all exhibits to the IMC Form except as otherwise specified by the Division, and any other documents or information the Division may

require. A copy of the IMC Form is available upon request.

1. The Division will issue a written Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form within five (5) business days after receiving the completed IMC Form and all other exhibits to the IMC Form except as otherwise specified by the Division. Incomplete IMC Forms, Forms with responses that are not specific as required by this Rule and the instructions or Forms with missing exhibits will be returned to the issuer for completion and/or resubmission. No offerings or sales may be made in this state until the written Acknowledgment has been issued.

2. The completed IMC Form, including exhibits, shall be provided to the issuer or intermediary and shall be made available to potential investors after the Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form has been issued by the Division.

K. The issuer shall inform all investors that the securities have not been registered under federal or state securities law and the securities are subject to limitations on resale. The following legend shall be printed in all capitals on the prospectus, private placement memorandum, offering circular, or similar document used in connection with an offering under this Rule:

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE SECURITIES AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

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THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY GENERALLY NOT BE TRANSFERRED OR RESOLD FOR A PERIOD OF ONE (1) YEAR. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

L. Prior to the consummation of a sale, the issuer shall require the prospective investor to certify in writing or electronically as follows:

1. The investor's name, address, social security number, annual income, and net worth, that each investor is a resident of this state and, if applicable, either an accredited investor or a qualified purchaser; and

2. The aggregate amount of securities sold to the investor in reliance on the exemption provided in this Rule during the twelve (12) month period preceding the date of the purchase, together with the securities to be sold by the issuer to the investor has not exceeded the limitations set out in Subsection (B)(5) of this Rule.

3. The issuer must obtain and maintain the certifications, in addition to other records of investors' residence as set forth in Subsection A and provide ready access to the records to the Division, upon request. The Division may access, inspect, and review

such records.

M. Offers and sales of securities pursuant to this Rule must be made in compliance with any rules adopted by the SEC that govern intrastate Internet crowdfunding offerings and any amendments thereto.

N. Securities exempt under the provisions of this Rule may not be transferred for one (1) year after the date of purchase except in a transaction which is exempt from registration or in a transaction which complies with the registration requirements of the Act.

O. The Division and every investor or prospective purchaser shall be notified within thirty (30) days of any material change in the issuer's information submitted in accordance with this Rule.

P. For offerings that exceed one (1) year, notification that the offering is continuing and a sales report must be filed with the Division annually.

Q. The issuer must file a sales report with the Division within thirty (30) days of termination, expiration, abandonment, or completion of the offering in a form prescribed by the Division.

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R. All sales that are part of the same offering and are made in reliance on this exemption must meet all of the terms and conditions of this exemption, except, offers and sales to controlling persons shall not count toward the limitation in Subsection (B)(4) of this Rule. A controlling person is an officer, director, partner, manager, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.

S. The exemption allowed by this Rule shall not apply if an issuer, any of its executive officers, directors, managing members, persons with twenty percent (20%) or greater beneficial ownership, persons with management authority over the issuer, promoters, or selling agents, or any officer, director or partner of any selling agent has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify the person under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)-(c)).

T. Nothing in this exemption shall be construed to alleviate any person from the anti-fraud provisions of the Act, nor shall such exemption be construed to provide relief from any other provisions of the Act other than as expressly stated.

U. The Division may deny, refuse to renew, condition, limit, suspend, or revoke the issuer's Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form for any reason as determined by the Secretary of State in his sole discretion.

V. The Secretary of State may by order waive any conditions or other requirements set forth in this Rule.

Source: *Miss. Code Ann.* § 75-71-203 (2016).

Datamatics, in Chapter 9, only 9.03, 9.05 and 9.07 have changes.

Part 14 Chapter 9: VIATICAL SETTLEMENT INVESTMENT CONTRACTS

Rule 9.01 Viatical Settlement Investment Contracts as Securities.

A. Viatical Settlement Investment Contracts: A viatical settlement investment contract is any agreement, regardless of title or caption, for the purchase, sale, assignment, transfer, devise, or bequest of any portion of the benefit of the life insurance policy or certificate. The term “viatical settlement or similar agreement” as used in the definition of “security” in the Act does not include:

1. The assignment, transfer, sale, devise, or bequest of a death benefit, life insurance policy or certificate of insurance by the viator to the viatical settlement provider under the Viatical Settlements Act as codified at Miss. Code Ann. Sections 83-7-201 *et seq.*;
2. The assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a loan; or
3. The exercise of accelerated benefits under the terms of a life insurance policy issued in accordance with the insurance laws of this state.

B. Issuer: With respect to a viatical settlement investment contract that is non-fractionalized or non-pooled, “issuer” means the person effecting the transactions with the investors in such contracts. With respect to a viatical settlement investment contract that is fractional or pooled, issuer means the person who creates the fractional or pooled interest.

Source: *Miss. Code Ann.* §§ 75-71-203, 204, 307, 502, 510, 605, 605(b), 608(c), 610(e), 404 (2016).

Rule 9.03 Scope of Viatical Settlement Investment Contract Requirements.

A. The provisions of this Chapter 9 set out the regulatory standards for the exemption of viatical settlement investment contracts from the registration requirement of the Act, renewal of the exemption from registration, ~~fees~~, effective dates, and related matters for viatical settlement investment contracts and issuers.

B. Nothing in this Chapter shall:

1. Provide an exemption from the fraud provisions of the Act;
2. Relieve broker-dealers or agents from compliance with the Act; or
3. Prohibit an issuer from using the registration procedures in the Act or from claiming an exemption available under the Act.

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Source: *Miss. Code Ann.* § 75-71-605 (2016).

Rule 9.05 Exemption from Registration.

A. Except as provided in Subsection (B) of this Rule, an offer or sale of a viatical settlement investment contract or a security that represents or is secured by a viatical settlement investment contract is exempt from registration under the Act if the issuer:

1. At least thirty (30) days prior to the date the initial offer is made, files a registration statement on the Division’s Form V902, ~~a filing fee as provided in Rule 4.11~~, and the materials contained in Subsection (A)(2) of this Rule.
2. The following items must be filed with a registration statement:
 - a. Prospectus, pamphlet, circular, form letter, advertisement, or other sales literature used or intended to be used in connection with the offer or sale of the

security; and

b. The issuer's most recent audited income and expense statement and balance sheet. A prospective viatical settlement purchaser may obtain copies upon written request to the Division.

3. All viatical settlement investment contracts sold in this state must include a medical release executed by the viator in favor of the Secretary of State for the State of Mississippi. This release must be maintained in the issuer's office and must be provided by the issuer to the Division upon demand.

4. Before a sale, each prospective individual viatical settlement purchaser must be furnished written information that is sufficient to make an informed investment decision. For the purposes of this Subsection, information that is sufficient to make an informed investment decision includes the:

a. Viatical settlement disclosure document developed by the Secretary of State and available on the Division's Form VIAD, Part I. The issuer must provide in that document an address to which a notice of rescission may be sent; and

b. Disclosure of any significant factors that may affect the outcome of the investment.

5. On or before the time of closure of a sale, defined as the date when the viatical settlement provider locates and proposes to the viatical settlement purchaser an acceptable specific viatical contract under the executed purchase agreement, an individual investor must receive a viatical settlement disclosure document that the issuer has completed using the Division's Form VIAD, Part II.

6. In order to qualify for the exemption and unless waived by the Secretary of State, the issuer and the issuer's predecessors must show, along with the issuer's predecessor, that it has been in continuous operation for at least three (3) fiscal years without a default in the payment of principal, interest, dividends, or other obligations on a security of the issuer or a predecessor of the issuer with a fixed maturity or a fixed interest, dividend, or other provision.

B. The Secretary of State shall deny an application for exemption under this Chapter if an issuer, a predecessor of the issuer, an affiliate of the issuer, a director of this issuer, an officer of the issuer, a general partner of the issuer, a beneficial owner of ten percent (10%) or more of a class of the issuer's equity securities, a promoter of the issuer presently connected with the issuer in any capacity, an underwriter of the securities to be offered, a partner of an underwriter of the securities to be offered, a director of an underwriter of the securities to be offered, or an officer of the underwriter of the securities to be offered:

1. Has filed within the last five (5) years a registration statement that is the subject of a currently effective registration stop order entered by a state securities administrator or the SEC;

2. Within the last five (5) years has been convicted of:

a. A felony;

b. A criminal offense involving fraud or deceit; or

c. A criminal offense in connection with the offer, purchase, or sale of a security;

3. Is currently subject to a state or federal administrative enforcement order or judgment in connection with the purchase, offer, or sale of a security;

4. Is currently subject to an order, judgment, or decree temporarily, preliminarily, or permanently restraining or enjoining the person subject to the order from engaging in or continuing to engage in conduct or a practice involving fraud or deceit in connection with the purchase, offer, or sale of a security; or
5. For any other reason that is in the public interest as determined by the Secretary of State.

Source: *Miss. Code Ann.* § 75-71-203 (2016).

Rule 9.07 Effective Date and Expiration Date for Exemption of Viatical Settlement Investment Contracts. Unless made effective earlier by the Division, an application for exemption from registration under this Rule becomes effective thirty-one (31) days after the Division receives the completed application, ~~a fee as prescribed in Rule 4.11~~, and the required documents unless the Division contacts the filer either orally or in writing within thirty (30) days after the receipt of the filing to seek additional information or clarification. At such time that the Division determines that the application is not complete or that additional information is required in order to make a determination on whether or not to grant the exemption under this Chapter, the registration will be placed in pending status until such time as the Division either grants or denies the exemption. An exemption granted under this Rule shall expire twelve (12) months after the date on which it is granted. A renewal must be made prior to the expiration of the exemption on the Division's Form VR 903. Failure to timely renew will require the applicant to complete the process for application for exemption.

Source: *Miss. Code Ann.* §§ 75-71-203, 204 (2016).

Rule 9.09 Revocation of Exemption. The Secretary of State may, in his discretion, enter an order revoking an exemption granted pursuant to this Chapter. The order may not be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the Secretary of State may, in his discretion, summarily revoke by order any of the specified exemptions pending final determination of a proceeding under this Rule. Upon the entry of a summary order, the Secretary of State shall promptly notify all interested parties that the order has been entered and thereafter the interested parties shall have thirty (30) days from receipt of the order in which to request a hearing. Upon receipt of a request for hearing, the Secretary of State will promptly set a hearing to be held in accordance with Chapter 8 of the Rules. If any of the interested parties fails to request a hearing within the thirty (30) day period, the Secretary of State will enter a final order, and the final order will remain in full force and effect until it is vacated or modified by the Secretary of State.

Source: *Miss. Code Ann.* § 75-71-204 (2016).

Rule 9.11 Right of Rescission Applicable to Sales of Viatical Settlement Interests

A. In addition to any other rights provided for under this Chapter or otherwise, a person who buys a viatical settlement investment contract or a security that either represents or is secured by a viatical settlement interest may rescind the purchase by giving the entity designated in the disclosure documents written notice of rescission, by ordinary mail, postage prepaid, postmarked no later than thirty (30) days following the later of the date on which the purchaser paid for the investment, or the date on which the purchaser received the Form VIAD Part II.

B. The notice of rescission required under Subsection (A) of this Rule is sufficient if

addressed to the entity designated for the notice at the address given in the disclosure statement. The rescission notice is effective on the date it is mailed. The rescission notice may be in any form that expresses the intention of a purchaser to rescind the transaction.

C. Notwithstanding the time limit in Subsection (A) of this Rule, if the issuer has not found an acceptably suitable viatical settlement investment contract and closed the transaction within ninety (90) days of the execution of the purchase agreement, on the ninetieth (90th) day following the execution of the purchase agreement, the issuer shall provide

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the viatical settlement purchaser with a rescission offer using a form approved by the Division, and the viatical settlement investment contract purchaser will have ten (10) business days from its receipt to either accept or reject the rescission offer. The issuer shall keep a record of the rescission offer and its acceptance or rejection for at least three (3) years after providing that offer, and shall provide that record to the Division at its request.

D. In this Rule, “**business day**” means a day other than Saturday, Sunday, or a state or federal holiday.

Source: *Miss. Code Ann.* § 75-71-510 (2016).

Rule 9.13 Advertising.

A. The exemption contained in this Chapter shall not be available to any issuer who engages in false or misleading advertising in the sale or promotion of viatical settlement investment contracts. Furthermore, the Secretary of State shall revoke an exemption granted pursuant to this Chapter of the Rules if he determines that an issuer has engaged in false or misleading advertisement of viatical settlement investment contracts.

B. False and misleading viatical settlement investment contracts advertisements include, but are not limited to, the following representations:

1. “Fully secured,” “100% secured,” “fully insured,” “secure,” “safe,” “backed by rated insurance company(s),” “backed by federal and/or state law,” or similar representations;
2. “No risk,” “minimal risk,” “low risk,” “no speculation,” “no fluctuation,” or similar representations;
3. “Guaranteed fixed return,” “annual return,” “principal,” “earnings,” “profits,” “investment,” or similar representations;
4. “No sales charges or fees,” or other similar representations;
5. “High yield,” “superior return,” “excellent return,” “high return,” “quick profit,” or similar representations;
6. “Perfect investment,” “proven investment,” or similar representations;
7. Purported favorable representations or testimonials about the benefits of viaticals as an investment, taken out of context from newspapers, trade papers, journals, radio and television programs, and all other forms of print and electronic media.

Source: *Miss. Code Ann.* §§ 75-71-502, 610(e), (f) (2016).

Rule 9.15 Sales Agents. Any sales agent who engages in the sale of viatical settlement investment contracts must provide the Secretary of State with the following:

- A. Proof of obtaining a passing grade on the FINRA Series 7 examination;

- B. Proof of obtaining a passing grade on the FINRA Series 63 examination;
- C. An accurate, complete and signed Form U-4; and,
- D. A filing fee as specified in Rule 4.11.

Source: *Miss. Code Ann.* § 75-71-404 (2016).

Rule 9.17 Waiver of Viatical Settlement Requirements. Upon the request of an issuer, the Secretary of State may, in his discretion, waive a requirement of this Chapter of the Rules by order if he determines the waiver to be in the public interest and that the requirement to be waived is not necessary for protection of investors. The issuer bears the burden of proof to satisfy the Secretary of State that the waiver is in the public interest and that the requirement to be waived is not necessary for protection of investors.

Source: *Miss. Code Ann.* § 75-71-307, 407 (2016).

Rule 9.19 Privacy. Except as required for the Secretary of State to execute his responsibilities under the Act, 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.

Source: *Miss. Code Ann.* § 75-71-605 (2016).