

230-RICR-50-05-3

TITLE 230 - DEPARTMENT OF BUSINESS REGULATIONS

CHAPTER 50 - SECURITIES, FRANCHISES AND CHARITIES

SUBCHAPTER 05 - SECURITIES

PART 3 - Issuance and Registration of Securities

3.1 Authority

This regulation is promulgated by the Director of the Department of Business Regulation pursuant to R.I. Gen. Laws § 7-11-705.

3.2 Purpose

The purpose of this regulation is to clarify and set forth practices and procedures consistent with R.I. Gen. Laws Chapter 7-11.

3.3 Severability Provisions

If any provision of this Part or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Part which can be given effect without the invalid or unconstitutional provision or application, and to this end the provision of this regulation are severable.

3.4 Definitions

- A. In addition to the terms defined in R.I. Gen. Laws § 7-11-101, when used in this Part, the following terms shall have the following meanings:
1. “Department” means the Securities Division of the Rhode Island Department of Business Regulation.
 2. “Director” means the Director of the Rhode Island Department of Business Regulation or his or her designee.
 3. “RIUSA” means the Rhode Island Uniform Securities Act set forth in R.I. Gen. Laws § 7-11-101 *et seq.*
 4. “SEC” means the United States Securities and Exchange Commission.

5. “ULOR” means a Uniform Limited Offering Registration.

3.5 Uniform Limited Offering Registration

A. Authority, Scope, and Purpose

1. In addition to the authority set forth in § 3.1 of this Part, § 3.5 of this Part is also authorized by R.I. Gen. Laws § 7-11-304(c).
2. § 3.5 of this Part applies to the registration of corporate securities offerings by qualification under R.I. Gen. Laws § 7-11-304(c) which are exempt from registration with the Securities and Exchange Commission under Securities and Exchange Commission Regulation D, Rule 17 C.F.R. § 230.504, or under Regulation A, Rule 17 C.F.R. § 230.251, as promulgated under the Securities Act of 1933.
3. The purpose of § 3.5 of this Part is to implement R.I. Gen. Laws § 7-11-304(c) in order to simplify the registration of small corporate securities offerings and promote uniformity with other states.

B. In accordance with R.I. Gen. Laws § 7-11-705, the Director adopts current Form U-7, the Small Corporate Offering Registration Form.

C. General rules.

1. Qualification. To be eligible for the ULOR under R.I. Gen. Laws § 7-11-304(c), the following conditions apply:
 - a. The issuer must be a corporation organized under the laws of one of the states or possessions of the United States.
 - b. The issuer must not be an investment company subject to the Investment Company Act of 1940.
 - c. The issuer must not be subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1933, 15 U.S.C. §§ 78m or 78o(d).
 - d. The offering must not be a “blind pool” or other offering for which the specific business to be engaged in or property to be acquired by the issuer cannot be specified.
 - e. The issuer may not engage in, or propose to engage in, petroleum exploration or production or mining or other extractive industries.

- f. The following issuers and programs will not be permitted to utilize ULOR registration unless written approval is obtained from the Director, based upon a showing that adequate disclosure can be made to investors using the Form U-7 format:
- (1) Holding companies or companies whose principal purpose is owning stock in, or supervising the management of, other companies;
 - (2) Portfolio companies, such as a real estate investment trust, which is defined as a corporation, trust, association or other legal entity (other than a real estate syndication) which is engaged primarily in investing in equity interests in real estate (including fee ownership and leasehold interests) or in loans secured by real estate or both;
 - (3) Issuers with complex capital structures;
 - (4) Commodity pools;
 - (5) Equipment leasing programs;
 - (6) Real estate programs; and
 - (7) Other issuers that the Director, for good cause, may find inappropriate for ULOR registration.
- g. The aggregate offering price of the securities offered (within or outside of this state) shall not exceed the aggregate offering price in Securities and Exchange Commission Regulation D, Rule 17 C.F.R. § 230.504, or Regulation A, Rule 17 C.F.R. § 230.251 as promulgated under the Securities Act of 1933, or successor rules, whichever aggregate offering price is higher, less the aggregate offering price for all securities sold within twelve months before the start of, and during the offering of, the securities in reliance on any exemption under the Securities Act of 1933, 15 U.S.C. § 77e, or in violation of Section 5(a) of that Act, 15 U.S.C. § 77e(a).
- h. The offering price for common stock must be equal to or greater than \$1.00 per share. This minimum offering price also applies to the exercise price of options, warrants or rights for common stock and to the conversion price of securities convertible into common stock if these types of securities are to be offered.

- i. The issuer may not split its common stock or declare a stock dividend for two (2) years after effectiveness of the registration.
 - j. The issuer may engage selling agents to sell the securities. Commissions, fees or other remuneration for soliciting any prospective purchaser in this state in connection with an offering may only be made to persons who, if required to be registered, the issuer believes and has reason to believe, are appropriately registered in this state.
 - k. The securities must be offered and sold only on behalf of the issuer and Form U-7 may be used by any selling security-holder to register his or her securities for resale.
- 2. Disqualification for ULOR registration under R.I. Gen. Laws § 7-11-304(c).
 - a. ULOR registration shall not be available for the securities of any issuer if such issuer, any of its predecessors or any affiliated issuer:
 - (1) Has filed a registration statement which is the subject of any pending proceeding or examination under Section 8 of the Securities Act of 1933, 15 U.S.C. § 77h, or is the subject of any refusal order or stop order entered thereunder within five (5) years prior to the filing of the application to register securities;
 - (2) Is subject to any pending proceeding under Regulation A, Rule 17 C.F.R. § 230.258, of the Securities Act of 1933 or any similar rule adopted under Section 3(b) of the Securities Act of 1933, 15 U.S.C. § 77c(b), or to any order entered thereunder within five (5) years prior to the filing of the application to register securities;
 - (3) Has been convicted within five (5) years prior to the filing of such application of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Securities and Exchange Commission;
 - (4) Is subject to any order, judgment or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the Securities and Exchange Commission; or

- (5) Is subject to a United States Postal Service false representation order entered under 39 U.S.C. § 3005 within five (5) years prior to the filing of the application to register securities; or is subject to a temporary restraining order or preliminary injunction entered under 39 U.S.C. § 3007.
- b. ULOR registration shall not be available for the securities of any issuer if such issuer, any of its directors, officers, ten percent shareholders of any class of its equity securities, promoters presently connected with it in any capacity or selling agents of the securities to be offered or any officers, directors, or partners of such selling agent:
 - (1) Has been convicted within ten years prior to the filing of the application to register securities of any felony or misdemeanor in connection with the purchase or sale of any security, involving the making of a false filing with the Securities and Exchange Commission or arising out of the conduct of the business or an underwriter, broker, dealer, municipal securities dealer, or investment adviser;
 - (2) Is subject to any order, judgment or decree entered by any court of competent jurisdiction temporarily or preliminarily enjoining or restraining, or is subject to any order, judgment or decree of any court of competent jurisdiction entered within five (5) years prior to the filing of the application to register securities, permanently enjoining or restraining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security, involving the making of a false filing with the Securities and Exchange Commission or arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, or investment adviser;
 - (3) Is subject to an order of the Securities and Exchange Commission entered pursuant to Sections 15(b), 15B(a), or 15B(c) or the Securities Exchange Act of 1934, 15 U.S.C. §§ 78o(b), 78o-4(a) or 78o-4(c); or is subject to an order of the Securities and Exchange Commission entered pursuant to Section 203(e) or (f) of the Investment Adviser Act of 1940, 15 U.S.C. § 80b-3(e & f);
 - (4) Is subject to any order, judgment or decree of any court of competent jurisdiction temporarily or preliminarily restraining

or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the Securities and Exchange Commission; or

- (5) Is subject to a United States Postal Service false representation order entered under 39 U.S.C. § 3007, within five (5) years prior to the filing of the application to register securities; or is subject injunction entered under 39 U.S.C. § 3007, with respect to conduct alleged to have violated 39 U.S.C. § 3005.

c. ULOR registration shall not be available for the securities of any issuer if any promoter presently connected with it in any capacity or any selling agents of the securities to be offered was or named as, an underwriter of any securities:

- (1) Covered by any registration statement which is the subject of any pending proceeding or examination by the Securities and Exchange Commission under Section 8 of the Securities Act of 1933, 15 U.S.C. § 77b, or is the subject of any refusal order or stop order entered thereunder within five (5) years prior to the filing of any application to register securities; or
- (2) Covered by any filing which is subject to any pending proceeding under Regulation A, Rule 17 C.F.R. § 230.258 of the Securities Act of 1933 or any similar rule adopted under Section 3(b) of the Securities Act of 1933, 15 U.S.C. § 77c(2), or to an order entered thereunder within five (5) years prior to the filing of the application to register securities

d. ULOR registration shall not be available for the securities of any issuer if such issuer, any of its directors, officers, ten percent shareholders of any class of its equity securities, promoters presently connected with it in any capacity or selling agents of the securities to be offered or any officers, directors, or partners of such selling agents:

- (1) Is the subject of an adjudication or determination within the last five (5) years by a securities agency or administrator of another state or a court of competent jurisdiction that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940,

the Commodity Exchange Act, or the securities law of any other state;

- (2) Within the last ten (10) years, pled guilty or nolo contendere to, or been convicted in a domestic or foreign court of an offense that the Director finds:
 - (AA) Involves the purchase or sale of a security, taking a false oath, making a false report, bribery, perjury, burglary, robbery, or attempt or conspiracy to commit any of those offenses;
 - (BB) Arises out of the conduct of business as a broker-dealer, investment adviser, depository institution, insurance company, or fiduciary; or
 - (CC) Involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities or an attempt or conspiracy to commit any of those offenses;
- (3) Is permanently or temporarily enjoined by a court of competent jurisdiction from acting as an investment adviser, investment adviser representative, underwriter, broker-dealer, sales representative, or as an affiliated person or employee of an investment company, depository institution, or insurance company, or from engaging in or continuing conduct or practice in connection with any of the foregoing activities, or in connection with the purchase or sale of a security;
- (4) Is the subject of an order of the Director denying, suspending, or revoking the person's license as a broker-dealer, sales representative, investment adviser, or investment adviser representative; or
- (5) Is the subject of any of the following orders that are currently effective and were issued within the last five (5) years:
 - (AA) An order by the securities agency or administrator of another state or Canadian province or territory, or by the Securities and Exchange Commission, denying, suspending, or revoking the person's license as a broker-dealer, sales representative, investment

adviser, or investment adviser representative, or the substantial equivalent of those terms;

- (BB) A suspension or expulsion from membership in or association with a member of a self-regulatory organization;
- (CC) A United States Postal Service fraud order;
- (DD) A cease and desist order by the Director, the securities agency or administrator of another state, or a Canadian province or territory, the Securities Exchange Commission, or the Commodity Futures Trading Commission; or
- (EE) An order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act.

3. Disclosure Document. Application for ULOR registration under R.I. Gen. Laws § 7-11-304(c) shall be made by the issuer of the securities by filing with the Department a disclosure document on Form U-7, with Exhibits as required by Part V of the Instructions for Use of Form U-7, and such other documents as are required by Part III(A) of the Instructions for Use of Form U-7.
4. Financial Statements. The financial statements included in the application for ULOR registration shall be in the form provided in Part IV(K) of the Instructions for Use of Form U-7.
5. Debt Service and Preferred Stock. If the offering includes debt securities or preferred stock, the application for registration must include information that demonstrates the ability of the issuer to service its debt or pay the preferred stock dividends.
6. Registration Fee. An application for ULOR registration under this Regulation shall be accompanied by a non-refundable fee as provided in R.I. Gen. Laws § 7-11-305.
7. Other requirements. After registration under R.I. Gen. Laws § 7-11-304(c), the Director may require the issuer to file such reports as the Director may deem appropriate or necessary in such manner and form as may be required by the Director.

8. Waiver. The Director may, for good cause shown, waive or modify any of the requirements of this Regulation.

3.6 Federal Covered Securities – Notice Filing Requirements under Section 18(b)(2) of the Securities Act of 1933

- A. Pursuant to R.I. Gen. Laws § 7-11-307(a), for a covered security under Section 18(b)(2) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(2), unless the security is exempted by R.I. Gen. Laws § 7-11-401 or is sold in an exempt transaction under R.I. Gen. Laws § 7-11-402, a notice filing shall be filed with the Department prior to the initial offer of such security in this state, which filing shall consist of:
 1. A Form NF;
 2. A Form U-2 for consent to service of process, unless the version of the Form NF contains a consent to service of process; and
 3. The filing fee set forth in R.I. Gen. Laws § 7-11-307(a)(1) or (2), as applicable.
- B. A notice filing shall be effective commencing upon the later of its receipt by the Director or the effectiveness of the issuer's registration statement relating to the offering with the SEC, and continuing until two months after the issuer's fiscal year end. A notice filing may be renewed prior to its expiration by filing with the Department:
 1. A current Form NF; and
 2. The renewal fee set forth in R.I. Gen. Laws § 7-11-307(a)(4).
- C. A renewed notice filing shall take effect upon the expiration of the previous notice filing.

3.7 Federal Covered Securities – Notice Filing Requirements under Section 18(b)(3) of the Securities Act of 1933 (Reg. A+, Tier 2)

- A. Federal Covered Securities, specifically securities issued under Section 18(b)(3) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(3), which are offered or sold within this state, are required to file notices with the Securities Division.
- B. Pursuant to R.I. Gen. Laws § 7-11-307(c) of the RIUSA, for a covered security under Section 18(b)(3) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(3), unless the security is exempted by R.I. Gen. Laws § 7-11-401 or is sold in an exempt transaction under R.I. Gen. Laws § 7-11-402, a notice filing shall be filed

with the director prior to the initial offer of such security in this state, which filing shall consist of:

1. A Form U-1, the Uniform Application to Register Securities or a Uniform Notice Filing of Regulation A – Tier 2 Offering; and
 2. The filing fee set forth in R.I. Gen. Laws § 7-11-307(a)(1).
 3. If consent to service of process is not included in the version of the form submitted in § 3.7(B)(1) of this Part, then the filing must also include a Form U-2.
- C. A renewed notice filing shall take effect upon the expiration of the previous notice filing.

3.8 Federal Covered Securities – Notice Filing Requirements under Section 18(b)(4)(F) of the Securities Act of 1933

- A. Pursuant to R.I. Gen. Laws § 7-11-307(b), for a covered security under Section 18(b)(4)(F) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(4)(F), unless the security is exempted by R.I. Gen. Laws § 7-11-401 or is sold in an exempt transaction under R.I. Gen. Laws § 7-11-402, a notice filing shall be filed with the Department no later than 15 calendar days after the first sale is made in this state (provided, however, that if the 15th day is a Saturday, Sunday or state holiday, the due date shall be the next business day). The notice filing shall consist of:
1. One copy of the latest Form D filed with the SEC; and
 2. The filing fee set forth in R.I. Gen. Laws § 7-11-307(b).
 3. If consent to service of process is not included in the version of the form submitted in § 3.8(A)(1) of this Part, then the filing must also include a Form U-2.
- B. No renewal filings shall be necessary for notice filings pursuant to R.I. Gen. Laws § 7-11-307(b), but one copy of any amended Form D filed with the SEC shall be filed with the Department promptly after filing such form with the SEC, for so long as the offering continues in this state.

3.9 Form of Filing for Exemption

The Director hereby specifies that, for purposes of obtaining the exemption under R.I. Gen. Laws § 7-11-402(2), all information, under cover of a letter stating that the information is being filed to apply for the exemption under R.I. Gen. Laws § 7-

11-402(2), must be filed with the Department in the form required under the Securities Exchange Act of 1934 and rules promulgated thereunder.

3.10 Securities Manual

Unless otherwise provided by rule or order of the Director, this state recognizes the following as nationally recognized securities manuals for the purpose of qualifying for the exemption under R.I. Gen. Laws § 7-11-402(3): Fitch Investor Services, Inc., Moody Investor Services, Mergent, Inc., and the OTCQB and OTCQX markets maintained by OTC Markets Group Inc., and their successors and/or assigns.

3.11 Unsolicited Order

In order to qualify for the exemption provided under R.I. Gen. Laws § 7-11-402(4), the broker-dealer must obtain from each customer a signed written acknowledgement at the time the purchase price of the securities is paid that the purchase was unsolicited and must retain a copy of each such acknowledgement of a period of five (5) years; provided that no acknowledgement from the customer will be required if the confirmation furnished the customer is clearly marked "Unsolicited Order" or the broker-dealer furnishes the customer at any time before or concurrently with the delivery of the confirmation a memorandum stating that the transaction is based upon an unsolicited order and, in either instance, the customer does not object to the designation of the trade as "unsolicited" within fourteen (14) days of the customer's receipt of the confirmation or memorandum.

3.12 Statutory Disqualification

- A. No exemption under R.I. Gen. Laws § 7-11-402(18) shall be available for the securities of any issuer if any of the parties described in Securities Act of 1933, Regulation A, Rule 17 C.F.R. § 230.252(c), (d), (e), or (f):
1. Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to any state's securities law within five (5) years prior to the filing of the notice required under this exemption;
 2. Has been convicted within five (5) years prior to the filing of the notice required under this exemption of any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felon involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud;

3. Is currently subject to any administrative enforcement order or judgment entered by the Director within five years prior to the filing of the notice required under this exemption or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including but not limited to making any untrue statement of material fact or omitting to state any material fact, was found and the order or judgment was entered within five (5) years prior to the filing of the notice required under this exemption;
 4. Is subject to any state's administrative enforcement order or judgment which prohibits, denies or revokes the use of any exemption from registration in connection with the offer, purchase or sale of securities; or
 5. Is currently subject to any order, judgment or decree of any court of competent jurisdiction temporarily or preliminary restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction, permanently restraining or enjoining, such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the state entered within five (5) years prior to the filing of the notice required under the exemption.
- B. Disqualification pursuant to §§ 3.12(A)(1) through (5) of this Part may be waived by the Director upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

3.13 Exemption of Certain Securities from Registration

- A. The following shall be exempt from the registration and filing requirements of R.I. Gen. Laws §§ 7-11-301 and 7-11-404:
1. All securities which are offered for sale on or through the Internet when all of the following conditions are observed:
 - a. The Internet offer of the securities indicate, directly or indirectly, that the securities are not being offered to residents of the State of Rhode Island; and
 - b. The Internet offer of the securities is not specifically directed to any person or persons in the State of Rhode Island by, or on behalf of, the issuer of the securities; and
 - c. No sales of the insurer's securities are made in the State of Rhode Island as a result of the Internet offering until such time as the securities being offered have been properly registered under the

terms and provisions of RIUSA and the rules and regulations promulgated thereunder.

- B. This Part shall not relieve an issuer of securities on the Internet or a person acting behalf of such an issuer from liability under the RIUSA and the rules and regulations promulgated pursuant thereto.

3.14 Exemption for Offers and Sales to Accredited Investors

- A. Any offer or sale of a security by an issuer in a transaction that meets the requirements of § 3.14 of this Part is exempted from R.I. Gen. Laws §§ 7-11-301 and 7-11-404.
- B. Sales of securities shall be made only to persons who are, or the issuer reasonably believes are, Accredited Investors. "Accredited investor" is defined as any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:
 - 1. Any bank as defined in Section 3(a)(5)(A) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(5)(A), whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(a)(13) of the Securities Act of 1933, 15 U.S.C. § 77b(a)(13); any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of the Act, 15 U.S.C. § 81a-2(a)(48); any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958, 15 U.S.C. § 681(c) or (d); any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of the Act, 29 U.S.C. § 1002(21), such association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decision made solely by persons that are accredited investors;
 - 2. Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-2(a)(22);

3. Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;
 4. Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;
 5. Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000;
 6. Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;
 7. Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in 17 C.F.R. § 230.506(b)(2)(ii); and
 8. Any entity in which all of the equity owners are accredited investors.
- C. The exemption is not available to an issuer that is in the development stage that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.
- D. The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months of sales shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under R.I. Gen. Laws §§ 7-11-301 through 7-11-305, and 7-11-307 or to an accredited investor pursuant to an exemption available under the RIUSA.
- E. The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, are any partner, director or officer of such underwriter:

1. Within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by any state securities administrator of the United States Securities and Exchange Commission;
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 deceit in connection with the purchase or sale of any security.

F. § 3.14(E) of this Part 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 § 3.14(E) of this Part.

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

H. The general announcement shall include only the information, unless additional information is specifically permitted by the Director:

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 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. The name, address and telephone number of the person to contact for additional information; and
7. 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 U.S. Securities and Exchange Commission and are being offered and sold pursuant to an exemption from registration.
- I. The issuer, in connection with an offer, any provide information in addition to the general announcement under § 3.14(G) of this Part, if such information:
 1. Is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or
 2. Is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.
- J. 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.
- K. 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 § 3.14 of this Part.
- L. The issuer shall file with the Securities Division a notice of transaction, a consent to service of process, a copy of the general announcement, and a \$300 fee within fifteen (15) days of the first sale in this state.

3.15 Canadian Securities Exempt from Registration

Offers and sales of any security effected by a broker-dealer who is exempt from licensing under § 1.5 of this Subchapter are exempt from the registration

requirements of R.I. Gen. Laws. § 7-11-301 and the filing requirements of R.I. Gen. Laws § 7-11-404.

3.16 Consent to Service of Process

Unless otherwise provided by rule or order of the Director, the Uniform Consent to Service of Process (Form U-2) satisfies the requirements of R.I. Gen. Laws § 7-11-708, as does the post September 1, 2016 Uniform Application to Register Securities (Form U-1).

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**TITLE 230 - DEPARTMENT OF BUSINESS REGULATION
(INCLUDES THE OFFICE OF THE HEALTH INSURANCE
COMMISSIONER)**

CHAPTER XXX - OLD REGULATIONS WHICH WERE NOT ASSIGNED

CHAPTER-SUBCHAP-PART

SUBCHAPTER XX - OLD REGULATIONS WHICH WERE NOT ASSIGNED

CHAPTER-SUBCHAP-PART

PART 10042 - Issuance and Registration of Securities (230-RICR-50-05-3)

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Editorial Note: This Part was filed with the Department of State prior to the launch of the Rhode Island Code of Regulations. As a result, this digital copy is presented solely as a reference tool. To obtain a certified copy of this Part, contact the Administrative Records Office at (401) 222-2473.