



**OFFICE OF THE
SECRETARY OF STATE**

SMALL BUSINESS IMPACT STATEMENT

**AS REQUIRED BY NRS 233B.0608 AND 233B.0609
LCB FILE NO. R018-21**

NOTE: Small Business is defined as a “business for profit which employs fewer than 150 full-time or part-time employees.” (NRS 233B.0382)

- 1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

ANSWER:

The Office of the Secretary of State solicited comment on the proposed revised regulations by posting a notice with links to the full text of the proposed amendment to the LCB Administrative Regulation Notices website, Secretary of State’s website, and Nevada Public Notice website as well as posting notices and agendas in numerous public locations pursuant to NRS 233B. The notices were also distributed to an internally maintained “interested persons” list consisting of licensees and those persons who have indicated a desire to be personally notified of Division action.

The Office of the Secretary of State also posted links to all notices and proposed text on the agency Twitter page for the Secretary of State (@NVSOS) as well as the NVSOS.gov website.

Before the proposed regulations were submitted to the Legislative Counsel Bureau (LCB), the Division held an informal workshop on an initial draft of the proposed regulations for the purpose of receiving feedback on the provisions contained therein. Requested changes from the public and interested stakeholders were mostly incorporated into the initial draft submitted to LCB, which draft was the basis of the formal workshop on October 21, 2021. Following further revisions based upon feedback from the October 21, 2021 hearing, the Division held a second workshop on August 2, 2022. Feedback from the August 2, 2022 hearing was incorporated into the Second Revised Proposed Regulations, File No. R018-21RP2.

A Notice of Intent to Adopt Regulations was published on December 19, 2022 with notice of public hearing scheduled for January 20, 2023 for the Second Revised Proposed Regulations. The Notice of Intent to Act Upon a Regulation also solicited written comments to the Division



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to be received by January 19, 2023. That public hearing was subsequently cancelled pursuant to Executive Order 2023-003. After receiving an exemption to the Executive Order on March 17, 2023, a new adoption hearing date was scheduled for May 3, 2023.

No representatives from small businesses were present at the workshops or hearings, nor were any written comments received from the same. Written comments were solicited and accepted for the month prior to each hearing date described above.

2. The manner in which the analysis was conducted.

ANSWER: The Nevada Securities Division (Division) considered the purpose and scope of the proposed revised regulations in Nevada Administrative Code 90 in order to determine whether the proposed changes will have an impact on the small businesses regulated by this code. Based on this review, the Division determined that these regulations will possibly have a direct adverse effect on a di minimis number of small businesses in the State of Nevada by requiring notice filing with the Division for Regulation A, Tier 2 offerings made in the state and requiring a small fee for the same. The fee for Regulation, Tier 2 offerings will be tied to the amount of money that is actually made by the registrant. Regulation A, Tier 2 Exemptions are originally filed with the Securities and Exchange Commission. For context, a search of the Security and Exchange Commission's EDGAR system revealed only twenty-three (23) total Regulation A, Tier 2 exemption filings made by businesses headquartered in the State of Nevada over the last five (5) years. It is not known how many, if any, of those filing entities qualify as small businesses within the meaning of NRS 233B.0382.

The Division determined that the proposed revised regulations do not have an adverse indirect effect on small businesses in Nevada. **The Division determined that the revised regulations will possibly have a direct beneficial impact on small businesses in the State of Nevada by codifying exemptions to licensing that do not currently exist.** Specifically, there may be exemptions to licensing certain branch office registration requirements following the adoption of the revised regulations, as well as exemptions to licensing for certain investment advisers.



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- 3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation, both adverse and beneficial effects and both direct and indirect effects.**

ANSWER: The Division anticipates that the proposed revised regulations will provide a minimal adverse or beneficial economic effect on small businesses. The majority of the provisions of the proposed regulations contained in LCB File No. R018-21RP2 have been implemented by the Division for many years through language contained in NAC 90.321 adopting certain FINRA rules and NAC 90.3864 adopting the NASAA model rules by reference. Those FINRA and model rules are now being formally adopted by way of the revised regulations for purposes of clarity of Nevada rules. Similarly, there will be minimal direct and indirect effects for the reasons set forth above.

- 4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

ANSWER: The potential impact of the proposed regulations on businesses that are located within the State of Nevada is so minimal that there was no effort made to reduce the impact of the same. As described above, the vast majority of entities offering Regulation A, Tier 2 offerings in Nevada as set forth in federal law are located outside of the state. Furthermore, the revised regulations have a beneficial impact on small businesses by created exemptions to licensing and registration that did not exist prior to adoption of the same.

- 5. The estimated cost to the agency for enforcement of the proposed regulation.**

ANSWER: There is no out-of-pocket additional expense to the agency for enforcement of the proposed regulations as the proposed regulations do not create new regulatory schemes and notice filing for Regulation A, Tier 2 issuers can be accomplished through existing forms and processes within the Division.

- 6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

ANSWER: The only new fee set forth in the revised regulations is for notice filing for Regulation A, Tier 2 offerings made within the State. The Division cannot ascertain with certainty how much extra revenue to the state will be derived from those offerings as the filing



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fee is based on NRS 90.500 which describes a registration fee based on a percentage off the maximum aggregate offering price at which the securities are to be offered in this State in an amount up to \$5,000.00. All revenue received by the Division are deposited into the state general fund.

7. **If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

ANSWER: The proposed regulations does not include any provisions which duplicate or are more stringent than existing federal, state, or local standards.

8. **The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.**

ANSWER: The Division complied with NRS 233B.0608 by considering the scope and purpose of the revisions to NAC 90. The proposed revisions modernize the existing regulations contained in NAC 90 by formally adopting NASAA model rules and FINRA rules which have been changed and added over time, although those have been followed by the Division through the passive adoption language contained currently in NAC 90.321 and NAC 90.3864. Because these revisions have been followed implicitly for years, the Division anticipates no real impact on small businesses here in Nevada.

I hereby certify that to the best of my knowledge or belief a concerted effort was made to determine the impact of this proposed regulation on small businesses and that the information contained in the statement was prepared properly and is accurate.

Respectfully,

/s/Erin M. Houston

Erin M. Houston, Deputy Secretary for Securities