

**REVISED PROPOSED REGULATION OF THE
ADMINISTRATOR OF THE SECURITIES DIVISION
OF THE OFFICE OF THE SECRETARY OF STATE**

LCB File No. R016-02

May 20, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-3, 6, 8-12, 14-17, 36-38, 46, 52 and 53, NRS 90.750; §4, NRS 90.350, 90.750, 90.845 and 90.847; §§5, 25, 28, 29 and 33, NRS 90.350, 90.360, 90.750, 90.845 and 90.847; §7, 22-24, 31, 32, NRS 90.390 and NRS 90.750; §13, NRS 90.750 and 90.770; §18, NRS 90.340, 90.350, 90.360 and 90.750; §19, NRS 90.350, 90.360, 90.390, 90.750, 90.845 and 90.847; §20, NRS 90.350, 90.360, 90.390, 90.750 and 90.845; §§21, 30, NRS 90.750 and 90.847; §26, NRS 90.350, 90.360, 90.750 and 90.845; §27, NRS 90.350, 90.360, 90.380, 90.750, 90.845 and 90.847; §§34, 35, NRS 90.360 and 90.750; §39, NRS 90.750, 90.845 and 90.847; §40, NRS 90.480 and 90.750; §41, NRS 90.490 and 90.750; §42, NRS 90.480, 90.490 and 90.750; §43, 90.490, 90.560 and 90.750; §44, NRS 90.520, 90.530, 90.540 and 90.750; §45, NRS 90.520 and 90.750; §47, NRS 90.530 and 90.750; §48-51, NRS 90.540 and 90.750.

Section 1. Chapter 90 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *“Branch office” means any place of business in this state other than the principal office in this state of the broker-dealer, from which one or more sales representatives transact business.*

Sec. 3. *“Investment adviser registration depository” means the Investment Adviser Registration Depository operated by NASD Regulation, Inc., or its successor, to provide a system for the electronic registration of investment advisers and representatives of investment advisers.*

Sec. 4. 1. *Pursuant to subsection 2 of NRS 90.350, the administrator designates the investment adviser registration depository, or any other depository for electronic registration that is approved by the administrator by order, to receive and store filings and collect related fees from investment advisers and representatives of investment advisers on behalf of the administrator.*

2. *Except as otherwise provided in subsection 5 and NAC 90.3294, an investment adviser or representative of an investment adviser who is required by this chapter or chapter 90 of NRS to pay a fee to the administrator or file a document with the administrator, including, without limitation, an application, amendment, report or notice, must comply with that requirement by:*

(a) Transferring the fee electronically to the depository designated or approved pursuant to subsection 1; or

(b) Filing the document electronically with the depository designated or approved pursuant to subsection 1,

as applicable.

3. *If the instructions accompanying a document that is required to be electronically filed pursuant to subsection 2 require a signature, the applicant or an authorized officer of the applicant, as required, shall affix his electronic signature to the document by typing his name in the appropriate fields and submitting the document to the depository designated or approved pursuant to subsection 1. If a document is submitted in the manner set forth in this subsection, the document shall be deemed to include the legal signature of the person whose name is typed on the document.*

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4. A document that is required to be electronically filed pursuant to subsection 2 shall be deemed to be filed with the administrator when all the required fees are received and the document is filed with and accepted on behalf of the administrator by the depository.

5. If a fee or document that an investment adviser or representative of an investment adviser is required by this chapter or chapter 90 of NRS to pay to or file with the administrator cannot be paid to, filed with or accepted by the depository designated or approved pursuant to subsection 1, the fee or document must be directly paid to or filed with the administrator, as applicable.

Sec. 5. 1. The license of a representative of an investment adviser expires on December 31 of each year. A representative of an investment adviser must renew his license annually, on or before December 31, by paying the applicable fee required pursuant to NRS 90.360 to the administrator in the manner set forth in section 4 of this regulation.

2. A representative of an investment adviser and the investment adviser with whom the representative is employed or retained as an independent contractor shall update the information required by the Uniform Application for Securities Industry Registration or Transfer (Form U-4) filed with the administrator pursuant to NAC 90.391 within 30 days after the change in that information occurs.

Sec. 6. 1. The administrator hereby adopts by reference the Conduct Rules adopted by the National Association of Securities Dealers as published in the manual of that association. A softcover copy of the manual is available from the National Association of Securities Dealers Media Source, P.O. Box 9403, Gaithersburg, Maryland 20898-9403, at the price of \$10, plus \$4.95 for shipping and handling for members or at the price of \$29.95, plus \$8.50 for shipping and handling for nonmembers. The manual is also available, free of charge, from

the National Association of Securities Dealers at the Internet address

<<http://secure.nasdr.com/wbs/NETbos.dll?RefShow?ref=NASD4;&xinfo=/goodbye.htm>>.

2. The administrator will periodically review the Conduct Rules and determine within 30 days after the review whether any change made to those rules is appropriate for application in this state. If the administrator does not disapprove a change to an adopted rule within 30 days after the review, the change is deemed to be approved by the administrator.

Sec. 7. *For the purposes of subsection 5 of NRS 90.390, each licensed broker-dealer shall comply with the provisions of Rule 3110 of the Conduct Rules, as adopted by reference in section 6 of this regulation, regardless of whether he is a member of the National Association of Securities Dealers.*

Sec. 8. NAC 90.011 is hereby amended to read as follows:

90.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 90.015 to ~~[90.081,]~~ **90.078**, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 9. NAC 90.030 is hereby amended to read as follows:

90.030 “Central registration depository” means the Central Registration Depository of the National Association of Securities Dealers and the North American Securities Administrators Association . ~~[, 9513 Key West Avenue, Rockville, Maryland 20850, telephone: (301) 590-6500.]~~

Sec. 10. NAC 90.042 is hereby amended to read as follows:

90.042 “Federal covered adviser” means a person who is:

1. Registered or required to be registered pursuant to section 203 of the Investment Advisers Act of 1940, 15 U.S.C. § ~~[806-3;]~~ **80b-3**; or

2. Excluded from the definition of “investment adviser” pursuant to subparagraph (11) of paragraph (a) of section 202 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-2(a)(11).

Sec. 11. NAC 90.061 is hereby amended to read as follows:

90.061 ~~[“NASDAQ” means the National Association of Securities Dealers Automated Quotation System.]~~ *“Nasdaq” means The Nasdaq Stock Market, Inc.*

Sec. 12. NAC 90.315 is hereby amended to read as follows:

90.315 1. Except as otherwise provided in this section, any form referred to in this chapter that pertains to the registration of securities or *the licensing of* investment advisers may be obtained from the Securities and Exchange Commission, ~~[Public Reference Branch, 450 5th] Publications Unit, Mail Stop C-11, 450 Fifth~~ Street, N.W., Washington, D.C. 20549 ~~[The Uniform Limited Offering Circular]~~, or from the Securities and Exchange Commission at the Internet address <http://www.sec.gov/divisions/corpfin/forms/securities.shtml> or the Internet address <http://www.sec.gov/divisions/investment/iard/iastuff.shtml>, respectively. *The Small Company Offering Registration Form* (Form U-7) and the *Uniform Investment Company Notice Filing (Form NF)* may be obtained from the North American Securities Administrators Association, ~~[555 New Jersey Avenue N.W., Suite 750,] 10 G Street, N.E., Suite 710,~~ Washington, D.C. ~~[20001.] 20002.~~ *The Small Company Offering Registration Form (Form U-7) and the Uniform Investment Company Notice Filing (Form NF) may also be obtained from the North American Securities Administrators Association at the Internet address* http://www.nasaa.org/nasaa/corpfin/scor_forms.asp and the Internet address http://www.nasaa.org/nasaa/library/uniform_forms.html, respectively. An informational packet concerning the Small ~~[Corporate]~~ *Company* Offering Registration which contains a ~~[Uniform Limited Offering Circular]~~ *Small Company Offering Registration Form* (Form U-7)

may be obtained from the office of the administrator by submitting a check payable to the ~~secretary of state~~ “*Secretary of State*” in the amount of \$3.

2. Any form pertaining to the licensing of broker-dealers and sales representatives may be obtained from the National Association of Securities Dealers ~~[, Information Services, 9513 Key West Avenue, Rockville, Maryland 20850.]~~ *Media Source, P.O. Box 9403, Gaithersburg, Maryland 20898-9403, or from the National Association of Securities Dealers at the Internet address <<http://www.nasdr.com/forms.asp>>.*

3. The forms prescribed and authorized by the administrator for use in Nevada are:

(a) The Application for Licensing of a Branch Office (Nevada Form 360-2).

(b) *The Amendment to Registration of a Branch Office (Nevada Form 360-2A).*

(c) The Request for Withdrawal of a Branch Office (Nevada Form 360-2W).

~~[(e)]~~ (d) The Year-End Securities Sales Report (Nevada Form 500-3).

~~[(d)]~~ (e) The Notice of Withdrawal of Registration (Nevada Form 500-12).

~~[(e) The Claim of Exempt Security (Nevada Form 520).]~~

(f) The Claim of Exemption From Securities Registration (Nevada Form N-9).

FLUSH Any of these forms may be obtained from the office of the administrator ~~[(f)]~~ *or from the secretary of state at the Internet address <<http://www.sos.state.nv.us/securities/licensing/index.htm>>.*

Sec. 13. NAC 90.3155 is hereby amended to read as follows:

90.3155 1. An applicant for licensing as a broker-dealer ~~[or investment adviser]~~ satisfies the requirement set forth in NRS 90.770 concerning the filing of an irrevocable consent to service of process by filing with the administrator the Uniform Consent to Service of Process (Form U-2) as required by NAC 90.330 . ~~[or 90.375.]~~

2. An applicant for licensing as a sales representative, assistant sales representative or representative of an investment adviser or an issuer who proposes to offer a security in this state through an agent satisfies the requirement set forth in NRS 90.770 concerning the filing of an irrevocable consent to service of process by filing with the administrator:

- (a) The Uniform Consent to Service of Process (Form U-2);
- (b) The Uniform Application for Broker-Dealer Registration (Form BD); or
- (c) The Uniform Application for Investment Adviser Registration (Form ADV).

Sec. 14. NAC 90.325 is hereby amended to read as follows:

90.325 Registration materials for the Uniform Securities Agent State Law Examination (Series 63), the Uniform Investment Adviser Examination (Series 65) and the Uniform Combined State Law Examination (Series 66) may be obtained from the National Association of Securities Dealers, ~~9513~~ 9509 Key West Avenue, Rockville, Maryland 20850 ~~3389~~, or *from the National Association of Securities Dealers at the Internet address <http://www.nasdr.com/5200_explan.asp>.*

Sec. 15. NAC 90.327 is hereby amended to read as follows:

90.327 1. A broker-dealer, ~~or~~ sales representative, *investment adviser or representative of an investment adviser* who engages in any of the following acts or practices shall be deemed to have engaged in an unethical or dishonest practice within the meaning of paragraph (h) of subsection 1 of NRS 90.420:

- (a) Engaging in any act or practice enumerated in NAC 90.328.
- (b) In connection with any solicitation of the sale or purchase of a security that is not included in the ~~NASDAQ~~ *Nasdaq* or listed or approved for listing on a securities exchange

described in paragraph (g) of subsection 2 of NRS 90.520, failing promptly to provide information requested by a customer, such as:

- (1) The current prospectus concerning an offering;
- (2) The most recently filed periodic report filed pursuant to section 13 of the Securities Exchange Act of 1934; or
- (3) Any information required by Rule 15c2-11 of the Securities and Exchange Commission.

(c) Marking any order ticket or confirmation as unsolicited if the transaction is solicited.

(d) Failing to comply with any applicable provision of:

(1) The *Conduct* Rules ~~[of Fair Practice of the National Association of Securities Dealers;]~~ *as adopted by reference in section 6 of this regulation;* or

(2) Any applicable rule of ~~[fair practice]~~ *conduct* or ethical standard promulgated by:

(I) The Securities and Exchange Commission; ~~[or]~~

(II) A self-regulatory organization approved by the Securities and Exchange Commission ~~[.];~~ *or*

(III) Any other organization approved by the administrator by written order.

(e) Receiving compensation in connection with referring a customer to an unlicensed investment adviser who is required to be licensed in this state.

2. The provisions of this section are not all-inclusive. ~~[; any]~~ *Any* act or practice not enumerated in subsection 1 may also be deemed an unethical or dishonest practice within the meaning of NRS 90.420.

Sec. 16. NAC 90.328 is hereby amended to read as follows:

90.328 1. A broker-dealer, ~~or~~ sales representative, *investment adviser* or *representative of an investment adviser* who engages in any of the following acts or practices shall be deemed to have engaged in an act, practice or course of business which operates or would operate as a fraud within the meaning of NRS 90.570:

(a) Entering into a transaction with a customer in any security at an unreasonable price or at a price not reasonably related to the current market price of the security.

(b) Receiving an unreasonable commission or profit in a transaction with a customer in any security.

(c) Contradicting or negating the importance of any information contained in a prospectus or other offering materials with the intent to deceive or mislead another person.

(d) Using any advertising or sales presentation in a deceptive or misleading manner.

(e) In connection with the offer, sale or purchase of a security, falsely leading a customer to believe that the broker-dealer, ~~or~~ sales representative, *investment adviser or representative of an investment adviser* is in possession of material information, not available to the public, which would affect the value of the security.

(f) In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations concerning the sale or purchase to different investors with similar investment objectives, if the recommendations:

(1) Are made at or about the same time; and

(2) Are not justified by the particular circumstances of each investor.

(g) Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other acts:

(1) Transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that the securities will be returned to the broker-dealer or his nominee; or

(2) Parking or withholding securities.

(h) In connection with the solicitation of the purchase or sale of any equity security traded over the counter, other than a security included in the *Nasdaq* National Market : ~~System or the NASDAQ;~~

(1) Recommending any speculative low-priced security to a customer without attempting to obtain information about:

(I) The other securities held by the customer;

(II) The financial situation of the customer; and

(III) Other data necessary to determine the suitability of the investment for the customer;

(2) Failing to disclose the firm's bid and ask price of a particular security:

(I) At the time of solicitation; and

(II) At the time of execution on the confirmation;

(3) If the firm is a market maker at the time of the solicitation, failing to disclose, both at the time of solicitation and on the confirmation in connection with a principal transaction, a short inventory position in the firm's account of more than 5 percent of the issued and outstanding shares of that class of securities of the issuer;

(4) Conducting any sale contests in a security;

(5) Failing or refusing, in connection with a principal transaction, to promptly execute a sell order after a solicited purchase by a customer;

(6) Soliciting a secondary market transaction if the broker-dealer, ~~or~~ sales representative, *investment adviser or representative of an investment adviser* knows or should know that there has not been a bona fide distribution in the primary market;

(7) Effecting any transaction in or inducing the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance, including, without limitation, the use of boiler room tactics or a fictitious or nominee account; or

(8) Failing to comply with any requirement for delivery of a prospectus promulgated under state or federal law.

FLUSH Nothing in this paragraph shall be deemed to preclude application of the general anti-fraud provisions of chapter 90 of NRS against any person for any practice similar in nature to the practices described in this paragraph.

2. The provisions of this section are not all-inclusive. ~~Any~~ Any act or practice not enumerated in subsection 1 may also be deemed an act, practice or course of business which operates or would operate as a fraud within the meaning of NRS 90.570.

Sec. 17. NAC 90.329 is hereby amended to read as follows:

90.329 A broker-dealer, ~~or~~ sales representative, *investment adviser or representative of an investment adviser* shall notify a customer in writing at least 30 days before assessing any new charges for services performed. The notice must be placed on the front of the account statement or other document containing the notice. The notice must be printed in a type size which is equal to the type used to print any statement of charges or fees sent to the customer.

Sec. 18. NAC 90.3294 is hereby amended to read as follows:

90.3294 *1.* The licensing requirements of NRS 90.330 do not apply to a federal covered adviser if the federal covered adviser ~~is~~

~~—1. Has less than six clients in this state other than those clients listed pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 90.340; or~~
~~—2. Files with the administrator Form ADV, as prescribed by the Securities and Exchange Commission, and pays to the administrator of fee of \$150.}] *complies with the requirements set forth in this section.*~~

2. Except as otherwise provided in subsection 3, a federal covered adviser shall file a notice with the administrator in the manner set forth in section 4 of this regulation. The notice must consist of:

(a) An executed Uniform Application for Investment Adviser Registration (Form ADV);
and

(b) The fee required by NRS 90.360 for an investment adviser.

3. If the depository designated or approved pursuant to subsection 1 of section 4 of this regulation does not allow the filing of Part 2 of Form ADV and the administrator so requests, the federal covered adviser shall submit Part 2 of Form ADV to the administrator within 5 days after the administrator requests the federal covered adviser to submit the form.

4. A federal covered adviser must renew the notice required by subsection 2 annually, on or before December 31, by paying the fee required by NRS 90.360 for an investment adviser to the administrator in the manner set forth in section 4 of this regulation.

5. A federal covered adviser shall file with the administrator in the manner set forth in section 4 of this regulation any amendments to the most recent Form ADV filed by the federal covered adviser that are required by the instructions set forth in Form ADV.

Sec. 19. NAC 90.330 is hereby amended to read as follows:

90.330 1. An applicant for licensing as a broker-dealer who is not registered with the National Association of Securities Dealers must *pay to the office of the administrator the fee required by NRS 90.360 and file an application with the office of the administrator. The application must* include : ~~{in his application:}~~

- (a) The Uniform Application for Broker-Dealer Registration (Form BD);
- (b) The Uniform Consent to Service of Process (Form U-2);
- (c) A balance sheet prepared in the manner prescribed in NAC 90.335;
- (d) A certificate that he has qualified to do business in this state, if qualification is required by NRS 80.010;
- (e) A fidelity bond in the amount of \$10,000, issued by a corporate surety qualified to do business in this state, or proof of membership in the Securities Investor Protection Corporation;
- (f) The Uniform Application for Securities Industry Registration or Transfer (Form U-4) for a designated official of the applicant; and
- (g) Proof of successful completion by one or more designated employees of the applicant of:
 - (1) The Uniform Securities Agent State Law Examination (Series 63) or the Uniform Combined State Law Examination (Series 66); and
 - (2) Any principal examination required by the National Association of Securities Dealers for registration of the applicant.

2. The original signature of the applicant must be used on the Uniform Application for Broker-Dealer Registration (Form BD) and the Uniform Consent to Service of Process (Form U-2) required by paragraphs (a) and (b) of subsection 1.

3. An applicant for licensing as a broker-dealer who is registered with the National Association of Securities Dealers must:

(a) File with the central registration depository the documents required for ~~[registration]~~ *licensing* pursuant to paragraphs (a) to (d), inclusive, of subsection 1; and

(b) Pay to the central registration depository the fees required by NRS 90.360.

Sec. 20. NAC 90.345 is hereby amended to read as follows:

90.345 1. *The license of a broker-dealer expires on December 31 of each year.* A broker-dealer ~~[shall]~~ *must* renew his license annually by paying the fee required by NRS 90.360 and, if the provisions of subsection 2 are applicable to him, by filing the documents required by that subsection. Except as otherwise provided in subsection 3, the fee must be paid to *and the documents must be filed with the office of* the administrator ~~[and the documents filed with him]~~ on or before December 31.

2. A broker-dealer who is not registered with the National Association of Securities Dealers, or who is not registered under the Securities Exchange Act of 1934, ~~[shall file:]~~ *must file with the office of the administrator:*

(a) A written request for renewal of his license; and

(b) A fidelity bond, in a form acceptable to the administrator, or proof of membership in the Securities Investor Protection Corporation.

3. A broker-dealer who is a member of the National Association of Securities Dealers ~~[shall]~~ *must* pay the fee required by NRS 90.360 to the central registration depository on or before December 31.

Sec. 21. NAC 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 2, a broker-dealer who withdraws from licensing in this state shall file with the *office of the* administrator the Uniform Request for Withdrawal From Registration as a Broker-Dealer (Form BDW).

2. If a broker-dealer who withdraws from licensing is a member of the National Association of Securities Dealers and is withdrawing from licensing in all states in which he is licensed, he shall file the request for withdrawal with the central registration depository.

Sec. 22. NAC 90.352 is hereby amended to read as follows:

90.352 For the purposes of subsection 5 of NRS 90.390, the administrator hereby adopts by reference:

1. ~~1. The rules adopted by the National Association of Securities Dealers for the maintenance of books and records, as set forth in section 21 of Article III of that association's Rules of Fair Practice, as the rules in that section existed on December 7, 1993. Each licensed broker-dealer shall comply with the provisions of those rules, regardless of whether he is a member of that association.~~

~~—2.]~~ The Statement of Policy on Unethical Business Practices of Investment Advisers ~~[of]~~, *as adopted by the North American Securities Administrators Association [as adopted]* on April 5, 1985, *and amended by that association on April 27, 1997*, and published in ~~[paragraph 1301 of]~~ the Commerce Clearing House NASAA Reports.

2. Model Rule 203(a)(2), Alternative 2, Recordkeeping Requirements for Investment Advisers, as adopted by the North American Securities Administrators Association on May 3, 1998.

3. The provisions of 17 C.F.R. § 275.204-2, as adopted by the Securities and Exchange Commission pursuant to the Investment Company Act of 1940. ~~[as those provisions existed on October 20, 1988.]~~

4. The provisions of 17 C.F.R. § 275.204-3, as adopted by the Securities and Exchange Commission pursuant to the Investment Company Act of 1940. ~~[, as those provisions existed on May 25, 1982.]~~

Sec. 23. NAC 90.353 is hereby amended to read as follows:

90.353 1. ~~[The Rules of Fair Practice adopted by the National Association of Securities Dealers are contained in the manual of that association. The manual is available for the price of \$110 from the National Association of Securities Dealers, Information, Membership Kit and Book Order Department, 9513 Key West Avenue, Rockville, Maryland 20850.~~

~~—2.]~~ The Statement of Policy on Unethical Business Practices of Investment Advisers of the North American Securities Administrators Association ~~[.]~~ *and Model Rule 203(a)(2)*, as adopted by reference in ~~[subsection]~~ *subsections 1 and 2* of NAC 90.352, ~~[is]~~ *are* available, *free of charge*, from the North American Securities Administrators Association, ~~[One Massachusetts Avenue, N.W., Suite 310, Washington, D.C. 20001, at no charge.~~

~~—3.]~~ *10 G Street, N.E., Suite 710, Washington, D.C. 20002. The Statement of Policy on Unethical Business Practices of Investment Advisers and Model Rule 203(a)(2) are also available, free of charge, from the North American Securities Administrators Association at the Internet address <http://www.nasaa.org/nasaa/scripts/fu_display_list.asp?ptid=142> and at the Internet address <http://www.nasaa.org/nasaa/scripts/fu_display_list.asp?ptid=82>, respectively.*

2. The provisions of 17 C.F.R. § 275.204-2 and 17 C.F.R. § 275.204-3, as adopted by reference in subsections 3 and 4 of NAC 90.352, are available from the ~~[Securities and Exchange Commission, Public Reference Branch, 450 Seventh Street, N.W., Washington, D.C. 20549,]~~ *Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954*, for the

price of ~~[24 cents per page, plus tax and postage.]~~ *\$55. Those provisions are also available, free of charge, from the Government Printing Office at the Internet address <http://www.access.gpo.gov/nara/cfr/index.html>.*

Sec. 24. NAC 90.354 is hereby amended to read as follows:

90.354 The administrator will periodically review:

1. ~~[The Rules of Fair Practice, as adopted by reference in subsection 1 of NAC 90.352; —2.]~~ The Statement of Policy on Unethical Business Practices of Investment Advisers of the North American Securities Administrators Association, as adopted by reference in subsection ~~[2]~~ *1* of NAC 90.352;

2. Model Rule 203(a)(2), as adopted by reference in subsection 2 of NAC 90.352;

3. The provisions of 17 C.F.R. § 275.204-2, as adopted by reference in subsection 3 of NAC 90.352; and

4. The provisions of 17 C.F.R. § 275.204-3, as adopted by reference in subsection 4 of NAC 90.352,

FLUSH and determine within 30 days after the review whether any change made to the rules or statement is appropriate for application in this state. If the administrator does not disapprove a change to an adopted rule or statement within 30 days after the review, the change is deemed to be approved by the administrator.

Sec. 25. NAC 90.360 is hereby amended to read as follows:

90.360 1. The license of a sales representative terminates upon the withdrawal, cancellation or termination of his employment or contractual relationship with a broker-dealer. Except as otherwise provided in subsection 2, the sales representative, broker-dealer or issuer

shall file with the office of the administrator the Uniform Termination Notice for Securities Industry Registration (Form U-5).

2. In the case of the termination, cancellation or withdrawal of a sales representative who is a member of the National Association of Securities Dealers, the notice referred to in subsection 1 must be submitted by the broker-dealer to the central registration depository.

3. A sales representative whose employment or contractual relationship with a broker-dealer ceases and who intends to continue to transact business in this state as a sales representative must file a new application for a license, together with the required fee. If the sales representative is applying for a license with a broker-dealer who is a member of the National Association of Securities Dealers, the application and fee may be processed through the ~~temporary agent transfer~~ *relicensing* program of the ~~North American Securities Administrators Association and the~~ central registration depository.

Sec. 26. NAC 90.365 is hereby amended to read as follows:

90.365 1. *The license of a sales representative expires on December 31 of each year.*

Except as otherwise provided in subsection 2, a sales representative ~~shall~~ *must* renew his license annually by paying to the administrator the fee required by NRS 90.360 and filing with the administrator a written request for renewal of his license. The fee must be paid and the request for renewal filed on or before December 31.

2. If the sales representative is licensed for a broker-dealer who is a member of the National Association of Securities Dealers, no request for renewal is required and the fee required by NRS 90.360 must be paid to the central registration depository on or before December 31.

Sec. 27. NAC 90.371 is hereby amended to read as follows:

90.371 1. A person desiring to transact business as an assistant sales representative must apply to the administrator for licensure.

2. An applicant for licensure as an assistant sales representative must include in his application the Uniform Application for Securities Industry Registration or Transfer (Form U-4) with his original signature and:

(a) Proof of successful completion of the National Association of Securities Dealers Qualification Examination for Assistant Representatives-Order Processing (Series 11); or

(b) Proof of waiver of that examination.

3. Such an applicant must pay ~~[an annual licensing fee of \$55.]~~ *the fee required by NRS 90.360 for a sales representative.*

4. If an applicant is to be licensed for a broker-dealer who is a member of the National Association of Securities Dealers, the documents and fee required by this section must be filed with and paid to the central registration depository. In any other case, the documents and the fee must be filed with and paid to the administrator.

5. The license of an assistant sales representative expires on December 31 of each year. An assistant sales representative must renew his license annually, on or before December 31, by paying the fee required by NRS 90.360 for a sales representative.

Sec. 28. NAC 90.375 is hereby amended to read as follows:

90.375 1. An applicant for ~~[licensing]~~ *an initial license* as an investment adviser must *file an application with the administrator in the manner set forth in section 4 of this regulation.*

The application must include : ~~[in his application:~~

~~—1.]~~ (a) The Uniform Application for Investment Adviser Registration (Form ADV),

~~[including:~~

~~—(a) The name of each representative of an investment adviser employed by the investment adviser; and~~

~~—(b) All other information and exhibits required for that application.~~

~~—2. The Uniform Consent to Service of Process (Form U-2).~~

~~—3. Proof of] *completed in accordance with the instructions accompanying that application;*~~

(b) Proof:

(1) Of successful completion by the applicant, if he is a natural person, or by an owner, officer or director of the applicant if the applicant is not a natural person, of [the] :

(I) The Uniform Investment Adviser Law Examination (Series 65) ; or [the]

(II) The Uniform Combined State Law Examination (Series 66) [by the applicant, if he is a natural person, or by an owner, officer or director of the applicant in any other case.

~~—4.] and the General Securities Registered Representative Examination (Series 7); or~~

(2) That the applicant, if he is a natural person, or an owner, officer or director of the applicant if the applicant is not a natural person, holds a professional designation listed in subsection 3 of NAC 90.391;

(c) The Uniform Application for Securities Industry Registration or Transfer (Form U-4) which is signed by the person submitting proof [of successful completion] of the [Series 65 or 66 examination required pursuant to subsection 1.

~~—5. A certificate that he has qualified to do business in this state, if qualification is required by NRS 80.010.~~

FLUSH ~~The original signature of the applicant must be used on the Uniform Application for Investment Adviser Registration (Form ADV) and the Uniform Consent to Service of Process (Form U-2)~~

~~required by subsections 1 and 2. The documents required by this section and the fee required by NRS 90.360 must be filed with and paid to the administrator.]~~ *requirements set forth in paragraph (b); and*

(d) Such other information as the administrator may reasonably require.

2. In addition to the requirements set forth in subsection 1, an applicant for an initial license as an investment adviser must pay the fee required by NRS 90.360 to the administrator in the manner set forth in section 4 of this regulation.

Sec. 29. NAC 90.380 is hereby amended to read as follows:

90.380 *1. The license of an investment adviser expires on December 31 of each year.* An investment adviser ~~[shall]~~ *must* renew his license annually , *on or before December 31*, by paying the fee required by NRS 90.360 ~~[and by filing with the administrator a copy of his most recent annual report (Form ADV-S). The fee must be paid]~~ to the administrator ~~[and the report filed with him on or before December 31.]~~ *in the manner set forth in section 4 of this regulation.*

2. An investment adviser shall file with the administrator in the manner set forth in section 4 of this regulation any amendments to the most recent Form ADV filed by the investment adviser that are required by the instructions set forth in the Uniform Application for Investment Adviser Registration (Form ADV) within 30 days after the event that requires the filing of the amendment.

3. Within 90 days after the end of the fiscal year, an investment adviser must file an updated Form ADV with the administrator in the manner set forth in section 4 of this regulation.

Sec. 30. NAC 90.385 is hereby amended to read as follows:

90.385 An investment adviser who withdraws from licensing shall file with the administrator , *in the manner set forth in section 4 of this regulation*, the Uniform Notice of Withdrawal From Registration as an Investment Adviser (Form ADV-W).

Sec. 31. NAC 90.387 is hereby amended to read as follows:

90.387 *1. Except as otherwise provided in subsection 2, an investment adviser licensed or required to be licensed pursuant to NRS 90.330 shall comply with the provisions of:*

(a) Model Rule 203(a)(2), as adopted by reference in subsection 2 of NAC 90.352;

(b) 17 C.F.R. § 275.204-2, as adopted by reference in subsection 3 of NAC 90.352; and

(c) 17 C.F.R. § 275.204-3, as adopted by reference in subsection 4 of NAC 90.352.

2. An investment adviser who has his principal place of business in a state other than this state shall maintain and preserve only such books and records as are required by the state in which the investment adviser maintains his principal place of business, if the investment adviser is licensed in that state and is in compliance with that state's requirements for the preservation of books and records.

Sec. 32. NAC 90.390 is hereby amended to read as follows:

90.390 *1.* Unless he is exempt from registration under the Investment Advisers Act of 1940, an investment adviser who is not registered under that Act, and who takes or retains custody of securities or money of a client, shall ~~maintain~~ :

(a) Maintain net capital of not less than \$20,000 or a tangible net worth of not less than \$35,000 ~~};~~ *and*

(b) Promptly submit to the office of the administrator a copy of the certificate of an accountant that is required to be filed with the Securities and Exchange Commission pursuant to 17 C.F.R. § 275.206(4)-2.

2. As used in subsection 1, “tangible net worth” means the net worth of the investment adviser, reduced by the total of:

(a) Prepaid expenses, except items properly classified as current assets under generally accepted accounting principles;

(b) Deferred charges;

(c) The value of his intangible assets, including goodwill, franchises, organizational expenses, and unamortized debt discount and expense;

(d) In the case of a natural person, the value of his personal property which is not readily marketable and the fair market value of his homes, furnishings and automobiles, less any indebtedness secured by such property, to the extent that the indebtedness is not greater than the carrying value of the property;

(e) In the case of a corporation, advances or loans to stockholders or officers; and

(f) In the case of a partnership, advances or loans to partners.

3. An investment adviser who has a principal place of business in a state other than this state shall maintain only such minimum capital as is required by the state in which the adviser maintains his principal place of business, if the investment adviser is licensed in that state and is in compliance with that state’s requirements for minimum capital.

Sec. 33. NAC 90.391 is hereby amended to read as follows:

90.391 1. ~~[A person desiring to transact business]~~ *An applicant for an initial license* as a representative of an investment adviser must ~~[apply to]~~ *file an application with* the administrator ~~[for licensure.]~~ *in the manner set forth in section 4 of this regulation.*

2. Except as otherwise provided in ~~subsection 4, an applicant for a license as a representative of an investment adviser~~ *subsections 3 and 5, the application* must include : ~~in his application:~~

- (a) The Uniform Application for Securities Industry Registration or Transfer (Form U-4); and
- (b) Proof of successful completion by the applicant of ~~the~~ :

(1) The Uniform Investment Adviser Law Examination (Series 65) ; or ~~the~~

(2) The Uniform Combined State Law Examination (Series 66) ~~;~~ and the General Securities Registered Representative Examination (Series 7).

3. *The examination requirements set forth in subsection 2 do not apply to a person who includes in his application proof that he:*

(a) Is certified as a Certified Financial Planner (CFP) by the Certified Financial Planner Board of Standards, Inc.;

(b) Is designated as a Chartered Financial Consultant (ChFC) by The American College located in Bryn Mawr, Pennsylvania;

(c) Is designated as a Personal Financial Specialist (PFS) by the American Institute of Certified Public Accountants;

(d) Is designated as a Chartered Financial Analyst (CFA) by the Association for Investment Management and Research;

(e) Is designated as a Chartered Investment Counselor (CIC) by the Investment Counsel Association of America, Inc.; or

(f) Holds such other professional designation as the administrator may recognize by order.

4. An applicant for a license as a representative of an investment adviser must pay *the fee required by NRS 90.360* to the administrator ~~;~~

~~—(a) An initial fee of \$55; and~~

~~—(b) Thereafter, an annual renewal fee of \$55 on or before December 31.~~

~~—4. A person registered] in the manner set forth in section 4 of this regulation.~~

5. In addition to the information required by subsection 2 and the fee required by subsection 4, a person licensed as a sales representative of a [registered broker-dealer that] broker-dealer who is registered with the National Association of Securities Dealers and is also a [registered] licensed investment adviser in this state or is the affiliate of such a [registered] licensed investment adviser, must [file an] include his central registration depository number in his application for an initial [registration] license as a representative of an investment adviser . [with the division which must contain the name and central registration depository number of the applicant. The applicant for such a license must pay to the administrator :

~~—(a) An initial fee of \$55; and~~

~~—(b) Thereafter, an annual renewal fee of \$55 on or before December 31.~~

~~—5. An application for the renewal of the registrations of the representatives of an investment adviser must be filed by the investment adviser not more than 60 days before December 31 and must contain:~~

~~—(a) A list of the names of the representatives of the investment adviser; and~~

~~—(b) For representatives of the investment adviser who are also registered sales representatives, the central registration depository number of those representatives.~~

FLUSH ~~The application must be accompanied by the applicable renewal fee for each listed representative of the investment adviser.]~~

Sec. 34. NAC 90.3915 is hereby amended to read as follows:

90.3915 1. The license of a representative of an investment adviser terminates upon the withdrawal, cancellation or termination of his employment *or contractual relationship* with an investment adviser. The investment adviser shall file the Uniform Termination Notice for Securities Industry Registration (Form U-5) with the administrator , *in the manner set forth in section 4 of this regulation*, upon the withdrawal, cancellation or termination of his employment of *or contractual relationship with* a representative of an investment adviser.

2. A representative of an investment adviser whose employment *or contractual relationship* with an investment adviser ceases and who intends to transact business in this state as a representative of an investment adviser with another investment adviser must file a new application for a license, together with the required fee.

Sec. 35. NAC 90.392 is hereby amended to read as follows:

90.392 1. A broker-dealer who maintains a branch office must obtain a license from the division before doing business at that office.

2. A broker-dealer who desires to obtain the license required by this section must:

(a) File an Application for Licensing of a Branch Office (Nevada Form 360-2);

(b) Be licensed in this state as a broker-dealer and, if qualification is required by NRS 80.010, be qualified to do business in this state; and

(c) Pay a fee of \$50. ~~After the issuance of the initial license, this fee must be paid annually on or before December 31.~~

3. If any change occurs in the information set forth in an application made pursuant to this section, the applicant shall, within 30 days after the change, file an ~~amended application~~ *Amendment to Registration of a Branch Office (Nevada Form 360-2A)* and pay a fee of \$25.

4. A license obtained pursuant to this section expires on December 31 of each year. The license must be renewed annually on or before December 31 by paying a fee of \$50.

Sec. 36. NAC 90.403 is hereby amended to read as follows:

90.403 1. The Small ~~[Corporate]~~ *Company* Offering Registration ~~[]~~ *Form* (Form U-7), as adopted by the North American Securities Administrators Association, may be used as a prospectus for the purposes of any requirement for a prospectus contained in this chapter or chapter 90 of NRS if the minimum offering price per share is equal to or more than \$1 per share. An offering submitted in connection with Rule 504 of Regulation D of the Securities and Exchange Commission must be submitted on Form U-7.

2. Each Form U-7 so submitted must be completed in conformance with the uniform instructions accompanying the form.

3. An issuer who uses Form U-7 in connection with an offering pursuant to Rule 504 of Regulation D of the Securities and Exchange Commission may elect in writing to participate in the Western Regional Review, as administered by the North American Securities Administrators Association.

4. Form U-7 may be obtained from the North American Securities Administrators Association or the office of the administrator in the manner described in NAC 90.315.

Sec. 37. NAC 90.410 is hereby amended to read as follows:

90.410 ~~[The administrator may issue an order pursuant to NRS 90.510 denying or revoking the effectiveness of a registration statement which has been abandoned. A statement shall be deemed abandoned if its effectiveness is delayed or suspended for any cause and, during the 120 days following the delay or suspension, no communication concerning the registration is received by the administrator.]~~ *A registration statement shall be deemed abandoned if the*

registration statement does not become effective within 1 year after the date on which the registration statement is filed with the administrator. A registration statement that has been deemed abandoned pursuant to this section must not be reinstated. An applicant who wishes to register securities under a registration statement that has been deemed abandoned pursuant to this section must file a new registration statement that includes the filing fee required by NRS 90.500 and the documents required to be filed pursuant to:

- 1. NRS 90.470 and NAC 90.420;*
- 2. NRS 90.480 and NAC 90.440; or*
- 3. NRS 90.490 and NAC 90.460,*

as applicable.

FLUSH

Sec. 38. NAC 90.420 is hereby amended to read as follows:

90.420 ~~[1.—Except as otherwise provided in subsection 2, a]~~ A registration statement filed pursuant to NRS 90.470 must be accompanied by:

- ~~[(a)]~~ *1.* The Uniform Application to Register Securities (Form U-1);
- ~~[(b)]~~ *2.* The Uniform Consent to Service of Process (Form U-2);
- ~~[(c)]~~ *3. The Uniform Corporate Resolution (Form U-2A);*

4. A copy of the final offering prospectus or, pending preparation of the final prospectus, a copy of the preliminary prospectus; and

~~[(d)]~~ *5.* Any other document or information requested by the administrator in writing before the effective date of the offering.

~~[2.—Except as the administrator may direct, the exhibits accompanying the Uniform Application to Register Securities (Form U-1) need not be filed.]~~

Sec. 39. NAC 90.422 is hereby amended to read as follows:

90.422 1. Any document which must be filed pursuant to NRS 90.470 to 90.500, inclusive, or 90.520 may be filed with the securities registration depository or any other system for the electronic registration of securities which is approved by the administrator ~~[]~~ *by order.*

2. If a document is filed pursuant to subsection 1, any fee required by NRS 90.500 or 90.520 may be paid by the electronic transfer of money to the system for the electronic registration of securities with which the document was filed.

3. As used in this section, "securities registration depository" means the system for the electronic registration of securities that is owned and operated by SRD, Inc., or its successor.

Sec. 40. NAC 90.440 is hereby amended to read as follows:

90.440 ~~[1.—Except as otherwise provided in subsection 2, a]~~ A registration statement filed pursuant to NRS 90.480 must be accompanied by:

~~[(a)]~~ *1.* The Uniform Application to Register Securities (Form U-1);

~~[(b)]~~ *2.* The Uniform Consent to Service of Process (Form U-2);

~~[(c)]~~ *3. The Uniform Corporate Resolution (Form U-2A);*

4. A copy of the final offering prospectus or, pending preparation of the final prospectus, a copy of the preliminary prospectus; and

~~[(d)]~~ *5.* Any other document or information requested by the administrator in writing before the effective date of the offering.

~~[2.—Except as the administrator may direct, the exhibits accompanying the Uniform Application to Register Securities (Form U-1) need not be filed.]~~

Sec. 41. NAC 90.460 is hereby amended to read as follows:

90.460 A registration statement filed pursuant to NRS 90.490 must be accompanied by:

1. The Uniform Application to Register Securities (Form U-1), including the exhibits required by that application;
2. The Uniform Consent to Service of Process (Form U-2);
3. *The Uniform Corporate Resolution (Form U-2A)*;
4. A copy of the final offering prospectus or , pending preparation of the final prospectus, a copy of the preliminary prospectus;
- ~~4.~~ 5. A copy of the articles of incorporation and bylaws or their substantial equivalents, as applicable, which are currently in effect;
- ~~5.~~ 6. A copy of any agreement with or among the underwriters;
- ~~6.~~ 7. A copy of any indenture or other instrument governing the issuance of the security to be registered;
- ~~7.~~ 8. A copy, specimen or description of the security;
- ~~8.~~ 9. A signed or conformed copy of an opinion of counsel as to the legality of the security being registered, with an English translation if it is in a foreign language, which states whether the security when sold will be legally issued, fully paid and nonassessable and, if a debt security, a binding obligation of the issuer; and
- ~~9.~~ 10. Any other document or information requested by the administrator in writing before the effective date of the offering.

Sec. 42. NAC 90.475 is hereby amended to read as follows:

90.475 1. The provisions of NAC 90.475 to 90.490, inclusive, are applicable to the registration pursuant to NRS 90.480 or 90.490 of any security issued by a development stage company. As used in this subsection, “ development stage company ” means an issuer which has

no public market for its securities and no significant earnings or revenues from continuing operations during the last 5 years or any shorter period of its existence.

2. For the purposes of subsection 1:

(a) “Public market ” does not include any thin market which does not result in reliable prices.

In determining whether a market is a public market, the administrator may consider:

- (1) The history of the market;
- (2) The public trading volume in the market;
- (3) Any spread between bid and asked prices in the market;
- (4) The number of market makers in the market;
- (5) Public float in the market;
- (6) The pricing formula used in the market;
- (7) Inclusion of the market in the ~~NASDAQ~~ *Nasdaq*; and
- (8) Any other relevant factor.

(b) An issuer shall be deemed to have significant earnings from continuing operations if, during each of any two consecutive fiscal years during the period prescribed by subsection 1, the issuer had earnings per share equal to at least 5 percent of the initial public offering price per common share. Nothing in this paragraph shall be deemed to preclude the administrator from considering other indicators of earnings or revenues.

Sec. 43. NAC 90.483 is hereby amended to read as follows:

90.483 **1.** Not later than 60 days after the closing of the offering or the expiration of the period of effectiveness, whichever occurs first, an issuer who is a development stage company and files a registration statement pursuant to NRS 90.490 which has been declared effective in Nevada shall file with the administrator:

~~[(1)]~~ (a) A copy of all sales and promotional materials used in ~~[(the)]~~ connection with the offering; and

~~[(2)]~~ (b) A report which sets forth the:

~~[(a)]~~ (1) Amount of securities sold during the effective period of the offering;

~~[(b)]~~ (2) Consideration paid for each security; and

~~[(c)]~~ (3) Names and addresses of all purchasers.

2. If an issuer fails to file with the administrator the report described in paragraph (b) of subsection 1, the administrator may impose a sanction against the issuer pursuant to subsection 2 of NRS 90.630.

Sec. 44. NAC 90.495 is hereby amended to read as follows:

90.495 1. Except as otherwise provided in this ~~[(subsection,)]~~ *section*, a person who claims an exemption from the registration requirement of NRS 90.460 must file the required ~~[(claim of exemption)]~~ *Claim of Exemption From Securities Registration* (Nevada Form N-9), together with any other materials required pursuant to the section of statute or regulation which establishes the exemption and the stated fee. For convenience, the applicable fees and the required frequency of filing of the claim of exemption have been compiled in this section. For the purposes of this chart:

(a) The symbol “A” means that a claim of exemption and the required fee must be filed and paid initially and annually thereafter.

(b) The symbol “I” means that only an initial filing of a claim of exemption is required and that the required fee must be paid only at the initial filing of the claim of exemption.

(c) The symbol “T” means that a claim of exemption must be filed for each transaction or offering together with the required fee for each such transaction or offering.

Source of Exemption	Frequency	Fee of Filing
Exemptions established by statute		
NRS 90.520, subsection 2, paragraph (c)	\$150	A
NRS 90.520, subsection 2, paragraph (e)	150	A
NRS 90.520, subsection 2, paragraph (f)	150	A
NRS 90.520, subsection 2, paragraph (g)	150	A
NRS 90.520, subsection 2, paragraph (h)	150	A]
NRS 90.520, subsection 2, paragraph (i)	150	A
NRS 90.520, subsection 2, paragraph (j)	none	T
NRS 90.520, subsection 2, paragraph (k)	150	A
NRS 90.520, subsection 2, paragraph (n)	250	A
NRS 90.530, subsection 2	150	A
NRS 90.530, subsection 14, paragraph (b)	150	T
NRS 90.530, subsection 17, paragraph (b)	150	T

Source of Exemption	Frequency	Fee of Filing
Exemptions established by regulation		
NAC 90.515	\$150	T

NAC 90.516	150	I
NAC 90.517	150	I
NAC 90.518	150	I
NAC 90.519	150	I
NAC 90.521	150	T
NAC 90.522	150	T

2. *A person who claims an exemption from the registration requirement of NRS 90.460 pursuant to paragraph (n) of subsection 2 of NRS 90.520 must file with the administrator the Uniform Investment Company Notice Filing (Form NF) and the appropriate fee as set forth in subsection 4 of NRS 90.520.*

3. An exemption from registration not listed in this section does not require the filing of a ~~claim~~ *Claim of Exemption From Securities Registration* (Nevada Form N-9) with the administrator. Nevertheless, the burden of demonstrating the availability and applicability of such an exemption is on the person claiming the exemption.

Sec. 45. NAC 90.500 is hereby amended to read as follows:

90.500 For purposes of the exemption from registration provided by paragraph (g) of subsection 2 of NRS 90.520, a security is also exempt from registration if it is listed or approved for listing upon notice of issuance on:

1. The Chicago Board ~~of~~ Options Exchange; ~~or~~
2. Tier I of the Philadelphia Stock Exchange ~~;~~; *or*
3. *Any other exchange designated by the administrator by order.*

Sec. 46. NAC 90.505 is hereby amended to read as follows:

90.505 For purposes of the exemption from registration provided by paragraph ~~(h)~~ (k) of subsection 2 of NRS 90.520, a promissory note, draft, bill of exchange or banker's acceptance is exempt from registration if it is rated by Standard & Poor's Corporation or ~~Moody's Investors Service, Incorporated.~~ *Mergent, Inc.*

Sec. 47. NAC 90.510 is hereby amended to read as follows:

90.510 For purposes of the exemption from registration provided by subsection 3 of NRS 90.530, a transaction is exempt from registration if the information required by that subsection is contained in:

1. ~~Moody's~~ *Mergent* Industrial Manual;
2. ~~Moody's~~ *Mergent* Municipal and ~~Governmental~~ *Government* Manual;
3. ~~Moody's~~ *Mergent* Public Utility Manual;
4. ~~Moody's~~ *Mergent* Transportation Manual;
5. ~~Moody's~~ *Mergent* Bank and Finance Manual;
6. ~~Moody's~~ *Mergent* International Manual; or
7. Standard & Poor's Corporation Records.

Sec. 48. NAC 90.515 is hereby amended to read as follows:

90.515 An offering is exempt from the registration requirements of NRS 90.460 if:

1. It complies with the requirements of Regulation D of the Securities and Exchange Commission, ~~(17 C.F.R. §§ 230.501 to 230.506, inclusive, (d))~~ except for Rule 504 of that Regulation, ~~(17 C.F.R. § 230.504 ; (d))~~
2. A manually signed copy of a notice of sale of securities pursuant to Regulation D (Form D) is filed with the administrator as provided in 17 C.F.R. § 230.503;
3. A fee of \$150 is paid to the administrator; and

4. A ~~[claim of special exemption]~~ *Claim of Exemption From Securities Registration*

(Nevada Form ~~[540]~~ *N-9*) is filed with the administrator.

Sec. 49. NAC 90.516 is hereby amended to read as follows:

90.516 1. A nonissuer transaction by a sales representative licensed in this state of an outstanding security that is included or designated for inclusion in ~~[the NASDAQ, other than those listed on the National Market System or NASDAQ Bulletin Board,]~~ *The Nasdaq SmallCap Market* is exempt from the registration requirements of NRS 90.460 if:

(a) The security is sold at a price reasonably related to the current market price of the security at the time of the transaction;

(b) The security does not constitute all or part of an unsold allotment to, or subscription or participation by, a broker-dealer who is an underwriter of the security;

(c) The issuer of the security has been in continuous operation for at least 2 years before inclusion or designation for inclusion of the security in ~~[the NASDAQ,]~~ *The Nasdaq SmallCap Market;*

(d) The issuer of the security has not undergone a major reorganization, merger or acquisition during the 30 days preceding the inclusion or designation for inclusion of the security in ~~[the NASDAQ]~~ *The Nasdaq SmallCap Market* which is not reflected in ~~[the NASDAQ]~~ *The Nasdaq SmallCap Market* listing; and

(e) The issuer of the security is not in bankruptcy or in receivership at the time of the offer or sale of the security.

2. An exemption provided by this section is available if, preceding the initial use of the exemption, the person claiming the exemption:

(a) Pays a fee of \$150 to the administrator; and

(b) Files a ~~claim of exemption~~ *Claim of Exemption From Securities Registration* (Nevada Form N-9) with the administrator.

Sec. 50. NAC 90.517 is hereby amended to read as follows:

90.517 1. A nonissuer transaction by a sales representative licensed in this state of an outstanding security that is included or designated for inclusion in the ~~NASDAQ~~ *OTC* Bulletin Board *as operated by the National Association of Securities Dealers* or the American Stock Exchange Emerging Company Marketplace is exempt from the registration requirements of NRS 90.460 if:

(a) The security is sold at a price reasonably related to the current market price of the security at the time of the transaction;

(b) The security does not constitute all or part of an unsold allotment to, or subscription or participation by, a broker-dealer who is an underwriter of the security;

(c) The issuer of the security has been in continuous operation for at least 5 years before inclusion or designation for inclusion of the security in the ~~NASDAQ~~ *OTC* Bulletin Board or American Stock Exchange Emerging Company Marketplace;

(d) The issuer has not undergone a major reorganization, merger or acquisition during the 120 days preceding the inclusion or designation for inclusion of the security in the ~~NASDAQ~~ *OTC* Bulletin Board or American Stock Exchange Emerging Company Marketplace which is not reflected in the ~~NASDAQ~~ *OTC* Bulletin Board or American Stock Exchange Emerging Company Marketplace listing;

(e) The issuer of the security is not in bankruptcy or in receivership at the time of the offer or sale of the security; and

(f) The security has been, except as otherwise provided in subsection 2, outstanding for at least 2 years before inclusion in the ~~[NASDAQ]~~ *OTC* Bulletin Board or American Stock Exchange Emerging Company Marketplace and:

(1) Was part of an initial public offering which was registered in any state as a Small ~~[Corporate]~~ *Company* Offering Registration using the ~~[Uniform Limited Offering Circular]~~ *Small Company Offering Registration Form* (Form U-7), as adopted by the North American Securities Administrators Association; or

(2) Was registered for sale in any state as a Regulation A filing with the Securities and Exchange Commission.

2. In the case of an insider, promoter or control person of the issuer or an affiliate of such an insider, promoter or control person, the security must have been held for at least 3 years before inclusion in the ~~[NASDAQ]~~ *OTC* Bulletin Board or American Stock Exchange Emerging Company Marketplace.

3. An exemption provided by this section is available if, preceding the initial use of the exemption, the person claiming the exemption:

(a) Pays a fee of \$150 to the administrator; and

(b) Files a ~~[claim of exemption]~~ *Claim of Exemption From Securities Registration* (Nevada Form N-9) with the administrator.

Sec. 51. NAC 90.519 is hereby amended to read as follows:

90.519 ~~[1.—A security, including a revenue obligation, issued by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or~~

~~other instrumentality of one or more states or their political subdivisions, which is payable solely from the revenues to be received from an enterprise is exempt from the registration provisions of NRS 90.460 if:~~

~~—(a) The enterprise which is obligated for payment of the principal and interest on the security is entirely owned or operated by the governmental entity or political subdivision issuing the security;~~

~~—(b) The enterprise which is obligated for payment of the principal and interest on the security is performing a governmental function, including, but not limited to, the financing of student loans, single family residential mortgage loans, low income housing, nonprofit health care facilities, public or private schools, facilities for the disposal of solid waste or the generation and sale of electricity; and~~

~~—(c) The enterprise which is obligated for payment of the principal and interest on the security or the governmental entity or political subdivision which issued the security is legally authorized to adjust charges to cover the payment of principal and interest on the security and has contracted to do so.~~

~~—2.—An exemption provided by this section is available if, preceding the initial use of the exemption, the person claiming the exemption:~~

~~—(a) Pays a fee of \$150 to the administrator;~~

~~—(b) Files a claim of exemption (Nevada Form N-9) with the administrator; and~~

~~—(c) Submits with the claim of exemption a copy of the preliminary official statement or other disclosure document regarding the security. The person claiming the exemption shall mark or otherwise index the statement or document to indicate the portions of the statement or document that evidence compliance with the conditions set forth in subsection 1.] *An issuer or a person*~~

acting on behalf of an issuer of a security described in paragraph (a) of subsection 2 of NRS 90.520, other than a security issued by this state or an agency, instrumentality or political subdivision of this state, shall file with the administrator not later than the date of the first offer or sale of the security in this state, whichever occurs earlier, a Claim of Exemption From Securities Registration (Nevada Form N-9) and a fee of \$150 if the issuer would have been required to register the security with the administrator before the enactment of the National Securities Markets Improvement Act of 1996, Public Law 104-290, unless the security or the transaction would have been exempt from registration pursuant to NRS 90.520 or 90.530 before the date of enactment of that act.

Sec. 52. NAC 90.081, 90.326 and 90.338 are hereby repealed.

Sec. 53. 1. On or before October 1, 2002, each investment adviser licensed or required to be licensed pursuant to NRS 90.330 shall resubmit electronically with the depository designated or approved pursuant to subsection 1 of section 4 of this regulation the Uniform Application for Investment Adviser Registration (Form ADV) required to be filed with the administrator pursuant to NAC 90.375.

2. On or before October 1, 2002, an investment adviser who has resubmitted electronically Form ADV, as required by subsection 1, shall file electronically with the depository designated or approved pursuant to subsection 1 of section 4 of this regulation any amendments to Form ADV required by NAC 90.380.

3. On or before October 1, 2002, or the date on which filing for a representative of an investment adviser becomes available with the depository designated or approved pursuant to subsection 1 of section 4 of this regulation, whichever occurs later, each representative of an investment adviser licensed or required to be licensed pursuant to NRS 90.330 shall resubmit

electronically with the depository designated or approved pursuant to subsection 1 of section 4 of this regulation the Uniform Application for Securities Industry Registration or Transfer (Form U-4) required to be filed with the administrator pursuant to NAC 90.391.

TEXT OF REPEALED SECTIONS

90.081 “Securities registration depository” defined. “Securities registration depository” means the system for the electronic registration of securities which is owned and operated by SRD, Inc., 1700 North Moore Street, Suite 1215, Arlington, Virginia 22209, telephone: (703) 807-5700.

90.326 Licensing of broker-dealers and sales representatives: Exemption of person gratuitously offering or selling certain exempt securities. If no commission or other compensation is paid or given, directly or indirectly, to a person offering or selling a security which is exempt pursuant to the provisions of NAC 90.515, such a person is exempt from the licensing requirements of NRS 90.310.

90.338 Registry of market makers of initial public offerings and secondary trading involving small businesses.

1. The division shall maintain a registry of the licensed broker-dealers who are market makers of initial public offerings and secondary trading involving small businesses.

2. The division shall include a market maker on the registry if he sends a letter to the division requesting inclusion on the registry. The letter must set forth his:

- (a) Name;
- (b) Address;
- (c) Telephone number; and
- (d) Central registration depository number, if applicable.

3. A copy of the registry will be made available to any person upon written request and payment to the secretary of state, securities division, of a fee in the amount of \$1 per page of the registry, not to exceed \$10.

4. As used in this section, market maker means a licensed broker-dealer who, with respect to a particular security:

(a) Regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or

(b) Furnishes bona fide competitive bid and offer quotations on request and is ready, willing and able to effect transactions in reasonable quantities at his quoted prices with other broker-dealers.