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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Micaela Fowler, Department of Commerce, Community and Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: October 28, 2016

RE: Filed Permanent Regulations: Department of Commerce, Community and Economic Development

Update to securities regulations, including crowdfunding and small intrastate offering (3 AAC 08.086; 3 AAC 08.506; ; 3 AAC 08.520(a)(1); 3 AAC 08.810 - 3 AAC 08.895; 3 AAC 08.910(a)(A); 3 AAC 08.920(a); 3 AAC 08.950(76))

Attorney General File:	JU2016200666
Regulation Filed:	October 27, 2016
Effective Date:	November 26, 2016
Print:	220, January 2017

cc with enclosures: Linda Miller, Department of Law
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

The attached 17 pages of regulations, dealing with securities, are adopted and certified to be a correct copy of the regulation changes that the Department of Commerce, Community, and Economic Development adopts under the authority of AS 45.55.950 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Department of Commerce, Community, and Economic Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 10/24/16



Micaela Fowler, Legislative Liaison

FILING CERTIFICATION

I, Byron Mallot, Lieutenant Governor for the State of Alaska, certify that on

October 27, 2016, at 330p .m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: November 26, 2016

Register: 220, January 2017



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800
Juneau, Alaska 99811-0800
Main: 907.465.2500
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ALASKA DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

Delegation of Authority

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations, outside of the Division of Corporations, Business and Professional Licensing (CBPL), but for the Department of Commerce, Community, and Economic Development (DCCED), under the Alaska Administrative Procedure Act, is hereby delegated to:

Micaela Fowler
Legislative Liaison
Office of the Commissioner
DCCED
P.O. Box 110800
Juneau, AK 99811-0800
907-465-2503
micaela.fowler@alaska.gov

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations of the Division of Corporations, Business and Professional Licensing, under the Alaska Administrative Procedure Act, is hereby delegated to:

Janey Hovenden
Director
CBPL
DCCED
P.O. Box 110806
Juneau, AK 99811-0806
907-465-2538
janey.hovenden@alaska.gov

This Delegation of Authority will remain in effect until modified or revoked by a subsequent delegation. This Delegation supersedes and revokes all delegations preceding it.

Dated the 16th day of March, 2015



Chris Hladick
Commissioner
Department of Commerce, Community,
and Economic Development

Title 3. Commerce, Community, and Economic Development.

Part 1. Banking, Securities, Small Loans and Corporations.

Chapter 08. Securities.

Article

1. Registration, Notice, and Regulation of Broker-Dealers, Agents, State Investment Advisers, and Federal Covered Advisers, and Investment Adviser Representatives (3 AAC 08.005 – 3 AAC 08.075)
2. Registration and Notice of Securities (3 AAC 08.080 – 3 AAC 08.230)
3. Alaska Native Claims Act Corporations: Solicitation of Proxies (3 AAC 08.300 – 3 AAC 08.365)
4. “Regulation D” Registration and Notice Procedure (3 AAC 08.500 – 3 AAC 08.540)
5. Small Corporate Offering Registration SCOR Procedure (3 AAC 08.600 – 3 AAC 08.650)
6. Viatical Settlement Interests (3 AAC 08.700 – 3 AAC 08.740)
7. [GENERAL PROVISIONS (3 AAC 08.900 – 3 AAC 08.950)] **Small Intrastate Securities Offerings (3 AAC 08.810 – 3 AAC 08.895)**
- 8. General Provisions (3 AAC 08.900 – 3 AAC 08.950)**

3 AAC 08 is amended by adding a new section to read:

3 AAC 08.086. Notice filing requirement for federal crowdfunding offerings. (a) An issuer that offers and sells securities in this state in an offering exempt under 15 U.S.C. 77r(b)(4) (sec. 18(b)(4) of the Securities Act of 1933) and 17 C.F.R. Part 227 (Regulation Crowdfunding)

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and that has its principal place of business in this state or sells 50 percent or greater of the aggregate amount of the offering to residents of this state shall file with the administrator

(1) a completed NASAA Uniform Notice of Federal Crowdfunding Offering form; and

(2) the filing fee required by 3 AAC 08.920(a)(13).

(b) If the issuer has its principal place of business in this state, the filing required under (a) of this section shall be filed with the administrator when the issuer makes its initial Form C filing concerning the offering with the SEC. If the issuer does not have its principal place of business in this state but state residents have purchased 50 percent or greater of the aggregate amount of the offering, the filing required under (a) of this section shall be filed when the issuer becomes aware that those purchases have met this threshold and in no event later than 15 days from the date of completion of the offering.

(c) The initial notice is effective for one year following the effective date of the filing.

(d) For each additional one-year period in which the same offering is continued, an issuer conducting an offering under 17 C.F.R. Part 227 (Regulation Crowdfunding) may renew its notice filing by filing, on or before the expiration of the notice filing,

(1) a completed NASAA Uniform Notice of Federal Crowdfunding Offering form marked "renewal"; and

(2) the filing fee required by 3 AAC 08.920(a)(13). (Eff. 11 / 26 / 2016, Register 220)

Authority: AS 45.55.950

The introductory language of 3 AAC 08.506(a) is amended to read:

(a) An issuer offering a federal covered security in a transaction that is not a public offering for the purposes of 15 U.S.C. 77d(2) and 15 U.S.C. 77r(b)(4)(D) (secs. 4(a)(2) and 18(b)(4)(D) of the Securities Act of 1933) shall file with the administrator **through the EFD system** no later than 15 days after the first sale of that federal covered security in this state

...

3 AAC 08.506(b) is amended to read:

(b) A notice filing under this section is effective

(1) only if the administrator receives **through the EFD system** each item required by (a) of this section; and

(2) on the date that the administrator receives **through the EFD system** the last of the items required by (a) of this section.

3 AAC 08.506(c) is amended to read:

(c) After receipt of the items required **by** (a) of this section, the administrator will issue **through the EFD system** a certificate of notice as of the date of receipt of those items. Sales may occur before the effective date of the notice filing under this section.

3 AAC 08.506(d) is amended to read:

(d) A notice filing under this section is valid for one year from the effective date established under (b) of this section. To renew a notice, the issuer must submit the items required

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by (a) of this section to the administrator through the EFD system, as if the issuer were making an initial filing. The administrator will not accept a renewal earlier than 60 days before the expiration date of the filing.

(Eff. 5/24/84, Register 90; am 4/19/2000, Register 154; am 1/17/2016, Register 217; am 11 / 26 / 2016, Register 220)

Authority: AS 45.55.075 AS 45.55.950

3 AAC 08.520(a)(1) is amended to read:

(1) an advertisement, article, notice, or other communication published in a newspaper, magazine, or similar medium, [OR] broadcast over television or radio, or available on an unrestricted, publicly accessible website; and

(Eff. 4/19/2000, Register 154; am 11 / 26 / 2016, Register 220)

Authority: AS 45.55.110 AS 45.55.950

3 AAC 08 is amended by adding new sections to read:

Article 7. Small Intrastate Securities Offerings.

Section

810. Notice filing requirements

820. Required disclosures

830. Escrow agreement

840. Advertising and solicitation

850. Evidence of residency

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860. Recordkeeping requirements

870. Website operated by issuer

880. Website operated by third party

895. Definitions relating to small intrastate securities offerings

3 AAC 08.810. Notice filing requirements. (a) In an offering conducted in reliance upon the crowdfunder exemption in AS 45.55.175, the issuer shall file with the administrator, not later than 10 days before the use of a general solicitation or not later than 15 days after the first sale of a security,

(1) a completed notice filing form as prescribed by the administrator;

(2) the nonrefundable notice filing fee required by 3 AAC 08.920(a)(12);

(3) a copy of all advertising and other materials directed to or to be supplied to prospective purchasers in the offering;

(4) a copy of the offering document and disclosures to be provided to prospective purchasers;

(5) a copy of the escrow agreement between the issuer and an escrow agent in which the offering proceeds will be deposited; and

(6) a copy of any agreement between the issuer and a third-party website operator, if applicable.

(b) A notice filing under this section is effective for one year from the date the administrator receives all the items required by (a) of this section. To renew a notice in which the same offering is continued, the issuer shall submit the items required by (a) of this section, as if

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the issuer were making an initial filing.

(c) An issuer who has filed a notice filing under this section shall update any material change on the notice filing form and file it with the administrator not later than 30 days from the date of the change.

(d) To claim an exemption under AS 45.55.175, an issuer must have an active business license issued under AS 43.70. (Eff. 11/26/2016, Register 220)

Authority: AS 45.55.175 AS 45.55.950

3 AAC 08.820. Required disclosures. (a) Before any offer or sale of a security under AS 45.55.175, the issuer shall contemporaneously provide to each prospective purchaser the following disclosures:

(1) the name and physical address of the issuer, officers, directors, and controlling persons;

(2) a description of the experience and qualifications of the issuer, officers, directors, and controlling persons;

(3) a description of the business, including how long it has been in operation and the specific reason for the offering;

(4) a discussion in plain language of the significant factors material to the offering, including those that make the offering speculative or risky;

(5) the total offering amount and how the issuer expects to use the proceeds of the offering, including compensation and expenses related to the offering;

(6) the minimum target offering amount the issuer is seeking to raise through the offering and the deadline to raise the minimum target offering amount;

(7) the terms and conditions of the securities being offered, the total amount of securities that are outstanding before the offering, and the total amount of securities being offered or sold in reliance on the exemption in AS 45.55.175; and

(8) a description of any litigation or legal proceedings within the past five years, if any, involving the issuer or any persons associated with the issuer.

(b) The issuer shall inform all investors that the securities exempted under 3 AAC 08.810 - 3 AAC 08.895 are not registered with the state, that they are subject to a limitation on resale and investors may not be able to sell their securities promptly or may only be able to sell them at a substantial discount from the offering price. On the cover page of the offering document, the disclosure must contain in all capital letters in 12 point font or larger the following language:

“THESE SECURITIES ARE BEING SOLD IN RELIANCE ON AN EXEMPTION TO THE FEDERAL SECURITIES REGISTRATION REQUIREMENTS UNDER SECTION 3(a)(11) OF THE SECURITIES ACT OF 1933 AND UNDER AS 45.55.175 OF THE ALASKA SECURITIES ACT. THESE SECURITIES CAN ONLY BE SOLD TO RESIDENTS OF ALASKA AND ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

IN MAKING AN INVESTMENT DECISION, INVESTORS SHOULD RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS REVEALED IN THESE OFFERING DOCUMENTS, INCLUDING THE MERITS AND RISKS INVOLVED.

THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE AUTHORITY OR REGULATORY COMMISSION NOR HAVE THEY CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL

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OFFENSE.”

(c) At the time of sale the issuer shall require all investors to sign the following acknowledgement: “I acknowledge that I am investing in a high-risk, speculative business venture, that I may lose all of my investment, and that I can afford the loss of my investment.”

(Eff. 11 / 26 / 2016, Register 220)

Authority: AS 45.55.175 AS 45.55.950

3 AAC 08.830. Escrow agreement. (a) An issuer conducting an offering under AS 45.55.175 shall enter into an escrow agreement with an escrow agent located in this state that includes the following terms

(1) all offering proceeds shall be maintained in an account controlled by the escrow agent;

(2) all offering proceeds will be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount; and

(3) if the issuer does not raise the minimum target offering amount by the offering deadline, the escrow agent shall release and return all proceeds directly to investors.

(b) The escrow agent may not be affiliated with the issuer, any third-party website operator assisting with the offering, or any officers, directors, controlling persons, or affiliates of the issuer or of any third-party website operator assisting with the offering. (Eff. 11 / 26 / 2016, Register 220)

Authority: AS 45.55.175 AS 45.55.950

3 AAC 08.840. Advertising and solicitation. (a) An issuer may engage in public advertising or general solicitation of securities in an offering relying on the exemption in AS 45.55.175 if

- (1) the issuer files a copy of the advertising or solicitation materials with the administrator at least 10 days before the use of those materials;
- (2) the advertisement or solicitation is directed only to residents of this state; and
- (3) before advertising or solicitation materials are viewed, each person viewing the materials affirmatively certifies that they are a resident of this state.

(b) Advertising or solicitation materials may contain only the following information:

- (1) the name and contact information of the issuer;
- (2) a brief description of the general type of business of the issuer;
- (3) the type of security offered;
- (4) the minimum target offering amount and total offering amount;
- (5) a description of how the issuer will use the funds;
- (6) the deadline for raising funds through the offering;
- (7) the issuer's logo; and
- (8) a link to the issuer's website in which the securities are offered or sold or to a third-party website in which the securities are advertised.

(c) The advertisement, including any advertisement through a website, must clearly state that the advertisement does not constitute an offer to sell a security and must include contact or

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other relevant information notifying an interested person how the person can obtain the required disclosure information.

(d) Advertising to the general public without regard to residency, or advertising information outside the scope of this section is prohibited. (Eff. 11 / 26 / 2016, Register 220)

Authority: AS 45.55.175 AS 45.55.950

3 AAC 08.850. Evidence of residency. (a) At or before the time an issuer accepts any funds or an irrevocable commitment to invest by a person in an offering conducted in reliance on the exemption in AS 45.55.175, the issuer shall obtain evidence that the person is a resident of this state.

(b) For purposes of (a) of this section, the following is a nonexclusive list of evidence that the person is a resident of this state, unless the issuer has knowledge that the person is not a resident of this state:

(1) a copy of a valid driver's license or official personal identification card issued by this state;

(2) a copy of a current voter registration issued by this state; or

(3) a copy of property tax records showing the person owns and occupies property in this state as the person's principal residence. (Eff. 11 / 26 / 2016, Register 220)

Authority: AS 45.55.175 AS 45.55.950

3 AAC 08.860. Recordkeeping requirements. (a) An issuer that has filed or is required to file under the exemption in AS 45.55.175 shall keep and maintain written or electronic records

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relating to offers and sales of securities made in reliance on the exemption for at least five years following the termination of the offering. These records must include

- (1) the issuer's filings with the administrator required by 3 AAC 08.810 and 3 AAC 08.840, together with any amendments;
- (2) evidence of state residency consistent with 3 AAC 08.850 from each investor in the offering;
- (3) a manually or electronically signed copy of the investor acknowledgement required by 3 AAC 08.820(c) for each investor in the offering; and
- (4) all other correspondence or other communications with prospective purchasers and investors.

(b) Records under (a) of this section are subject to reasonable periodic, special, or other examination by the administrator, as the administrator considers necessary or appropriate in the public interest or for the protection of investors. An audit or examination may be made at any time and without prior notice and the administrator may charge a fee associated with the examination as described in 3 AAC 08.015(b). (Eff. 11/26/2016, Register 220)

Authority: AS 45.55.175 AS 45.55.915 AS 45.55.950
AS 45.55.910

3 AAC 08.870. Website operated by issuer. (a) An issuer relying on the exemption in AS 45.55.175 may use a website operated by the issuer to advertise, offer, and sell securities if the issuer

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(1) segregates all advertising materials and information relating to the offer and sale of securities on a webpage that is not accessible by the general public;

(2) provides a disclaimer on its website explaining that access to securities offerings on the website is limited to residents of this state only and that offers and sales of securities are limited to residents of this state only;

(3) requires an affirmative representation by a visitor to the website that the visitor is a state of this state resident before the visitor can view securities-related offering materials on the website; and

(4) supplies the administrator with the address of each webpage where the offering material is located on the notice form required by 3 AAC 08.810(a)(1) and provides the administrator with full access to each webpage at all times.

(b) An issuer using its own website to advertise, offer, and sell securities is not required to comply with 3 AAC 08.880. (Eff. 11 / 26 / 2016, Register 220)

Authority: AS 45.55.175 AS 45.55.950

3 AAC 08.880. Website operated by third party. (a) An issuer relying on the exemption in AS 45.55.175 may use a website operated by a third party to advertise securities. A third-party website shall

- (1) be operated by an entity that
 - (A) has its principal place of business in this state;
 - (B) is incorporated or organized in this state; and
 - (C) has an active business license issued under AS 43.70;

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(2) provide a disclaimer on its website explaining that access to securities offerings on the third-party website is limited to residents of this state only and that offers and sales of securities are limited to residents of this state only;

(3) require an affirmative representation by a visitor to the third-party website that the visitor is a state resident of this state before the visitor can view securities-related advertising materials on the third-party website;

(4) maintain and preserve the following records for a period of five years from the date of the document or communication:

(A) records of any compensation received for acting as a third party website, including the name of the payor, the date of the payment, and the name of the issuer;

(B) any agreement or contract between the third-party website and an issuer;

(C) any correspondence or other communications with issuers; and

(D) ledgers or other records that reflect all assets and liabilities, income and expense, and capital accounts;

(5) file with the administrator a notice form as prescribed by the administrator and pay the filing fee required by 3 AAC 08.920(a)(14); and

(6) update any material change on the third-party website notice form and file it with the administrator not later than 30 days from the date of the change.

(b) A third-party website may not

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(1) solicit, sell, or effect transactions in securities unless it is a registered broker-dealer under AS 45.55.030 or a funding portal as defined by 17 C.F.R. 227.300(c)(2), as revised as of May 16, 2016 and adopted by reference;

(2) offer investment advice or recommendations;

(3) compensate employees, agents, or other persons for the solicitation of securities or based on the sale of securities displayed or referenced on the third-party website;

(4) hold, manage, possess, or otherwise handle investor funds or securities;

(5) be affiliated with or under common control with an issuer whose securities appear on the third-party website;

(6) hold a financial interest in an issuer as compensation for services provided to or on behalf of an issuer; or

(7) employ a director, officer, controlling person, or any affiliated person having management authority over the third-party website who has been the subject of any disqualifier described in the regulations adopted under 15 U.S.C. 78c(a)(39).

(c) Records of a third-party website under this section are subject to reasonable periodic, special, or other examination by the administrator, as the administrator considers necessary or appropriate in the public interest or for the protection of investors. An audit or examination may be made at any time and without prior notice and the administrator may charge a fee associated with the examination as described in 3 AAC 08.015(b).

(d) A third-party website notice filing under this section expires on December 31 of each year and must be renewed by filing an updated notice form and the annual fee with the

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administrator in order to continue operating as a third-party website. (Eff. 11/26/2016,

Register 220)

Authority: AS 45.55.175 AS 45.55.915 AS 45.55.950
AS 45.55.910

3 AAC 08.895. Definitions relating to small intrastate securities offerings. In 3 AAC 08.810 - 3 AAC 08.895,

(1) “general solicitation” includes

(A) an advertisement, article, notice, or other communication published in a newspaper, magazine, or similar medium broadcast over television or radio, or available on an unrestricted, publicly available website; and

(B) a seminar or meeting to which attendees are invited by general solicitation or general advertising;

(2) “third-party website” means a website operated by anyone other than the issuer to advertise securities offered under AS 45.55.175. (Eff. 11/26/2016, Register 220)

Authority: AS 45.55.175 AS 45.55.910 AS 45.55.950

3 AAC 08.910(1)(A) is repealed and readopted to read:

(1) manual exemptions

(A) for the purpose of the “manual exemption” under AS 45.55.900(b)(17), the following publications that contain information prescribed at AS 45.55.900(b)(17) are “nationally recognized securities manuals”:

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- (i) Mergent's *Industrial Manual*;
- (ii) Mergent's *Bank and Finance Manual*;
- (iii) Mergent's *Public Utility Manual*;
- (iv) Mergent's *Municipal and Governmental Manual*;
- (v) Mergent's *Transportation Manual*;
- (vi) Mergent's *OTC Industrial Manual*;
- (vii) Mergent's *OTC Unlisted Manual*;
- (viii) Mergent's *International Manual*;
- (ix) OTC Market Group's *OTCQX Market*;
- (x) OTC Market Group's *OTCQB Market*;

(Eff. 2/20/72, Register 41; am 3/24/76, Register 57; am 2/9/78, Register 65; am 11/18/90, Register 116; am 9/8/91, Register 119; am 10/1/99, Register 151; am 6/8/2001, Register 158; am 3/4/2015, Register 213; am 11 / 26 / 2016, Register 220)

Authority: AS 45.55.900 AS 45.55.950

3 AAC 08.920(a)(6) is amended to read:

(6) a person filing or required to file a notice under AS 45.55.900, except under AS 45.55.900 (b)(19) or (22), shall pay a nonrefundable fee of \$50;

3 AAC 08.920(a) is amended by adding new paragraphs to read:

(12) a person filing a notice under AS 45.55.175 shall pay a nonrefundable fee of \$150;

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(13) a person filing a notice under 3 AAC 08.086 shall pay a nonrefundable fee of \$50;

(14) a person filing a notice under 3 AAC 08.880 shall pay a nonrefundable fee of \$50.

(Eff. 2/20/72, Register 41; am 10/1/99, Register 151; am 4/19/2000, Register 154; am 4/20/2000, Register 154; am 1/4/2013, Register 205; am 3/4/2015, Register 213; am 1/17/2016, Register 216; am 3/20/2016, Register 217; am 11 / 26 / 2016, Register 220)

Authority: AS 45.55.110 AS 45.55.175 AS 45.55.980
AS 45.55.139 AS 45.55.950

3 AAC 08.950 is amended by adding a new paragraph to read:

(76) "EFD system" means the Electronic Filing Depository system provided by the North American Securities Administrators Association. (Eff. 2/20/72, Register 41; am 10/1/99, Register 151; am 4/19/2000, Register 154; am 4/20/2000, Register 154; am 12/7/2006, Register 180; am 3/4/2015, Register 213; am 1/17/2016, Register 217; am 11 / 26 / 2016, Register 220)

Authority: AS 45.55.950 AS 45.55.990

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: October 27, 2016

File No.: JU2016200666

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Update to securities regulations,
including crowdfunding and small
intrastate securities offerings (3 AAC
08.086; 3 AAC 08.506; 3 AAC
08.520(a)(1); 3 AAC 08.810 - 3 AAC
08.895; 3 AAC 08.910(1)(A); 3 AAC
08.920(a); 3 AAC 08.950(76))

We have reviewed the attached regulations from the Department of Commerce, Community, and Economic Development against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated October 26, 2016 from the Regulations Attorney. In part to implement AS 45.55.175, enacted under sec. 1, ch. 38, SLA 2016 (CSSB 126(L&C) am H) regarding small intrastate securities offerings, and a related amendment to AS 45.55.900(b) under sec. 2, ch. 38, SLA 2016, the regulations update provisions that implement AS 45.55 (Alaska Securities Act), and in particular adopt provisions addressing federal crowdfunding and small intrastate securities offerings.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The August 3, 2016 public notice and the October 24, 2016 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2016200666

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We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: (via email)

Hon. Chris Hladick, Commissioner
Department of Commerce, Community, and Economic Development

Micaela Fowler, Regulations Contact
Department of Commerce, Community, and Economic Development

Kevin Anselm, Director
Division of Banking and Securities
Department of Commerce, Community, and Economic Development

Kristy Naylor
Division of Banking and Securities
Department of Commerce, Community, and Economic Development

Renee O. Wardlaw, Assistant Attorney General
Commercial and Fair Business Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: October 26, 2016

FILE NO.: JU2016200666

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
& Regulations Attorney
Legislation/Regulations Section—Juneau

SUBJECT: Specific delegation of authority regarding regulations review on Department of Commerce, Community, and Economic Development update to securities regulations, including crowdfunding and implementation of ch. 38, SLA 2016 (CSSB 126(L&C) am H) regarding small intrastate securities offerings (3 AAC 08.086; 3 AAC 08.506; 3 AAC 08.520(a)(1); 3 AAC 08.810 - 3 AAC 08.895; 3 AAC 08.910(1)(A); 3 AAC 08.920(a); 3 AAC 08.950(76))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc:

Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General and
Assistant Regulations Attorney
Legislation/Regulations Section—Juneau

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Emily D. Gaffney, Regulation Specialist II, of the Department of Commerce, Community, and Economic Development, Division of Banking and Securities, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 08 related to securities has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1); and
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.


Date: 8/3/16



Emily D. Gaffney, Regulations Specialist II

Subscribed and sworn to before me at Juneau Ak on 8/3/16.






Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Barbara Reid, Operations Manager for the Department of Commerce, Community, and Economic Development, Division of Banking and Securities, being duly sworn, state the following:

The Department of Commerce, Community, and Economic Development, Division of Banking and Securities did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Commerce, Community, and Economic Development, Division of Banking and Securities regulation changes to implement SB126, to require notice filings for federal crowdfunding offerings, and to require that notice filings for Regulation D, Rule 506 offerings be filed electronically.

Date: 9.26.16


Barbara Reid, Operations Manager

Subscribed and sworn to before me at Juneau, Alaska on Sept. 26, 2016
(date)




Notary Public in and for the State of Alaska

NOTICE OF PROPOSED CHANGES ON SECURITIES
IN THE REGULATIONS OF THE DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT

BRIEF DESCRIPTION

The Department of Commerce, Community, and Economic Development proposes regulation changes to implement SB126, to require notice filings for federal crowdfunding offerings, and to require that notice filings for Regulation D, Rule 506 offerings be filed electronically.

The Department of Commerce, Community, and Economic Development proposes to adopt regulation changes in Title 3, Chapter 8, of the Alaska Administrative Code, dealing with securities, including the following:

- (1) 3 AAC 08.086 is proposed to be added to require notice filings for offerings relying on the federal crowdfunding exemption.
- (2) 3 AAC 08.506 is proposed to be amended to require notice filings for Regulation D, Rule 506 offerings be filed electronically using the Electronic Filing Depository ("EFD") system provided by the North American Securities Administrators Association ("NASAA").
- (3) 3 AAC 08.520 is proposed to be amended to expand the definition of general solicitation and advertisement for Regulation D offerings to include advertising on a publically accessible website.
- (4) 3 AAC 08.810 is proposed to be added to implement SB126 by clarifying the notice filing procedure for offerings claiming the intrastate crowdfunder exemption in AS 45.55.175.
- (5) 3 AAC 08.820 is proposed to be added to implement SB126 by requiring an issuer relying on the crowdfunder exemption in AS 45.55.175 to provide prospective purchasers with certain disclosures. This section also specifies that an issuer must require investors sign an acknowledgment of risk.
- (6) 3 AAC 08.830 is proposed to be added to implement SB126 by clarifying the terms of an escrow agreement for offerings relying on the crowdfunder exemption in AS 45.55.175.
- (7) 3 AAC 08.840 is proposed to be added to implement SB126 by specifying how offerings relying on the crowdfunder exemption in AS 45.55.175 may be advertised and solicited.
- (8) 3 AAC 08.850 is proposed to be added to implement SB126 by clarifying what constitutes evidence of state residency for purchasers of securities relying on the crowdfunder exemption in AS 45.55.175.
- (9) 3 AAC 08.860 is proposed to be added to implement SB126 by clarifying the recordkeeping requirements related to an offering relying on the crowdfunder exemption in AS 45.55.175.
- (10) 3 AAC 08.870 is proposed to be added to implement SB126 by clarifying the requirements to advertise, sell, or offer securities on a website operated by an issuer in an offering relying on the crowdfunder exemption in AS 45.55.175.

- (11) 3 AAC 08.880 is proposed to be added to implement SB126 by requiring a notice filing for a third party website that advertises securities relying on the crowdfunder exemption in AS 45.55.175.
- (12) 3 AAC 08.910(1)(A) is proposed to be repealed and readopted to remove "Standard and Poor's Standard Corporation Descriptions" and to add "OTCQX Market" and "OTCQB Market" to the list of nationally recognized securities manuals under AS 45.55.900(b)(17).
- (13) 3 AAC 08.920 is proposed to be amended to require a nonrefundable \$150 notice filing fee for an offering relying on the crowdfunder exemption in AS 45.55.175, a nonrefundable \$50 notice filing fee for a third party website that advertises securities relying on the crowdfunder exemption in AS 45.55.175, and a nonrefundable \$50 notice filing fee for an offering relying on the federal crowdfunding exemption.
- (14) 3 AAC 08.950 is proposed to be amended to add a definition for "EFD system."

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Emily Gaffney, Regulations Specialist, Division of Banking and Securities, Department of Commerce, Community, and Economic Development, P.O. Box 110807, Juneau, AK 99811-0807. Additionally, the Department of Commerce, Community, and Economic Development will accept comments by facsimile at (907) 465-1230 and by electronic mail at dbsegs@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. **The comments must be received not later than 4:30 p.m. on September 7, 2016.**

You may submit written questions relevant to the proposed action to Emily Gaffney by electronic mail at dbsegs@alaska.gov or by mail at P.O. Box 110807, Juneau, AK 99811-0807. **The questions must be received at least 10 days before the end of the public comment period.** The Department of Commerce, Community, and Economic Development will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and the Division of Banking and Securities' website at <https://www.commerce.alaska.gov/web/dbs>. The Department of Commerce, Community, and Economic Development may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Emily Gaffney at dbsegs@alaska.gov or (907) 465-6338 not later than August 26, 2016, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Division of Banking and Securities' website at <https://www.commerce.alaska.gov/web/dbs> and the Alaska Online Public Notice System. You may also request a copy by contacting Emily Gaffney at dbsegs@alaska.gov or (907) 465-6338.

After the public comment period ends, the Department of Commerce, Community, and Economic Development will either adopt the proposed regulation changes or other provisions

dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected. Written comments and questions received are public records and are subject to public inspection.**

Statutory authority: AS 45.55.950

Statutes being implemented, interpreted, or made specific: AS 45.55.075; AS 45.55.110; AS 45.55.139; AS 45.55.175; AS 45.55.910; AS 45.55.950; AS 45.55.980; AS 45.55.990.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: August 2, 2016

/s/ Emily Gaffney
Regulations Specialist

The Department of Commerce, Community, and Economic Development, Division of Banking and Securities keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all the Division's Notice of Proposed Regulation Changes. To be added to or removed from the list, send the request to Division of Banking and Securities, Department of Commerce, Community, and Economic Development, P.O. Box 110807, Juneau, AK 99811-0807 or to dbsregs@alaska.gov. Please include your name and either your electronic mail address or mailing address, as you prefer for receiving notices.

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. **Adopting agency:** Department of Commerce, Community, and Economic Development.
2. **General subject of regulation:** securities.
3. **Citation of regulation:** 3 AAC 08.086; 3 AAC 08.506; 3 AAC 08.520; 3 AAC 08.810; 3 AAC 08.820; 3 AAC 08.830; 3 AAC 08.840; 3 AAC 08.850; 3 AAC 08.860; 3 AAC 08.870; 3 AAC 08.880; 3 AAC 08.910; 3 AAC 08.920; 3 AAC 08.950.
4. **Department of Law file number:** JU2016200666.
5. **Reason for the proposed action:** implement SB126, effective October 16, 2016; require notice filings for federal crowdfunding offerings; and require that notice filings for Regulation D, Rule 506 offerings be filed through the Electronic Filing Depository system.
6. **Appropriation/Allocation:** none.
7. **Estimated annual cost to comply with the proposed action to:**

A private person: a nonrefundable fee of \$150 for a person filing a notice under AS 45.55.175; a nonrefundable fee of \$50 for a person filing a notice under 3 AAC 08.086; a nonrefundable fee of \$50 for a person filing a notice under 3 AAC 08.880.

Another state agency: none.

A municipality: none.
8. **Cost of implementation to the state agency and available funding:** no costs are expected in FY2017 or in subsequent years.
9. **The name of the contact person for the regulation:**

Emily Gaffney, Regulations Specialist
P.O. Box 110807
Juneau, AK 99811-0807
(907) 465-6338
emily.gaffney@alaska.gov

10. The origin of the proposed action: Division of Banking and Securities.

11. Date: August 2, 2016

Prepared by Emily Gaffney, Regulations Specialist

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RECEIVED
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AUG 20 2016

BANKING & SECURITIES
JUNEAU

AFFIDAVIT OF PUBLICATION



STATE OF ALASKA

THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

August 03, 2016

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

Signed

Subscribed and sworn to before me
this 3rd day of August, 2016

Notary Public in and for
The State of Alaska.

Third Division

Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

NOTICE OF PROPOSED CHANGES ON SECURITIES IN THE REGULATIONS OF THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

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Statutory authority: AS 45.55.950

Statutes being implemented: AS 45.55.950

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific information required.