



PERMANENT ADMINISTRATIVE ORDER

FSR 5-2018

CHAPTER 441

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

FINANCE AND SECURITIES REGULATION

FILED

04/26/2018 10:34 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amendments to align with federal securities law and amends Oregon's small offering registration procedures.

EFFECTIVE DATE: 05/01/2018

AGENCY APPROVED DATE: 04/20/2018

CONTACT: Karen Winkel
503-947-7694
karen.j.winkel@oregon.gov

350 Winter St NE
Salem, OR 97301

Filed By:
Karen Winkel
Rules Coordinator

RULES:

441-011-0040, 441-065-0010, 441-065-0060, 441-065-0070, 441-065-0080, 441-065-0090, 441-065-0100, 441-065-0110, 441-065-0130, 441-065-0140, 441-065-0150, 441-065-0160, 441-065-0170, 441-065-0180, 441-065-0190, 441-065-0200, 441-065-0210, 441-065-0220, 441-065-0221, 441-065-0222, 441-065-0223, 441-065-0224, 441-065-0225, 441-065-0230

AMEND: 441-011-0040

RULE TITLE: Financial Statements

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to increase the threshold at which an application to register securities must contain audited financials.

RULE TEXT:

- (1) All financial statements required by any rule or official form of the Department of Consumer and Business Services, Division of Finance and Corporate Securities, shall be prepared in accordance with generally accepted accounting principles. Financial statements prepared in accordance with the requirements of the Securities and Exchange Commission shall satisfy this requirement.
- (2) Unless otherwise accepted by the Director or specified by rule, order, or form, the financial statements shall include a current Statement of Financial Position (Balance Sheet); current Statement of Operations (Profit and Loss Statement); and a current Statement of Changes in Financial Position (Source and Application of Funds Statement) for each of the two fiscal years preceding the date of the balance sheet, and for the period, if any, between the close of the last fiscal year and the date of the balance sheet. As a general guideline, financial statements as of a date within 90 days prior to the date of filing shall be deemed to be current.
- (3) An application for registration of securities pursuant to ORS 59.065, other than interests in a limited partnership, shall include audited financial statements in the following cases:
 - (a) All offerings of securities in which the aggregate offering price exceeds \$1,000,000;
 - (b) All offerings of bonds, notes, evidence of indebtedness, preferred stock or other securities requiring fixed or

contingent periodic payments or amortization, where the aggregate offering price exceeds \$100,000.

(4) In the case of an application for registration of interest in a limited partnership pursuant to ORS 59.065, the following requirements shall apply:

- (a) If one or more of the general partners is a corporation, audited financial statements of such corporate general partner(s) will be required if the aggregate offering price of the subject application exceeds \$100,000 and such corporation has been the general partner of three or more registered limited partnerships;
- (b) If one or more of the general partners is an individual, the application for registration shall include a statement by an independent public accountant as to the net worth of such general partner(s) in a form acceptable to the Director;
- (c) Where the limited partnership has both a corporate general partner and an individual general partner the corporate general partner(s) must comply with subsection (a) of this section and the individual general partner(s) must comply with subsection (b) of this section.

(5) In the case of limited partnerships, the financial statements required by these rules or any other rule or order of the Director shall state in detail the terms of the following arrangements, if applicable:

- (a) If the issuer contemplates transacting or has transacted business with any person in an amount equaling twenty percent of the total dollar value of securities offered;
- (b) If a general partner is permitted to or contemplates that the general partner will sell services, supplies, equipment, furnishings or other property to the issuer or an affiliate:
 - (A) The financial statements should disclose the gross expenditures by the issuer or its affiliates to each person in connection with the arrangements described above;
 - (B) The prospectus or offering circular for the current offering of the issuer must disclose the gross receipts by each person involved in the arrangements described above from all prior limited partnership offerings.
- (6) The Director may require or waive the requirement for audited financial statements under these rules if the Director finds such requirement or waiver is consistent with carrying out the provisions of the Oregon Securities Law and in the public interest.

STATUTORY/OTHER AUTHORITY: ORS 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.285

AMEND: 441-065-0010

RULE TITLE: Types of Registration

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update the types of registration adding the new small offering abbreviated registration (SOAR), removing references to repealed registration types, and updating offering amounts.

RULE TEXT:

Types of registration. Securities may be registered under one of the following provisions:

- (1) Registration by qualification (OAR 441-065-0020).
- (2) Registration by filing (OAR 441-065-0030).
- (3) Registration by multijurisdictional coordination (OAR 441-065-0035).
- (4) Registration for resale, trading, or dealing (OAR 441-065-0040).
- (5) Registration for condominium securities (OAR 441-065-0050).
- (6) Registration for Small Offering Abbreviated Registration (SOAR) Offerings not exceeding \$1,000,000 including under SEC Rule 504 (OAR 441-065-0070 through 441-065-0210 and 441-065-0220 through 441-065-0222).
- (7) Registration for the Small Corporate Offering Registration(SCOR) offerings not exceeding \$5,000,000 including under Securities Act Rule 504 (OAR 441-065-0070 through 441-065-0210 and OAR 441-065-0225).
- (8) Registration of securities in connection with a notice of offer to repay purchaser of an unlawfully sold security under ORS 59.125(4) or notice of offer to return an unlawfully purchased security under ORS 59.131(4).
- (9) Registration for generic real estate paper offerings (OAR 441-065-0260).

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0060

RULE TITLE: Creation of Classifications

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update references to accommodate the new SOAR rules, change offering limits and remove references to OAR 441-065-0230.

RULE TEXT:

(1) The Director creates the following classifications of transactions in securities:

(a) An offering relying on Rule 504 adopted by the Securities and Exchange Commission under "Regulation D" (17 CFR Part 230.504), or an offer relying on a federal statute or rule other than "Regulation D" but designed to meet the applicable requirements of OAR 441-065-0070 through 441-065-0210 and 441-065-0220 through 441-065-0222 and not exceeding \$1,000,000 (the "Small Offering Abbreviated Registration" or "SOAR Offering");

(b) An offering relying on Rule 504 adopted by the Securities and Exchange commission under "Regulation D" (17 CFR 230.504) or an offering relying on a federal statute or rule other than "Regulation D" but designed to meet the applicable requirements of OAR 441-065-0070 through 441-065-0210 and 441-065-0225 not exceeding \$5,000,000 (the "Small Corporate Offering Registration" or "SCOR Offering").

(2) Transactions in securities described in section (1) may be registered under the appropriate provisions of OAR 441-065-0060 through 441-065-0225.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0070

RULE TITLE: Definitions

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to remove obsolete definitions and clarify continuing definitions.

RULE TEXT:

The following definitions are adopted for the purposes of OAR 441-065-0060 through 441-065-0225:

- (1) "Accredited Investor" means a person as defined in OAR 441-035-0010.
- (2) "Affiliate" means a person that directly or indirectly controls, is controlled by, or is under common control with, the person specified.
- (3) "Aggregate Offering Price" means the sum of all cash, services, property, notes, cancellation of debt, or other consideration to be received by an issuer for issuance of its securities. Where securities are being offered for both cash and non-cash consideration, the aggregate offering price shall be based on the price at which the securities are offered for cash. Any portion of the aggregate offering price attributable to cash received in a foreign currency shall be translated into United States currency at the currency exchange rate in effect at a reasonable time prior to or on the date of the sale of the securities. If securities are not offered for cash, the aggregate offering price shall be based on the value of the consideration established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard. Such valuations of non-cash consideration must be reasonable at the time made.
- (4) "Effective Date of Registration" means the date an issuer is authorized to sell securities under an order of registration issued by the Director.
- (5) "Employee Benefit Plan" means an employee benefit plan as defined by 17 CFR 230.405 or 17 CFR 230.701.
- (6) "Executive Officer" means the president, any vice president in charge of a principal business unit, division or function (such as administration, sales or finance), any other officer who performs a policy making function, or any other person who performs similar policy making functions for the issuer. Executive officers of subsidiaries may be deemed executive officers of the issuer if they perform policy making functions for the issuer.
- (7) "Issuer" shall have the meaning given it in ORS 59.015, except that in the case of a proceeding under the Federal Bankruptcy Code (11 USC 101 et seq. amended through 2017), the trustee or debtor in possession shall be considered the issuer in an offering under a plan of reorganization, if the securities are to be issued under the plan.
- (8)(a) "Permitted Oregon Purchaser" means any person who at the time of sale is or who the issuer reasonably believes is:
 - (A) A natural person who purchases the security for cash, marketable securities or both at least \$10,000 of the securities offered, provided the purchase does not exceed ten percent of the purchaser's net worth at the time of purchase;
 - (B) A natural person who purchases the securities for cash, marketable securities or both provided:
 - (i) The purchaser's personal income exceeded \$70,000 in each of the two most recent years;
 - (ii) The purchaser reasonably expects their personal income to exceed \$70,000 in the current year; and
 - (iii) The amount purchased does not exceed ten percent of the purchaser's personal income for the most recent year.
 - (C) A partnership, corporation, trust or other entity in which all of the equity owners, or holders of beneficial interests in the case of a trust, satisfy the requirements of paragraph (A) or (B) of this section and the amount invested by the entity would be allowable as an individual purchase by each person under the same subsections.
- (b) In subsection (a), the net worth and personal income of the purchaser's spouse may be included in determining whether a purchaser is a "Permitted Oregon Purchaser."
- (9) "Purchaser Representative" means any person who satisfies all of the following conditions or who the seller reasonably believes satisfies all of the following conditions:
 - (a) The person is not an affiliate, director, officer or other employee of the issuer, beneficial owner of ten percent or more of any class of the equity securities or ten percent or more of the equity interest in the issuer, except where the

purchaser is:

- (A) A relative of the purchaser representative by blood, marriage or adoption and not more remote than a first cousin;
 - (B) A trust or estate in which the purchaser representative and any persons related to the purchaser representative, as specified in paragraph (a)(A) or (C) of this section, collectively have more than 50 percent of the beneficial interest (excluding contingent interest) or of which the purchaser representative serves as trustee, executor, or in any similar capacity; or
 - (C) A corporation or other organization of which the purchaser representative and any persons related to the purchaser representative, as specified in paragraph (a)(A) or (B) of this section, collectively are the beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interest.
- (b) The person has such knowledge and experience in financial and business matters that the person is capable of evaluating alone, or together with other purchaser representatives of the purchaser, or together with the purchaser, the merits and risks of the prospective investment;
- (c) The purchaser representative is acknowledged by the purchaser in writing, during the course of the transaction, to be the purchaser representative in connection with evaluating the merits and risks of the prospective investment; and
- (d) The purchaser representative discloses to the purchaser in writing a reasonable time prior to the sale of the securities any material relationship between the purchaser representative or affiliates and the issuer or its affiliates as well as any compensation involved that:
- (A) Exists presently;
 - (B) Existed within two years; or
 - (C) Is planned.
- (10) "Sophisticated Purchaser" means any person, acting alone or with a Purchaser Representative, that has, or that the issuer reasonably believes has, sufficient knowledge and experience in financial and business matters to evaluate the merits and risks of the proposed investment.
- (11) "Suitable Purchaser" means any person who purchases the securities of the issuer through a licensed broker-dealer on a solicited basis.
- (12) "Termination of the Offering" means the earlier of:
- (a) The expiration of an order of registration issued by the Director;
 - (b) A written notice of termination filed with the Director; or
 - (c) The date of a final order by the Director revoking the order of registration under ORS 59.105.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0080

RULE TITLE: General Requirements and Limitations

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update rule references related to the adoption of SOAR and the repeal of OAR 441-065-0230.

RULE TEXT:

- (1) The general requirements and limitations under OAR 441-065-0060 through 441-065-0210 are applicable to offerings registered as a SOAR Offering under 441-065-0220 through OAR 441-065-0224 or a SCOR Offering under 441-065-0225.
- (2) The registration of SOAR or SCOR Offerings is only available to an issuer of securities for purposes of offering and selling the issuer's securities.
- (3) No offering of the securities of a "blank check company," as that term is defined in OAR 441-045-0010, may be registered pursuant to a SOAR Offering or a SCOR Offering.
- (4) Options, warrants and similar rights to purchase securities that are part of an offering registered as a SOAR Offering or a SCOR Offering constitute a continuous offering of the underlying securities and require the underlying securities to be registered and renewed on an annual basis until the options or warrants are exercised. Disclosure materials must also be kept current until the option or warrant is exercised.
- (5) All forms mentioned in OAR 441-065-0060 to 441-065-0225 are available from the Director.

STATUTORY/OTHER AUTHORITY: ORS 59.065, ORS 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0090

RULE TITLE: Integration

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update rule references related to the adoption of SOAR and the repeal of OAR 441-065-0230.

RULE TEXT:

Unless otherwise specified in this rule, all separate sales that are a part of the same SOAR or SCOR Offering shall be counted and included as securities sold under the SOAR or SCOR Offering:

(1) A separate sale of securities within or without this state will be included as part of the same SOAR or SCOR Offering if, after considering the following elements, there are compelling reasons to treat the sale as part of the same offering.

The elements to be considered are:

- (a) Whether the sales are part of a single plan of financing;
- (b) Whether the sales involved issuance of the same class of security;
- (c) Whether the sales are made at or about the same time;
- (d) Whether the same type of consideration is received; and
- (e) Whether the sales are made for the same general purpose.

(2) Exclusion of Certain Employee Benefit Plans. Offers and sales of securities under an Employee Benefit Plan as defined by OAR 441-065-0070(5) are not included as sales under this rule.

(3) Safe harbor by absence of sales. Sales of securities made more than six months prior to the effective date of registration of a SOAR or SCOR Offering, or more than six months after the termination of a SOAR or SCOR Offering will not be considered to have been made as part of the same SOAR or SCOR Offering under this rule.

(4) Safe harbor for "discrete offerings" of partnership interests. Offerings of interests in a partnership shall not be included as securities sold under the same offering under a SOAR or SCOR Offering, even where there is a common sponsor or affiliate involved in offerings of interests in another entity, if all of the conditions of subsections (4)(b) through (f) of this rule are satisfied:

(a) As used in this section, the following definitions are applicable:

(A) A "partnership" includes a general partnership, limited partnership, joint venture or other similar entity. A "partnership" includes existing entities as well as those that are to be formed in the future;

(B) A "sponsor" is a promoter or any person directly or indirectly instrumental in organizing the partnership in whole or in part, or any person who will manage or participate in the management of the partnership. A "sponsor" includes a general partner and affiliate of the sponsor. A "sponsor" does not include independent third parties such as attorneys, accountants, and underwriters whose only compensation is for professional services rendered in connection with offering of interests in the partnership.

(b) Separate entity. The partnership must:

(A) Be a separate legal entity;

(B) Have separate books and records;

(C) Not commingle funds of the partnership with those of the sponsor or any other entity having the same sponsor.

(c) Economic independence. The partnership at the time the interests are sold must have the independent ability to meet its primary investment objective. If the partnership is substantially dependent on the creation, continued existence or economic results of investments of another entity having a common sponsor, then the partnership does not have the independent ability to meet its primary investment objective.

(d) Application of proceeds. No material portion of the gross offering proceeds of the partnership shall be invested in properties where another entity having a common sponsor has also invested and continues to hold invested, a material portion of its gross offering proceeds.

(e) Unspecified programs. An offering that does not identify at least 50 percent of the assets in which the partnership intends to invest does not qualify under this safe harbor if:

- (A) Another entity with a common sponsor was formed to conduct the same general type of activity and that entity has not invested or committed the major portion of its gross offering proceeds prior to commencement of this offering by the registering partnership; or
- (B) The sponsor creates a simultaneous or subsequent offering through another entity to conduct the same general type of activity before the registering partnership has invested or committed for investment the major portion of its gross offering proceeds. This paragraph does not apply if the investment to be made by the other entity is fully identified.
- (f) An offering of interests in a partnership that is formed to engage in sale and leaseback transactions does not qualify under this safe harbor if the ultimate intended lessee of the assets in which the partnership invests is a sponsor of the partnership.
- (5) Safe harbor by order of registration:
- (a) Applicants desiring the Director's concurrence of non-integration under section (1) of this rule or applicability of the safe harbors in section (3) or (4) of this rule shall file a written request with their application for registration. A request must contain an analysis of the law applicable to the facts;
- (b) The Director may take the position that further action is required or decline to take a position if the analysis is not sufficient to make a determination. If the Director concludes that the separate sales should not be integrated, the Director will issue an Order or Registration that expressly excludes those sales;
- (6) No presumptions related to integration under (1) are created by the non-availability of safe harbors under section (3), (4), or (5) of this rule.

STATUTORY/OTHER AUTHORITY: ORS 59.065

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0100

RULE TITLE: Information Requirements - General

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to accommodate a reorganization of the information requirements for the new SOAR rules and remove references to OAR 441-065-0230.

RULE TEXT:

- (1) The provisions of OAR 441-065-0060 to OAR 441-065-0225 shall not be construed as waiving or modifying the provisions of the Oregon Securities Law relating to disclosure of material information to investors.
- (2) Timing of Disclosures. All disclosures required under these rules must be provided to prospective purchasers prior to the sale of the security.

STATUTORY/OTHER AUTHORITY: 59.085, ORS 59.065

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0110

RULE TITLE: Public Advertising and General Solicitation

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to remove references to OAR 441-065-0230 and to update general solicitation requirements for offerings under OAR 441-065-0220 and 441-065-0225.

RULE TEXT:

(1) Solicitations of Interest . Prior to submitting an application to register a SOAR or SCOR Offering, an issuer may, offer its securities for the sole purpose of soliciting a non-binding indication of interest in receiving the written disclosure materials so long as an offer complies with the requirements of OAR 441-035-0045.

(2) "Red herring" exemption under ORS 59.035(11). After submitting an application to register a SOAR or SCOR Offering, an issuer may offer, but not sell, its securities so long as the offer is allowed by the Director.

(3) Public Advertising and General Solicitation Pursuant to an Order of Registration. After the effective date of registration of a SOAR or SCOR Offering, an issuer may offer and sell its securities by means of public advertising or general solicitation provided that any sales materials to be used are reviewed and cleared by the Director prior to use. Any sales materials shall contain no more than the following information:

- (a) The name of the issuer;
- (b) Characterization of the issuer as indicated on the cover page of the required disclosure materials;
- (c) Address and telephone number of the issuer;
- (d) A brief description of the issuer's business or proposed business;
- (e) The number and type of securities offered and the offering price per security;
- (f) The name, address and telephone number of any selling agent authorized to sell the securities;
- (g) A statement that the offering does not constitute an offer to sell or solicitation of an offer to purchase and that any such offer must be made by the disclosure document;
- (h) The procedure for obtaining the disclosure document; and
- (i) The issuer's corporate logo.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.085

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0130

RULE TITLE: Bad Actor Disqualification

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to correct references and to update references to "any state" to also include territories of the United States and the District of Columbia.

RULE TEXT:

(1) Subject to (3) of this rule the Director may deny an application to register a SOAR or SCOR Offering if the applicant or affiliated parties are disqualified for the following reasons:

(a) Federal Disqualification. Applicant is disqualified under Securities Act Regulation A (17 CFR 230.251 et seq.) or Regulation D (17 CFR 230.504 or 17 CFR 230.506); or

(b) Oregon Disqualification. Any of the parties of interest:

(A) Filed a registration statement that is the subject of an effective stop order entered by any state, territory of the United States, or the District of Columbia within five years prior to the submission of the application;

(B) Was convicted within five years of the submission of:

(i) Any felony or misdemeanor in connection with the offer, purchase or sale of any security or involving the making of a false filing with a state, territory of the United States, or the District of Columbia; or

(ii) Any felony involving fraud or deceit including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

(C) Is subject to an administrative order or injunction issued by any state, territory of the United States, or the District of Columbia within five years prior to the submission of the application in which fraud or deceit, including but not limited to making untrue statements of material facts and omitting to state material facts in connection with the purchase, offer, or sale of securities, was found; or

(D) Is subject to any order, judgment or decree of any court of competent jurisdiction in any state, territory of the United States, or the District of Columbia entered within five years of the submission of the application that restrains or enjoins the party of interest from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or the making of any false filing with that jurisdiction.

(2) Section (1)(b) of this rule shall not apply if the party of interest subject to the disqualification is a broker-dealer, salesperson, investment advisor, or investment advisor representative that is duly licensed to conduct business in the jurisdiction in which the disqualifying event was entered, or if the broker-dealer employing such person of interest is licensed in Oregon and the Uniform Application for Broker-Dealer Registration on SEC Form BD filed with Oregon discloses the order, conviction, judgment, or decree.

(3) Notwithstanding the requirements of subsection (1)(b) of this rule, the Director may approve the application if the Director finds that the public is adequately protected and:

(a) The applicant provides sufficient facts allowing the Director to determine the public is adequately protected; or

(b) The jurisdiction that issued the order, judgement, or decree states that the person of interest or applicant should not be subject to disqualification.

STATUTORY/OTHER AUTHORITY: ORS 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.285, 59.065

AMEND: 441-065-0140

RULE TITLE: Limitation on Selling Expenses

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update references.

RULE TEXT:

(1) All expenses of a SOAR or a SCOR Offering, including sales expenses, acquisition expenses, expenses for preparing the offering, and similar expenses shall be reasonable after taking into account the nature of the offering, amount to be raised and proposed use of funds.

(2) The provisions of OAR 441-085-0010 shall apply to any registered SOAR or SCOR Offerings, except that sales expenses may not exceed "20%" of the aggregate offering amount.

STATUTORY/OTHER AUTHORITY: ORS 59.085

STATUTES/OTHER IMPLEMENTED: ORS 59.085, 59.065, 59.105

AMEND: 441-065-0150

RULE TITLE: Escrow of Proceeds

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update references.

RULE TEXT:

- (1) An escrow, or similar arrangement, must be established where, because of the nature of the intended use of the funds or the nature of the project or business plan, a minimum amount must be raised within or outside this state in order for the project to get underway with a reasonable chance of success even if no additional capital is raised.
- (2) When an escrow is required:
 - (a) The escrow agent shall be an institution licensed to conduct banking, savings and loan, trust or other escrow activities or a licensed professional whose requirements of licensure requires the segregation of funds of others into fiduciary trust accounts; but it cannot be the issuer, a promoter of an issuer to be formed, or an affiliate of such issuer or promoter;
 - (b) The escrow terms shall include instructions that the funds placed into escrow shall be held in trust for the benefit of the investors and shall not be released to the issuer until the minimum amount of funds set forth in the application for registration has been raised; and
 - (c) The provisions of this section may be satisfied by the holding of the funds without formal escrow arrangement by a person described in subsection (3)(a) of this rule, until the minimum amount of funds has been received for the account of the purchasers.
- (3) The requirements of this rule may be waived by the Director upon a showing that an escrow is not necessary and that investor rights are adequately protected.

STATUTORY/OTHER AUTHORITY: ORS 59.085, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.085, 59.065

AMEND: 441-065-0160

RULE TITLE: Rescission of Improvident Sales Including Oversales

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update references and clarify language.

RULE TEXT:

(1) The improvident closing of a sale of securities in violation of any of the provisions of OAR 441-065-0060 through 441-065-0225 will not by itself result in a violation of ORS 59.055, provided that the conditions of subsections (a), (b), and either (c) or (d) of this rule are satisfied:

(a) The issuer provides to the Director, full details of the transaction and the issuer receives an amended order authorizing the sales;

(b) The issuer or the person acting on behalf of the issuer who sold the security demonstrates to the Director that they had acted in good faith and sustains the burden of proof that they acted without intent to violate these rules;

(c) If the funds have been released from escrow, the issuer, within a reasonable time after discovery offers to rescind the sale using the procedures set forth in ORS 59.125 as long as the issuer has the financial capacity to make a rescission payment out of separate funds, which payment does not create additional risks or obligations to the remaining purchasers or the project for which the funds were raised and offers or makes the rescission payment;

(d) If the funds have not been released from escrow, the sale is rescinded or cancelled.

(2) An offer to rescind or cancel a sale under (1)(c) or rescission or cancellation under (1)(d), cannot be made subject to the condition that cancelled or rescinded interest be resold, or other condition.

(3) This rule may be used by the registrant as well as all persons liable as a result of the sale of securities.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.125

STATUTES/OTHER IMPLEMENTED: ORS 59.065

REPEAL: 441-065-0170

RULE TITLE: Registration Procedures for "Regulation D" and Similar Type Offerings

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is repealed to remove provisions related to OAR 441-065-0230.

RULE TEXT:

(1) An application to register securities filed pursuant to OAR 441-065-0220 (small offerings not exceeding \$500,000 including under SEC Rule 504) shall include the following:

- (a) A completed Form 440-2013 (a form for the registration of limited or non-public offerings);
- (b) A copy of the written disclosures required by OAR 441-065-0100(3);
- (c) A registration fee as set in OAR 441-065-0001;
- (d) Unless the offering is being sold through a licensed broker-dealer or by a person exempt from the licensing requirements of ORS 59.165, at least one completed salesperson application on Form U-4 and a per person license fee as set in OAR 441-175-0002; and
- (e) Any additional or supplementary materials requested by the Director.

(2) An application to register securities filed pursuant to OAR 441-065-0225 (small corporate offerings not exceeding \$1,000,000 including under SEC Rule 504) shall include the following:

- (a) A completed Form U-7 (a uniform disclosure document for small corporate offerings) including the following exhibits, to the extent applicable:
 - (A) Form of underwriting or selling agency agreement;
 - (B) Issuer's articles of incorporation or other charter documents and all amendments thereto;
 - (C) Issuer's bylaws, as amended to date;
 - (D) Copy of any resolutions by the issuer's board of directors setting forth terms and provisions of capital stock to be issued;
 - (E) Any indenture, form of note or other contractual provision containing terms of notes or other debt, or of options, warrants or rights to be offered;
 - (F) Specimen of security to be offered (including any legend restricting resale);
 - (G) Copy of all advertising or other materials directed to or to be furnished investors in the offering;
 - (H) Form of escrow agreement for escrow of proceeds;
 - (I) Consent to inclusion in Form U-7 Disclosure Document of accountant's report;
 - (J) Consent to inclusion in Form U-7 Disclosure Document of tax advisor's opinion or description of tax consequences;
 - (K) Consent to inclusion in Form U-7 Disclosure Document of any evaluation of litigation or administrative action by counsel;
 - (L) Form of any Subscription Agreement for the purchase of the securities;
 - (M) Opinion of counsel that the securities to be sold in the offering have been duly authorized and when issued upon payment of the offering price will be legally and validly issued, fully paid and nonassessable and binding on the issuer in accordance with their terms;
 - (N) Schedule of residence street addresses of the issuer's officers, directors and principal stockholders;
 - (O) Work sheets showing computations of responses to Questions 6, 7(a), 8(a), 8(b) and 17(b) of Form U-7 Disclosure Document; and
 - (P) Any additional or supplementary materials requested by the Director.
 - (b) A registration fee as set in OAR 441-065-0001; and
 - (c) Unless the offering is being sold through a licensed broker-dealer or by a person exempt from the licensing requirements of ORS 59.165, at least one completed salesperson application on Form U-4 and a per person license fee as set in OAR 441-175-0002.
- (3) Amendments to Small Corporate Registrations under section (2). If a material change occurs concerning the issuer or the offering while the offering is effective in this state:

- (a) The Form U-7 Disclosure Document shall be amended to make the disclosures accurate and complete;
 - (b) The amended Form U-7 showing additions and deletions shall be filed with the Director for approval;
 - (c) The offering shall be suspended in this state until approval is received from the Director to proceed with the offering;
and
 - (d) The registrant shall report the status of the offering in this state and file a plan for dealing with present purchasers in this state.
- (4) An application to register securities filed pursuant to OAR 441-065-0230 (limited offering for offerings not exceeding \$5,000,000 including under SEC Rule 505) shall include the following:
- (a) A completed Form 440-2013 (a form for the registration of limited or non-public offerings);
 - (b) A registration fee in accordance with OAR 441-065-0001;
 - (c) Unless the offering is being sold through a licensed broker-dealer or by a person exempt from the licensing requirements of ORS 59.165, at least one completed salesperson application on Form U-4 (available from the Securities Section) and a per person license fee in accordance with OAR 441-175-0002; and
 - (d) Any additional or supplementary materials requested by the Director.

[ED. NOTE: Forms referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.235

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0180

RULE TITLE: Licensing of Salespersons

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update references to accommodate the new SOAR rule and clarify language.

RULE TEXT:

(1) General License Requirements. Only persons that are licensed as a broker-dealer or salesperson may sell securities that are registered as a SOAR or SCOR Offering, unless that person is excluded from the definition of broker-dealer or salesperson under ORS 59.015(1), ORS 59.15(18)(b), OAR 441-175-0020 or OAR 441-175-0040.

(2) Licensing Conditions for Issuer Salespersons. The following special licensing conditions are applicable to salespersons that are employees of the issuer (an "Issuer Salesperson."):

(a) An issuer may license up to five persons as Issuer Salespersons;

(b) Issuer Salespersons must be bona fide officers, directors or employees of the issuer;

(c) Issuer Salespersons are exempt from examination requirements and are not required to file a surety bond or an irrevocable letter of credit; and

(d) An issuer salesperson shall not be simultaneously licensed to two or more issuers.

(3) Licensing Procedures for Issuer Salespersons. As required by OAR 441-175-0120, an issuer shall submit to the Director a complete application to license each salesperson, including:

(a) A completed FINRA Form U-4 (salesperson application); and

(b) A salesperson licensing fee as set in OAR 441-175-0002.

STATUTORY/OTHER AUTHORITY: ORS 59.165, 59.175

STATUTES/OTHER IMPLEMENTED: ORS 59.165, 59.175

AMEND: 441-065-0190

RULE TITLE: Filings and Reports

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update references.

RULE TEXT:

(1) For offerings registered as a SOAR Offering, the Director may, as a condition of registration, require the issuer to file one or more sales reports.

(2) For offerings registered as a SCOR Offering, the issuer shall file the following reports with the Director:

(a) If the offering is made in reliance on Securities Act Rule 504(17 CFR §230.504), a copy of any completed Form D that is filed with the Securities and Exchange Commission; or

(b) If the offering is not made in reliance on to Securities Act Rule 504(17 CFR §230.504), a report on a form and at times specified by the Director as a condition of registration.

STATUTORY/OTHER AUTHORITY: ORS 59.085

STATUTES/OTHER IMPLEMENTED: ORS 59.085

AMEND: 441-065-0200

RULE TITLE: Records

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to remove references to OAR 441-065-0230.

RULE TEXT:

As long as the offering remains open and for three years following the termination of the offering, the issuer shall maintain and keep open for inspection by the Director:

- (1) Records relating to purchaser representatives used and materials and data relied upon to determine the qualifications of the purchaser representatives;
- (2) Records relating to purchasers and materials and data relied upon to determine the qualifications of the purchasers;
- (3) Records relating to securities sales following the close of the offering that are considered as part of the offering; and
- (4) All written disclosure and other offering materials used in connection with the offer and sale of securities.

STATUTORY/OTHER AUTHORITY: ORS 59.235

STATUTES/OTHER IMPLEMENTED: ORS 59.235

AMEND: 441-065-0210

RULE TITLE: Waiver of Provisions

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update references and clarify language.

RULE TEXT:

Upon request for a waiver by the applicant under OAR 441-011-0020, the Director may modify or waive any requirement of OAR 441-065-0060 through 441-065-0225. The waiver request must provide proof and arguments that the waiver is consistent with the Oregon Securities Law and that the investors are otherwise adequately protected.

STATUTORY/OTHER AUTHORITY: ORS 59.065

STATUTES/OTHER IMPLEMENTED: ORS 59.065

AMEND: 441-065-0220

RULE TITLE: Small Offering Abbreviated Registration (SOAR) Procedure for Offerings Not Exceeding \$1,000,000
(Including Under SEC Rule 504)

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to create the SOAR process: a new streamlined registration process for small offerings that meet the requirements of Rule 504.

RULE TEXT:

(1) General. The Small Offering Abbreviated Registration (SOAR) may be used to register securities offerings that are offered and sold in Oregon. The offering must comply with all applicable provisions of OAR 441-065-0070 through 441-065-0224.

(2) Subject to OAR 441-065-0090, the aggregate offering amount of a SOAR Offering shall not exceed \$1,000,000.

(3) Issuer Qualification. The SOAR Offering is only available to the issuer of the securities for purposes of the issuance of its securities. The SOAR Offering is not available to the following persons:

(a) Any affiliate of the issuer or to any other person for the purposes of resale of the issuer's securities.

(b) Those subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended;

(c) An Investment Company within the meaning of Section 3 of the Investment Company Act of 1940, as amended;

(d) Development stage companies that either have no specific business plan or purpose or have indicated that their business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person; or

(e) A "Blank Check Company" as defined in OAR 441-045-0010.

(4) Purchaser Qualifications. No limits are placed upon the number of persons who may purchase securities registered pursuant to this rule. Sales of securities registered pursuant to this rule may only be made to the following purchasers:

(a) Accredited investors;

(b) Permitted Oregon purchasers; or

(c) A natural person that purchases not more than \$5,000 in the offering.

(5) Unequal Voting Rights. An issuer may only offer and sell securities that have voting rights per share that are less than the voting rights per share of other authorized or outstanding securities of the issuer if:

(a) The offered securities with lesser voting rights per share have preferential treatment as to dividends and/or distributions upon liquidation; or

(b) The issuer presents a compelling argument to the Director why allowing unequal voting rights is fair, just, and equitable under ORS 59.105; and

(c) The terms of the voting rights are prominently disclosed on the cover page of the issuer's written disclosure materials.

(6) Conditions of Registration. A salesperson shall, in connection with the sale of any security sold in a SOAR Offering:

(a) Send or give sent to each person to whom a security is sold the written disclosure materials and financial statements described in OAR 441-065-0222;

(b) Sell the securities only on a specified form of subscription or sale contract and that a signed or conformed copy of each contract be preserved for a period up to three years under OAR 441-065-0200; and

(c) Deposit into escrow, or a similar arrangement, on terms required under OAR 441-065-0150 the proceeds from the sale of securities until the issuer receives the minimum amount specified by the Director.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.085, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065, 59.085

ADOPT: 441-065-0221

RULE TITLE: Application and Information Requirements for a SOAR Offering

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is adopted to establish the specific application and information requirements for a SOAR offering.

RULE TEXT:

(1) An application to register securities filed under the SOAR Offering shall include the following:

(a) A completed Form 440-2013 (a form for the registration of limited or non-public offerings);

(b) A copy of the written disclosure materials required by OAR 441-065-0222;

(c) A non-refundable registration fee as set in OAR 441-065-0001;

(d) Unless the offering is being sold through a licensed broker-dealer or by a person exempt from the licensing requirements, at least one completed salesperson application on FINRA Form U-4 and a per person non-refundable license fee as set in OAR 441-175-0002;

(e) An escrow, or similar arrangement, agreement;

(f) Pro forma financial statements that include a description and documentation of any material assumptions and demonstrate when the issuer expects to be profitable; and

(g) Any additional or supplementary materials requested by the Director.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.085, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065, 59.085

ADOPT: 441-065-0222

RULE TITLE: SOAR Offering Disclosure Requirements

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is adopted to establish specific disclosure requirements for a SOAR offering.

RULE TEXT:

(1) Each prospective purchaser of securities registered under a SOAR Offering shall be given written disclosure materials a reasonable time prior to sale that are material to an understanding of the issuer, the issuer's financial condition, its business and the securities being offered, including the type of information required under the NASAA Form U-7.

(2) Disclosure Regarding Use of Proceeds: The disclosure document must disclose in tabular form, for both the minimum and maximum amounts proposed, if applicable, the percentages and dollar amounts of the following:

- (a) The proceeds the issuer expects to receive from the offering;
- (b) The purposes for which the issuer will use the proceeds;
- (c) The estimated amount to be used for each purpose; and
- (d) The order or priority in which the issuer will use the proceeds for the purposes stated.

(3) Disclosure of other sources of funds: The disclosure document must disclose:

- (a) The amounts of any funds to be raised from other sources to achieve the purposes stated;
- (b) The sources of any additional funds; and
- (c) Whether the sources are firm or contingent and, if contingent, an explanation of the contingency.

(4) Disclosure regarding flexibility in use of Proceeds: If the issuer's business plans require flexibility in the use of unspecified proceeds from the SOAR Offering the issuer must:

- (a) Disclose all potential uses of the proceeds with qualifying language that the uses may be subject to change; and
- (b) Indicate the circumstances that may lead to reallocation and the potential areas of reallocation.

(5) Disclosure Regarding Sufficiency of Funds: The disclosure document, must disclose in the risk factor section whether the proceeds of the offering are insufficient to sustain the issuer's activities for at least 12 months following the offering.

(6) Written legend: The disclosure document shall contain the following legend, which shall be prominently displayed and in print that is easy to read:

"The securities offered are registered with the Director of the Department of Consumer and Business Services for the State of Oregon under the Small Offering Abbreviated Registration (SOAR) rules. The Director reviewed the document only briefly. These securities have not been approved or disapproved by any federal or state securities commission or other regulatory authority. Also, no federal or state agency has determined whether the statements made in this document are truthful or complete. Any representation to the contrary is a criminal offense. In deciding whether or not to invest in these securities, you should rely on your own examination of the company issuing the securities and the terms of the offering including the merits and risks involved."

(7) Applicability of the Anti-fraud Provisions: The SOAR Offering shall not be construed as waiving or modifying the provisions of the Oregon Securities Law relating to disclosure of material information to investors.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065

ADOPT: 441-065-0223

RULE TITLE: Denial or Approval of a SOAR Offering Application by the Director

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is adopted to establish the acceptance or denial process for SOAR offerings.

RULE TEXT:

(1) The Director shall review a SOAR Application and tender any comments to the application within 15 business days after receipt of the application. The application is considered to have been received when all documents required by OAR 441-065-0221 have been received and the fees paid.

(2) The Director may deny the application if the issuer has not complied with any provision of the SOAR, the Oregon Securities Law, or does not demonstrate that the offering proceeds, together with all other sources of financing currently available to the issuer, are sufficient to sustain the issuer's proposed activities.

(3) Unless the application is denied, the Director shall approve the application by issuing an Order of Registration. The registration is effective on the Effective Date of Registration. The securities may thereafter be sold in accordance with the registration and any conditions, limitations or restrictions imposed by the director. The registration shall expire one year from the Effective Date of Registration.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065

ADOPT: 441-065-0224

RULE TITLE: Retroactive Registration of SOAR Securities that Exceed the Amount Registered

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is adopted to establish requirements for retroactive registration of SOAR offerings.

RULE TEXT:

If a person sells securities that are registered as a SOAR Offering that are in excess of the amount stated on the Form 440-2013 and the Order of Registration, the seller may seek to retroactively register the unregistered shares by paying three times the difference between the initial fee paid and the fee required under OAR 441-065-0001 for the securities sold in Oregon. The additional fee may not be less than \$100. Registration of the excess securities shall be effective retroactively to the date of sale.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.125, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065, 59.125

AMEND: 441-065-0225

RULE TITLE: Registration for a Small Corporate Offering Registration (SCOR) Procedure for Offerings Not Exceeding \$5,000,000

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is amended to update offering amounts. Also incorporates requirements that were previously found elsewhere in Division 65 but are only applicable to offerings under OAR 441-065-0225.

RULE TEXT:

(1) General Requirements. An applicant for registration pursuant to this rule shall comply with all applicable provisions of OAR 441-065-0060 through 441-065-0210.

(2) Qualifications checklist:

(a) The issuer shall be a corporation or limited liability company organized under the laws of one of the states or possessions of the United States;

(b) The issuer shall not engage in a petroleum exploration or production, mining or other extractive industries business;

(c) The offering shall not be a "blind pool" or other offering for which the specific business to be engaged in or property to be acquired by the issuer cannot be specified;

(d) If the offering includes debt securities, the application for registration shall include information demonstrating the ability of the issuer to service its debt;

(e) The offering price for any common stock (and the exercise price, if the securities offered are options, warrants or rights for common stock, and the conversion price if the securities are convertible into common stock) registered under this rule shall be equal to or greater than \$1 per share. In addition, the issuer shall not be permitted to split its common stock or declare a stock dividend for two years after the effectiveness of the registration without the prior written approval of the Director;

(f) The total of the amount being registered, plus the aggregate offering price of all securities sold within or outside the state within the 12 months preceding the effective date of the order of registration, plus the aggregate offering price of all securities of the issuer sold within or outside the state during the course of the offering being registered, where the securities are sold in reliance on section 3(b) of the Securities Act of 1933, as amended, or in violation of Section 5(a) of that Act, shall not exceed \$5,000,000;

(g) The issuer shall not be an investment company within the meaning of Section 3 of the Investment Company Act of 1940, as amended;

(h) The issuer shall not be subject to the reporting requirements of Sections 13 or 15(d) of the Securities Exchange Act of 1934, as amended.

(3) Purchaser Qualifications. No limits are placed upon the number of persons who may purchase securities registered pursuant to this rule. Sales of securities registered pursuant to this rule shall only be made to purchasers who are:

(a) Accredited investors;

(b) Permitted Oregon purchasers;

(c) Sophisticated purchasers;

(d) Suitable purchasers; or

(e) Direct purchasers from the issuer.

(4) Application Requirements: An application to register securities filed pursuant to a SCOR Offering shall include the following:

(a) A completed NASAA Form U-7 (a uniform disclosure document for small corporate offerings) including the following exhibits, to the extent applicable:

(A) Form of underwriting or selling agency agreement;

(B) Issuer's articles of incorporation or other charter documents and all amendments thereto;

(C) Issuer's bylaws, as amended to date;

(D) A copy of any resolutions by the issuer's board of directors setting forth terms and provisions of capital stock to be

issued;

(E) Any indenture, form of note or other contractual provision containing terms of notes or other debt, or of options, warrants or rights to be offered;

(F) Specimen of security to be offered (including any legend restricting resale);

(G) Copy of all advertising or other materials directed to or to be furnished investors in the offering;

(H) Form of escrow agreement for escrow of proceeds;

(I) Consent to inclusion in the NASAA Form U-7 Disclosure Document of accountant's report;

(J) Consent to inclusion in the NASAA Form U-7 Disclosure Document of tax advisor's opinion or description of tax consequences;

(K) Consent to inclusion in the NASAA Form U-7 Disclosure Document of any evaluation of litigation or administrative action by counsel;

(L) Form of any Subscription Agreement for the purchase of the securities;

(M) Opinion of counsel that the securities to be sold in the offering have been duly authorized and when issued upon payment of the offering price will be legally and validly issued, fully paid and nonassessable and binding on the issuer in accordance with their terms;

(N) Schedule of residence street addresses of the issuer's officers, directors and principal stockholders;

(O) Work sheets showing computations of responses to Questions 6, 7(a), 8(a), 8(b) and 17(b) of the NASAA Form U-7 Disclosure Document; and

(P) Any additional or supplementary materials requested by the Director.

(b) A non-refundable registration fee as set in OAR 441-065-0001; and

(c) Unless the offering is being sold through a licensed broker-dealer or by a person exempt from the licensing requirements, at least one completed salesperson application on the FINRA Form U-4 and a per person non-refundable license fee as set in OAR 441-175-0002.

(5) Information Requirements. Each prospective purchaser of the securities shall be given a copy of the NASAA Form U-7 Disclosure Document (including all amendments) filed with the Director pursuant to this rule.

(6) Material Changes to a SCOR Offering. If a material change concerning the issuer or the offering occurs while the securities are still registered, the issuer shall:

(a) Amend the NASAA Form U-7 Disclosure Document make the disclosures accurate and complete;

(b) File the amended NASAA Form U-7 showing additions and deletions with the Director for approval;

(c) The offering shall be suspended until the Director approves the amended Form U-7;

(d) The registrant shall report the status of the offering with the Director and file a plan for dealing with its investors.

(7) Registered offerings under a Small Corporate Offering Registration. For an offering registered under this rule, each prospective purchaser of the securities shall be given a copy of the NASAA Form U-7 Disclosure Document (including all amendments) filed with the Director pursuant to this rule at a reasonable time prior to the sale of the security.

STATUTORY/OTHER AUTHORITY: ORS 59.065, 59.085, 59.175, 59.285

STATUTES/OTHER IMPLEMENTED: ORS 59.065

REPEAL: 441-065-0230

RULE TITLE: Limited Offering Registration Procedure for Offerings not Exceeding \$5,000,000 (Including Under SEC Rule 505)

NOTICE FILED DATE: 02/27/2018

RULE SUMMARY: Is repealed to accommodate the repeal the repealed federal securities Rule 505.

RULE TEXT:

(1) General Requirements. An applicant for registration pursuant to this rule must comply with all applicable provisions of OAR 441-065-0060 through 441-065-0210.

(2) Specific Requirements and Limitations. In addition to the provisions of section (1) of this rule, an applicant for registration must comply with the following specific requirements and limitations:

(a) The total of the amount being registered, plus the aggregate offering price of all securities of the issuer sold within or outside this state within the 12 months preceding the effective date of the order of registration, plus the aggregate offering price of all securities of the issuer sold within or outside the state during the course of the offering being registered, where the securities were sold in reliance on section 3(b) of the Securities Act of 1933 or in violation of section 5(a) of that Act, may not exceed \$5,000,000; and

(b) The total number of non-accredited, counting purchasers may not exceed 35.

(3) Purchaser Qualifications. Sales of securities registered pursuant to this rule may only be made to purchasers in one or more of the following categories:

(a) Accredited investors;

(b) Permitted Oregon purchasers;

(c) Sophisticated purchasers; or

(d) Suitable purchasers.

STATUTORY/OTHER AUTHORITY: ORS 59.065

STATUTES/OTHER IMPLEMENTED: ORS 59.065