

WAC 460-44A-500 Preliminary notes. (1) The rules of WAC 460-44A-501 through 460-44A-508 relate to transactions exempted from the registration requirements of the Federal Securities Act of 1933 that are also exempted or preempted from RCW 21.20.140. WAC 460-44A-504 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 504 or Rule 147. WAC 460-44A-505 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 505. WAC 460-44A-506 establishes certain conditions for offerings exempted under Securities and Exchange Commission Rule 506. Unless expressly provided otherwise, such transactions are not exempt from anti-fraud, civil liability, or other provisions of the federal and state securities laws. Issuers are reminded of their obligation to provide such further material information, if any, as may be necessary to make the information required under these rules, in light of the circumstances under which it is furnished, not misleading.

(2) Attempted compliance with the exemption of WAC 460-44A-504, 460-44A-505, or 460-44A-506 does not act as an exclusive election; the issuer can also claim the availability of any other applicable exemption.

(3) These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resale of the issuer's securities. The rules provide an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.

(4) In any proceeding involving the rules in WAC 460-44A-501 through 460-44A-508, the burden of proving the exemption, an exception from a definition or condition, or preemption, is upon the person claiming it.

(5) For offerings commenced but not completed prior to the amendment of WAC 460-44A-501 through 460-44A-508, issuers may opt to follow the rules in effect at the date of filing notice of the offering.

(6) Securities offered and sold outside the United States in accordance with Securities and Exchange Commission Regulation S need not be registered under chapter 21.20 RCW. Regulation S may be relied upon for such offers and sales even if coincident offers and sales are made in accordance with Regulation D and WAC 460-44A-501 through 460-44A-508 inside the United States. Thus, for example, persons who are offered and sold securities in accordance with Regulation S would not be counted in the calculation of the number of purchasers under Regulation D and WAC 460-44A-501 through 460-44A-508. Similarly proceeds from such sales would not be included in the aggregate offering price. The provisions of this subsection, however, do not apply if the issuer elects to rely solely on Regulation D for offers or sales to persons made outside the United States.

(7) These rules have been amended in recognition of the amendment of Regulation D by the Securities and Exchange Commission (SEC) to authorize the filing of Form D in electronic format with the SEC through the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S-T (17 C.F.R. Part 232) as described in Securities and Exchange Commission Securities Act Release No. 8891. WAC 460-44A-503 (1)(b) authorizes an issuer to file a copy of the notice of sales on Form D filed electronically or in paper format with the SEC (17 C.F.R. 239.500) until an electronic filing system acceptable to the administrator of securities of the department of financial institutions is implemented that permits the

electronic filing of Form D with the administrator or his or her designee.

[Statutory Authority: RCW 21.20.450, 21.20.320 (1) and (17). WSR 14-11-005, § 460-44A-500, filed 5/7/14, effective 6/7/14. Statutory Authority: RCW 21.20.450, 21.20.320 (1), (9), (17). WSR 08-16-072, § 460-44A-500, filed 7/31/08, effective 9/15/08. Statutory Authority: RCW 21.20.450, 21.20.320(9). WSR 00-04-094, § 460-44A-500, filed 2/2/00, effective 3/4/00. Statutory Authority: RCW 21.20.450, 21.20.320(9), 21.20.320(1) and 21.20.320(17). WSR 98-11-014, § 460-44A-500, filed 5/12/98, effective 6/12/98. Statutory Authority: RCW 21.20.450. WSR 94-03-061, § 460-44A-500, filed 1/14/94, effective 2/14/94. Statutory Authority: RCW 21.20.450, 21.20.320 (1), (9) and (17) and 21.20.340(11). WSR 90-09-059, § 460-44A-500, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 21.20.320 (1) and (16) and 21.20.450. WSR 89-17-076 (Order SDO-122-89), § 460-44A-500, filed 8/17/89, effective 9/17/89; WSR 88-15-024 (Order SDO-71-88), § 460-44A-500, filed 7/12/88. Statutory Authority: RCW 21.20.320 (1) and (17). WSR 86-15-003 (Order SDO-80-86), § 460-44A-500, filed 7/3/86. Statutory Authority: RCW 21.20.320(1) and 21.20.450. WSR 82-21-031 (Order SDO-98-82), § 460-44A-500, filed 10/15/82.]