

**WAC 460-44A-504 Exemption for limited offers and sales of securities not exceeding \$1,000,000 to not more than twenty purchasers.**

(1) Exemption. Offers and sales of securities by an issuer in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 through 230.504 and 230.508 as made effective in Release No. 33-6389, and as amended in Release Nos. 33-6437, 33-6663, 33-6758, 33-6825, 33-6863, 33-6949, 33-6996, 33-7300, 33-7644, and 33-8891, or in compliance with the Securities Act of 1933, Rule 230.147 as made effective in Release No. 33-5450, or in compliance with Securities Act of 1933, Rule 230.147A as made effective in Release Nos. 33-10238 and 34-79161, that satisfy the conditions in subsections (2) and (3) of this section shall be exempt under RCW 21.20.320(9).

(2) General conditions to be met. To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of WAC 460-44A-501 through 460-44A-503 and 460-44A-508.

(3) Specific conditions to be met.

(a) Limitation on aggregate offering price. The aggregate offering price for an offering of securities under this section, as defined in WAC 460-44A-501(3), shall not exceed \$1,000,000, within or without this state, less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this section in reliance on any exemption under RCW 21.20.320(9) or sections 3 (a)(11) or 3(b) of the Securities Act of 1933 or in violation of RCW 21.20.140 or section 5(a) of the Securities Act of 1933.

(b) No commissions. No commission, fee, or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in the state of Washington.

(c) Limitation on number of purchasers. There are no more than or the issuer reasonably believes that there are no more than twenty purchasers of securities in this state from the issuer in any offering in reliance on this section.

(d) In all sales to nonaccredited investors in this state under this section the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that, as to each purchaser, one of the following conditions, (i) or (ii) of this subsection, is satisfied:

(i) The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent of the purchaser's net worth, it is suitable. This presumption is rebuttable; or

(ii) The purchaser either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.

(e) Disqualifications. No exemption under this section shall be available for the securities of any issuer if any of the parties described in the Securities Act of 1933, Regulation A, Rule 230.262 is disqualified for any of the reasons listed in Securities Act of 1933, Regulation D, Rule 230.506(d) or WAC 460-17A-040.

(f) Notice filing. The issuer shall file a notice, with a consent to service of process, and pay a filing fee as set forth in WAC 460-44A-503.

(g) Advice about the limitations on resale.

The issuer, at a reasonable time prior to the sale of securities, shall advise each purchaser of the limitations on resale in the manner contained in WAC 460-44A-502 (4) (b).

(4) Transactions which are exempt under this section may not be combined with offers and sales exempt under any other rule or section of the Securities Act of Washington, however, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions for the exemption of this section, the issuer may claim the availability of any other applicable exemption.

(5) WAC 460-44A-504 is not the exclusive method by which issuers may make offerings under Securities and Exchange Commission Rules 504, 147 or 147A. For example, offers and sales of an issuer in compliance with Securities and Exchange Commission Rule 504 or Rule 147 or 147A may also be registered by qualification under chapter 21.20 RCW. An issuer that qualifies may elect to register an offering pursuant to the Small Company Offering Registration (SCOR) program as set out in chapter 460-17A WAC.

(6) Issuers are reminded that nothing in these rules alters their obligation under RCW 21.20.010. RCW 21.20.010(2) renders it unlawful "to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading..." In addition, issuers must otherwise comply with the anti-fraud provisions of the federal and state securities laws. No format for disclosure is prescribed. However, issuers may wish to consider the question and answer disclosure format of the SCOR Form of chapter 460-17A WAC in determining the disclosure they make. If the SCOR form is used, the issuer should indicate that the form is being used for an exempt offering under this section rather than in an offering registered under chapter 21.20 RCW and chapter 460-17A WAC.

[Statutory Authority: RCW 21.20.320 (9), (17) and 21.20.450. WSR 19-04-084, § 460-44A-504, filed 2/4/19, effective 3/7/19. Statutory Authority: RCW 21.20.450, 21.20.320 (1), (9), (17). WSR 08-16-072, § 460-44A-504, filed 7/31/08, effective 9/15/08. Statutory Authority: RCW 21.20.450 and 21.20.320(9). WSR 00-23-027, § 460-44A-504, filed 11/7/00, effective 12/8/00; WSR 00-04-094, § 460-44A-504, 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-504, filed 5/12/98, effective 6/12/98. Statutory Authority: RCW 21.20.450. WSR 94-03-061, § 460-44A-504, 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-504, filed 4/17/90, effective 5/18/90.]