

WSR 23-03-059  
PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS  
(Securities Division)  
[Filed January 11, 2023, 2:58 p.m.]

Subject of Possible Rule Making: The securities division is considering proposing to amend chapter 460-80 WAC to formally adopt the statement of policy regarding the use of franchise questionnaires and acknowledgments (statement of policy) promulgated by the North American Securities Administrators Association, Inc. (NASAA).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.100.250.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: On September 18, 2022, NASAA adopted the statement of policy. The statement of policy sets uniform standards for the proper use of questionnaires and acknowledgments in franchise offerings. The statement of policy has an effective date of January 1, 2023.

The statement of policy prohibits provisions that would require a prospective franchisee to make statements that are subjective, unreasonable, or that attempt to absolve the franchisor or its agents of liability in connection with the sale of a franchise. These provisions are also inconsistent with the Franchise Investment Protection Act's antiwaiver provisions. See RCW 19.100.220(2) and 19.100.180 (2)(g). It is important to note that the adoption of the statement of policy does not represent a material change in requirements for franchise offerings in Washington. However, adoption of the statement of policy would aid franchisors in complying with existing Washington law by providing specific examples of prohibited questionnaires and acknowledgments, while also increasing compliance with antiwaiver and antifraud requirements across the states with such requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington and a number of states regulate franchise offerings. The adoption of the statement of policy by Washington and other states will increase uniformity in addressing provisions that are inconsistent with state laws prohibiting waivers of liability in franchise offerings and fraud.

Process for Developing New Rule: The securities division is soliciting comments from interested persons and will adopt rules only after consideration of public comments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nathan Quigley, P.O. Box 9033, Olympia, WA 98507-9033, phone 360-902-8760, fax 360-902-0524, TTY 360-664-8126, email Nathan.Quigley@dfi.wa.gov, website <https://dfi.wa.gov/securities>.

January 11, 2023  
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