

WSR 24-11-013
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
[Filed May 6, 2024, 9:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-08-058.

Title of Rule and Other Identifying Information: Broker-dealers and salespersons of broker-dealers.

Hearing Location(s): On June 26, 2024, at 10:30 a.m., at the Department of Financial Institutions (DFI), 150 Israel Road S.W., Tumwater, WA 98501.

Date of Intended Adoption: June 27, 2024.

Submit Written Comments to: Jill Vallely, P.O. Box 41200, Olympia, WA 98504-1200, email jill.vallely@dfi.wa.gov, fax 360-902-0524, by June 25, 2024.

Assistance for Persons with Disabilities: Contact Keera Earskine, phone 360-902-8760, fax 360-902-0524, TTY 1-800-833-6384, email keera.earskine@dfi.wa.gov, by June 25, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule making creates a new chapter of rules for broker-dealers and salespersons of broker-dealers at chapter 460-20C WAC, and repeals the existing rules in chapters 460-20B, 460-21B, and 460-22B WAC. The proposed rules update the rules consistent with current federal law and the Financial Industry Regulatory Authority (FINRA) rules, incorporate North American Securities Administrators Association (NASAA) model rules, and describe the application filing procedures and registration requirements for broker-dealers and salespersons. As compared to the current rules, the proposed rules:

- Add a statement that the rules in the chapter apply to broker-dealers to the extent permitted by the National Securities Markets Improvement Act of 1996.
- Add definitions for "Branch Office," "Chief Compliance Officer," "Principal," "FINRA," "FINRA Member," "Form BD," "Form BR," "Form BDW," "Form U4," and "Form U5."
- Add a definition for "Solicited" based on Securities Act Interpretive Statement 16.
- Describe and clarify current application procedures for both FINRA member and nonmember broker-dealers with respect to initial applications, renewals, and amendments.
- Describe and clarify current application procedures for registering as a salesperson of a broker-dealer.
- Add a requirement for persons who supervise salespersons in Washington to register as salespersons in Washington.
- Add a requirement of the notification of branch office on Form BR.
- Update the Canadian broker-dealer exemption to specify the current exemption notice filing procedures, including that broker-dealers must submit a consent to service of process (Form U2).
- Clarify that a broker-dealer must maintain at least one principal who has passed the Series 24.
- Adopt the NASAA Model Rule: Examination Requirements for Broker-Dealer Agents, which will extend the validity of exam scores for up to five years for persons who participate in the FINRA Main-

taining Qualifications Program and the NASAA Examination Validity Extension Program.

- Add a new rule allowing the securities division, after providing at least 30 days' notice, to terminate pending applications on which an applicant has taken no action for nine months.
- Add a procedure for effecting the mass transfer of salespersons.
- Add a rule requiring the filing of Form BDW to terminate a broker-dealer registration.
- Update and specify the current federal rules that apply with respect to minimum capital requirements, reserve and custody requirements, books and records, and financial reporting requirements.
- Specify that FINRA members must file the financial statements required by the Securities and Exchange Commission in Washington upon request.
- Specify that nonmembers of FINRA must file financial statements annually through the securities division's eFin filing system, and that the securities division may require quarterly filings upon request.
- Revise the supervision rule to state that broker-dealers must reasonably supervise employees (in addition to its salespersons), must comply with supervision requirements in FINRA conduct standards, and must comply with training regarding detecting the financial exploitation of vulnerable adults consistent with the existing requirements in RCW 74.34.220(3). The revision removes the existing requirement that the supervisors of salespersons in Washington be located in Washington, and provides that the securities division may require heightened supervision as a condition of salesperson registration.
- Revise the fraudulent practices rule to specify additional fraudulent practices, including making false or misleading statements in examinations or in documents filed with the securities division, holding out as providing investment advisory services if not registered as an investment adviser, and giving gifts in excess of \$100 per individual per year where the gift is in relation to the business of the employer of the recipient (consistent with FINRA Rule 3220).
- Revise the excessive trading rule to clarify that the securities division may consider cost-to-equity ratio and turnover ratio, as well as other methods, to determine whether trading is excessive.
- Add a communications rule that adopts the content standards in FINRA Rule 2210 (d)(1)(A), (B), (D), (E), and (d)(3).
- Add a variable annuities sales practices rule based on FINRA Rule 2330.
- Revise the rule regarding unethical practices of broker-dealers to add additional unethical practices, including practices specified in the most recent version of the NASAA Dishonest or Unethical Practices of Broker-Dealers Model Rule.
- Revise the rule regarding unethical practices of salespersons to add additional unethical practices, including practices specified in the most recent version of the NASAA Dishonest or Unethical Practices of Broker-Dealers Model Rule.

Reasons Supporting Proposal: The securities division has not updated its rules for broker-dealers and salespersons of broker-dealers in many years, and several of the rules need revision to make them consistent with federal law, FINRA rules, NASAA model rules, or the

securities division's current licensing procedures. The consolidation of the three current rule chapters into a single chapter will make the rules easier to use. The proposed rules clarify the filing procedures and requirements applicable to broker-dealers who are not members of FINRA, which the current rules do not address. These updates will improve the functionality of the rules, promote uniformity with federal law and other states, and increase investor protection.

Statutory Authority for Adoption: RCW 21.20.070, 21.20.450.

Statute Being Implemented: Chapter 21.20 RCW.

Rule is necessary because of federal law, [NISBA].

Name of Proponent: DFI, governmental.

Name of Agency Personnel Responsible for Drafting: Jill Vallely, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-8760; Implementation: Mark Kissler, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-8760; and Enforcement: Bill Beatty, Director, Securities, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-8760.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DFI is not one of the agencies listed in RCW 34.05.328.

Scope of exemption for rule proposal from Regulatory Fairness Act (RFA) requirements:

Is not exempt.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement (SBEIS)

Chapter 460-20C WAC

Broker-Dealers and Salespersons of Broker-Dealers

April 16, 2024

SECTION 1: Description of the Proposed Rule Chapter: DFI, securities division has prepared this SBEIS in support of the proposal of new chapter 460-20C WAC pertaining to broker-dealers and salespersons of broker-dealers. The proposed rule making will repeal the existing rules for broker-dealers and salespersons in chapters 460-20B, 460-21B, and 460-22B WAC. The securities division's broker-dealer rules have not been significantly updated in over 20 years, and several rules are outdated with respect to current federal law and the securities division's current licensing practices.

Prior to preparing this SBEIS in support of the proposed rules, the securities division prepared a preliminary draft of potential rule revisions. In December 2023, the securities division posted the draft rules on its website, and conducted an electronic mailing to all broker-dealers registered in Washington. In the mailing, the securities division distributed a link to the draft rules and a link to a small business economic impact survey. The results of the survey are discussed in Sections 3 through 6 of this SBEIS.

The preliminary rules draft combined the three current rule chapters into a single chapter for ease of use. The draft revised the existing rules to reflect the securities division's current licensing procedures and practices, and added filing procedures and requirements specific to broker-dealers who are not members of FINRA. The draft also updated existing rules to bring Washington's broker-dealer rules up to date with federal rules and FINRA rules, and to incorporate NASAA model rules, among other updates. As compared to the current rules for broker-dealers, the preliminary rules draft included the following substantive changes:

- Added a statement that the rules in the chapter apply to broker-dealers to the extent permitted by the National Securities Markets Improvement Act of 1996.
- Added definitions for "Branch Office," "Chief Compliance Officer," "Principal," "FINRA," "FINRA Member," "Form BD," "Form BR," "Form BDW," "Form U4," and "Form U5."
- Added a definition for "Solicited" based on Securities Act Interpretive Statement 16.
- Described and clarified current application procedures for both FINRA member and nonmember broker-dealers with respect to initial applications, renewals, and amendments.
- Described and clarified current application procedures for registering as a salesperson of a broker-dealer.
- Added a requirement for principals to register as salespersons in Washington.*
- Added a requirement for persons who supervise salespersons in Washington to register as salespersons in Washington.
- Added a requirement of the notification of branch office on Form BR.
- Updated the Canadian broker-dealer exemption to specify current exemption notice filing procedures, including that broker-dealers must submit a consent to service of process (Form U2).
- Clarified that a broker-dealer must maintain at least one principal who has passed the Series 24.
- Adopted the NASAA Model Rule: Examination Requirements for Broker-Dealer Agents, which will extend the validity of exam scores for up to five years for persons who participate in the FINRA Maintaining Qualifications Program and the NASAA Examination Validity Extension Program.
- Added a new rule allowing the securities division, after providing at least 30 days' notice, to terminate pending applications on which an applicant has taken no action for nine months.
- Increased the fee for delinquent applications from \$100 to \$200, as permitted by RCW 21.20.340(8).*
- Required salespersons to file a current business email address electronically with the securities division.*
- Added a procedure for effecting the mass transfer of salespersons.
- Added a rule requiring the filing of Form BDW to terminate a broker-dealer registration.
- Updated and specified the current federal rules that apply with respect to minimum capital requirements, reserve and custody requirements, books and records, and financial reporting requirements.
- Specified that FINRA members must file the financial statements required by the securities and exchange commission in Washington upon request.
- Specified that nonmembers of FINRA must file financial statements annually through the securities division's eFin filing system, and that the securities division may require quarterly filings upon request.
- Revised the supervision rule to state that broker-dealers must reasonably supervise employees (in addition to its salespersons), must comply with supervision requirements in FINRA conduct standards, and must comply with training regarding detecting the financial exploitation of vulnerable adults consistent with the ex-

isting requirements in RCW 74.34.220(3). The revision removes the existing requirement that the supervisors of salespersons in Washington be located in Washington, and provides that the securities division may require heightened supervision as a condition of salesperson registration.

- Revised the fraudulent practices rule to specify additional fraudulent practices, including making false or misleading statements in examinations or in documents filed with the securities division, holding out as providing investment advisory services if not registered as an investment adviser, and giving gifts in excess of \$100 per individual per year where the gift is in relation to the business of the employer of the recipient (consistent with FINRA Rule 3220).
- Revised the excessive trading rule to clarify that the securities division may consider cost-to-equity ratio and turnover ratio, as well as other methods, to determine whether trading is excessive.
- Added a communications rule that adopts the content standards in FINRA Rule 2210 (d)(1)(A), (B), (D), (E), and (d)(3).
- Added a variable annuities sales practices rule based on FINRA Rule 2330.
- Revised the rule regarding unethical practices of broker-dealers to add additional unethical practices, including practices specified in the most recent version of the NASAA Dishonest or Unethical Practices of Broker-Dealers Model Rule.
- Revised the rule regarding unethical practices of salespersons to add additional unethical practices, including practices specified in the most recent version of the NASAA Dishonest or Unethical Practices of Broker-Dealers Model Rule.

* The securities division revised or eliminated these provisions upon review of the economic impact survey results, as described in Section 6 below. The proposed rules are otherwise consistent with the preliminary draft rules.

SECTION 2: Identify which businesses must comply with the proposed rule using the North American Industry Classification System (NAICS) codes and the minor cost thresholds: All broker-dealers registered or required to be registered in Washington under RCW 21.20.040(1) will be required to comply with the proposed rules. In addition, all salespersons of broker-dealers who are registered or required to be registered in Washington under RCW 21.20.040(1) will be required to comply with the proposed rules.

The NAICS code for securities brokerages is 523150. The minor cost threshold that applies to this rule making under RFA, chapter 19.85 RCW, is a cost per business of less than three-tenths of one percent of annual revenue or income, or \$100, whichever is greater, or one percent of annual payroll.

SECTION 3: Analyze the probable cost of compliance: In drafting the proposed rules, the securities division attempted to balance the business concerns of registered broker-dealers with the securities division's mission to protect the investing public and to promote confidence in the capital markets. In general, the rule proposals create uniformity with federal law, FINRA rules, and NASAA Model Rules, and are consistent with broker-dealer rules in other states. Washington's rule-making authority with respect to broker-dealers is limited by the National Securities Markets Improvement Act of 1996 (NSMIA), which restricts states from establishing capital, custody, margin, financial responsibility, recordkeeping, bonding, or financial or operational reporting requirements for broker-dealers that differ from, or are in addition to, the requirements in those areas established under federal

law. The securities division drafted its proposed rules in consideration of the restrictions under NSMIA. In addition, much of the chapter restates existing rules, or describes current registration procedures followed by the securities division. Regardless, we anticipate that compliance with certain proposed rules may increase compliance costs for some broker-dealers. While the proposed rules may increase costs to licensees, the securities division believes the proposed rules will increase investor protection. Further, as described in Section 6, the securities division made certain revisions to the initial rules draft to reduce costs.

Survey of Broker-Dealers: RCW 19.85.040 provides that an agency may survey a representative sample of affected businesses to assist in the accurate assessment of the costs of proposed rules for the preparation of an SBEIS. To that end, the securities division conducted a survey to gather information from its registered broker-dealers regarding any anticipated cost increases associated with the initial rules draft.

The securities division prepared an online survey designed to determine the economic impact of the proposed amendments on small businesses. On December 19, 2023, the securities division sent an email containing a link to the online survey to the Central Registration Depository (CRD) contact person for all Washington-registered broker-dealers. At the time of the survey, the securities division had 1746 Washington-registered broker-dealers. The email explained the reasons for conducting the survey and requested that each broker-dealer's chief compliance officer or other appropriate representative complete the online survey by clicking on the provided link. The email also provided links to the draft rules, a copy of the survey questions, and a section-by-section analysis that detailed the changes in the draft rules as compared to the current rules in chapters 460-20B, 460-21B, and 460-22B WAC. The email noted that respondents could submit a hard copy of the survey in lieu of completing the electronic version.

The survey consisted of 35 questions. Each question in the survey focused on a section of the draft rules and provided a background statement briefly explaining any changes as compared to the current rules. The survey asked whether the proposed changes to each rule section would increase costs. If a respondent answered "yes," the survey requested information on the additional costs of compliance with that rule in the categories of professional services, equipment, supplies, labor, and administrative costs. Each question also provided a free-form response section for survey takers to make comments or provide additional information. The survey requested that responding broker-dealers provide their number of employees. The survey also queried whether the rule making in its entirety would cause a loss of revenue or the loss or addition of any jobs.

The survey period lasted from December 20, 2023, until February 1, 2024. The securities division received 63 unique responses that provided the respective broker-dealer's number of employees, although some respondents did not complete all the questions in the survey. These 63 respondents included 45 small businesses as defined by RCW 19.85.020(3) of RFA (business with 50 or fewer employees). The securities division also received four responses that did not provide their number of employees, therefore preventing us from determining whether the businesses were small businesses or calculating their costs per employee.

The following table provides the responses from the survey question regarding whether compliance with the proposed changes to each rule section would create any additional costs:

| Whether Rule Changes Would Create Additional Costs | | |
|--|-----|------|
| Rule Provision | Yes | No |
| Application of Chapter: WAC 460-20C-010 | 16% | 84% |
| Cross-Reference to Other Sections: WAC 460-20C-015 | 10% | 90% |
| Definitions: WAC 460-20C-020 | 0%* | 100% |
| Filings Made Through CRD: WAC 460-20C-025 | 7% | 93% |
| Registration Procedure: WAC 460-20C-030 | 39% | 61% |
| Canadian Broker-Dealers and Salespersons: WAC 460-20C-035 | 4% | 96% |
| Examination Requirements: WAC 460-20C-040 | 2% | 98% |
| Notice of Termination of Pending Applications: WAC 460-20C-045 | 0% | 100% |
| Expiration and Renewal of Registration: WAC 460-20C-050 | 9% | 91% |
| Notice of Changes by Broker-Dealers: WAC 460-20C-060 | 4% | 96% |
| Submission of Business Email Address: WAC 460-20C-070 | 17% | 83% |
| Mass Transfer of Salespersons: WAC 460-20C-080 | 6% | 94% |
| Termination of Broker-Dealer Registration: WAC 460-20C-090 | 0% | 100% |
| Termination of Salesperson Registration: WAC 460-20C-100 | 2% | 98% |
| Minimum Net Capital Requirements: WAC 460-20C-110 | 0% | 100% |
| Reserve and Custody Requirements: WAC 460-20C-120 | 2% | 98% |
| Books and Records of Broker-Dealers: WAC 460-20C-130 | 4% | 96% |
| Financial Reporting Requirements: WAC 460-20C-140 | 2% | 98% |
| Supervision of Salespersons and Employees: WAC 460-20C-150 | 8% | 92% |
| Fraudulent Practices of Broker-Dealers: WAC 460-20C-160 | 0% | 100% |
| Excessive Trading: WAC 460-20C-170 | 4% | 96% |
| Transmission of Underwriting Payments: WAC 460-20C-180 | 0% | 100% |
| Communications with Public: WAC 460-20C-190 | 2% | 98% |
| Deferred Variable Annuities: WAC 460-20C-200 | 2% | 98% |
| Dishonest or Unethical Practices—Broker-Dealers: WAC 460-20C-210 | 2% | 98% |
| Dishonest or Unethical Practices—Salespersons: WAC 460-20C-220 | 4% | 96% |
| Will the rules result in lost sales or revenue? | 4% | 96% |
| Will the rules cause your business to eliminate jobs? | 0% | 100% |
| Will the rules cause your business to add jobs? | 2% | 98% |

* Question included in hard copy survey only.

The securities division used the survey data to calculate the increased costs per employee for the broker-dealers responding to the survey in the categories of professional services, equipment, supplies, labor, and administrative costs for each section of the draft rules. The following table provides the average cost increase per employee for each rule for all survey respondents.

| Average Cost Increase Per Employee (All Respondents) | | | | | |
|--|-----------------------|-----------|----------|---------|---------|
| Rule Provision | Professional Services | Equipment | Supplies | Labor | Admin |
| Application of Chapter: WAC 460-20C-010 | \$105.70 | \$ - | \$ - | \$32.24 | \$10.93 |
| Cross-Reference to Other Sections: WAC 460-20C-015 | \$10.55 | \$ - | \$ - | \$7.02 | \$3.54 |

| Average Cost Increase Per Employee (All Respondents) | | | | | |
|--|-----------------------|-----------|----------|----------|---------|
| Rule Provision | Professional Services | Equipment | Supplies | Labor | Admin |
| Definitions: WAC 460-20C-020 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Filings Made Through CRD: WAC 460-20C-025 | \$18.67 | \$ - | \$ - | \$18.67 | \$ - |
| Registration Procedure: WAC 460-20C-030 | \$170.13 | \$ - | \$0.53 | \$114.89 | \$52.34 |
| Canadian Broker-Dealers and Salespersons: WAC 460-20C-035 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Examination Requirements: WAC 460-20C-040 | \$3.96 | \$ - | \$0.06 | \$2.88 | \$1.02 |
| Notice of Termination of Pending Applications: WAC 460-20C-045 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Expiration and Renewal of Registration: WAC 460-20C-050 | \$0.16 | \$ - | \$ - | \$ - | \$0.16 |
| Notice of Changes by Broker-Dealers: WAC 460-20C-060 | \$8.00 | \$ - | \$ - | \$7.84 | \$0.16 |
| Submission of Business Email Address: WAC 460-20C-070 | \$11.71 | \$ - | \$ - | \$8.32 | \$0.79 |
| Mass Transfer of Salespersons: WAC 460-20C-080 | \$2.54 | \$ - | \$ - | \$1.21 | \$1.33 |
| Termination of Broker-Dealer Registration: WAC 460-20C-090 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Termination of Salesperson Registration: WAC 460-20C-100 | \$8.00 | \$ - | \$ - | \$8.00 | \$ - |
| Minimum Net Capital Requirements: WAC 460-20C-110 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Reserve and Custody Requirements: WAC 460-20C-120 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Books and Records of Broker-Dealers: WAC 460-20C-130 | \$1.61 | \$ - | \$ - | \$ - | \$ - |
| Financial Reporting Requirements: WAC 460-20C-140 | \$1.18 | \$ - | \$ - | \$0.59 | \$0.59 |
| Supervision of Salespersons and Employees: WAC 460-20C-150 | \$1.09 | \$ - | \$ - | \$ - | \$4.34 |
| Fraudulent Practices of Broker-Dealers: WAC 460-20C-160 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Excessive Trading: WAC 460-20C-170 | \$1.81 | \$ - | \$ - | \$ - | \$0.56 |
| Transmission of Underwriting Payments: WAC 460-20C-180 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Communications with Public: WAC 460-20C-190 | \$200 | \$ - | \$ - | \$ - | \$200 |
| Deferred Variable Annuities: WAC 460-20C-200 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Dishonest or Unethical Practices— Broker-Dealers: WAC 460-20C-210 | \$8.00 | \$ - | \$ - | \$8.00 | \$ - |
| Dishonest or Unethical Practices— Salespersons: WAC 460-20C-220 | \$7.84 | \$ - | \$ - | \$ - | \$7.84 |

The following table provides the average cost increase per employee only for those broker-dealers who indicated that a particular rule change would create additional costs:

| Average Cost Increase Per Employee (Responses Greater than \$0) | | | | | |
|--|-----------------------|-----------|----------|----------|------------|
| Rule Provision | Professional Services | Equipment | Supplies | Labor | Admin |
| Application of Chapter: WAC 460-20C-010 | \$906.01 | \$ - | \$ - | \$483.82 | \$327.96 |
| Cross-Reference to Other Sections: WAC 460-20C-015 | \$300.81 | \$ - | \$ - | \$400.00 | \$201.61 |
| Definitions: WAC 460-20C-020 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Filings Made Through CRD: WAC 460-20C-025 | \$522.73 | \$ - | \$ - | \$522.73 | \$ - |
| Registration Procedure: WAC 460-20C-030 | \$935.70 | \$ - | \$29.41 | \$902.71 | \$319.88 |
| Canadian Broker-Dealers and Salespersons: WAC 460-20C-035 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Examination Requirements: WAC 460-20C-040 | \$205.88 | \$ - | \$2.94 | \$150.00 | \$52.94 |
| Notice of Termination of Pending Applications: WAC 460-20C-045 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Expiration and Renewal of Registration: WAC 460-20C-050 | \$8.06 | \$ - | \$ - | \$ - | \$8.06 |
| Notice of Changes by Broker-Dealers: WAC 460-20C-060 | \$204.03 | \$ - | \$ - | \$400.00 | \$8.06 |
| Submission of Business Email Address: WAC 460-20C-070 | \$99.54 | \$ - | \$ - | \$106.14 | \$13.51 |
| Mass Transfer of Salespersons: WAC 460-20C-080 | \$63.60 | \$ - | \$ - | \$60.61 | \$33.30 |
| Termination of Broker-Dealer Registration: WAC 460-20C-090 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Termination of Salesperson Registration: WAC 460-20C-100 | \$400.00 | \$ - | \$ - | \$400.00 | \$ - |
| Minimum Net Capital Requirements: WAC 460-20C-110 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Reserve and Custody Requirements: WAC 460-20C-120 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Books and Records of Broker-Dealers: WAC 460-20C-130 | \$80.65 | \$ - | \$ - | \$ - | \$ - |
| Financial Reporting Requirements: WAC 460-20C-140 | \$58.82 | \$ - | \$ - | \$29.41 | \$29.41 |
| Supervision of Salespersons and Employees: WAC 460-20C-150 | \$27.37 | \$ - | \$ - | \$ - | \$108.62 |
| Fraudulent Practices of Broker-Dealers: WAC 460-20C-160 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Excessive Trading: WAC 460-20C-170 | \$45.36 | \$ - | \$ - | \$ - | \$28.23 |
| Transmission of Underwriting Payments: WAC 460-20C-180 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Communications with Public: WAC 460-20C-190 | \$100,000* | \$ - | \$ - | \$ - | \$100,000* |
| Deferred Variable Annuities: WAC 460-20C-200 | \$ - | \$ - | \$ - | \$ - | \$ - |
| Dishonest or Unethical Practices—Broker-Dealers: WAC 460-20C-210 | \$400.00 | \$ - | \$ - | \$400.00 | \$ - |
| Dishonest or Unethical Practices—Salespersons: WAC 460-20C-220 | \$400.00 | \$ - | \$ - | \$400.00 | \$ - |

* Represents the response of a single survey taker.

The following table presents the survey results for the lost revenue anticipated to be caused by the draft rules as a whole:

| Amount of Lost Revenue Caused by the Rules (Per Employee) | |
|--|------------|
| Average of All Survey Respondents | \$132.02 |
| Average of Responses Greater than \$0 | \$3,367.65 |

Discussion of Survey Results: The survey results indicated that respondents anticipated that certain draft rule sections would be likely to increase costs. These included the draft rules regarding registration procedure (39 percent indicating increased costs), submission of business email address (17 percent indicating increased costs), application of chapter (16 percent indicating increased costs), cross-reference to other sections (10 percent indicating increased costs), expiration and renewal of registration (nine percent indicating increased costs), supervision of salespersons and employees (eight percent indicating increased costs), filings made through CRD (seven percent indicating increased costs), and mass transfer of salespersons (six percent indicating increased costs). We discuss the survey results in further detail below.

WAC 460-20C-030 Registration procedure: The draft rule WAC 460-20C-030 specified the registration procedure for broker-dealers and salespersons. The rule will replace the existing registration procedures currently in WAC 460-20B-030 (broker-dealers) and 460-22B-030 (salespersons). As compared to the current rules, the draft rule added a requirement for all principals of a broker-dealer in Washington to register as salespersons in Washington. It also added a requirement that persons who supervise salespersons in Washington register as salespersons in Washington. In addition, it added a requirement of notification of branch office by submitting Form BR on CRD.

The requirement added to the draft rules that all principals and supervisors of salespersons operating in Washington register as salespersons in Washington would increase costs for broker-dealers whose principals and supervisors are not currently registered in Washington. The cost of an initial salesperson registration in Washington is \$50 per salesperson, and annual renewals are \$30 per salesperson. To register, salespersons must demonstrate passage of the Series 63 exam. Persons who do not have current exam scores may incur costs to purchase study materials and pay the current examination fee of \$147. Firms may incur professional services, labor, or administrative expenses in preparing and filing Form BR in Washington.

The survey results indicated that approximately 39 percent of survey respondents believed that the draft rule at WAC 460-20C-030 would increase costs. For all survey respondents, these costs included an average of \$170.13 per employee for professional services, \$0.53 for supplies, \$114.89 for labor, and \$52.34 for administrative costs. Of the 39 percent of survey respondents who indicated that the rule amendments would increase costs, those costs included an average cost increase per employee of \$935.70 for professional services, \$29.41 for supplies, \$902.71 for labor, and \$319.88 for increased administrative costs. After reviewing the survey results, the securities division revised the draft rule to reduce costs, as described in Section 6.

WAC 460-20C-070 Submission of business email address: The initial draft created a new rule, WAC 460-20C-070, that would require broker-dealers to file an email address for each salesperson registered in Washington, and periodically update the addresses to reflect any

changes. Our current rules do not contain this provision, and therefore it would represent a new filing requirement. This would require broker-dealers to develop new internal procedures to ensure compliance with the requirement in Washington, and might increase professional services, labor, or administrative costs.

The survey results indicated that approximately 17 percent of survey respondents believed that the proposed rule at WAC 460-20C-070 would increase costs. For all survey respondents, these costs included an average of \$11.71 per employee for professional services, \$8.32 for labor, and \$0.79 for administrative costs. Of the 17 percent of survey respondents who indicated that the rule amendments would increase costs, those costs include an average cost increase per employee of \$99.54 for professional services, \$106.14 for labor, and \$33.30 for increased administrative costs. After reviewing the survey results, the securities division revised the draft rule to reduce costs, as described in Section 6.

WAC 460-20C-010 Application of chapter and WAC 460-20C-015 Cross-reference to other sections: The draft rule WAC 460-20C-010 stated that the chapter applies to broker-dealers and salespersons of broker-dealers. The draft rule was substantially similar to the current rules at WAC 460-20B-010 and 460-22B-010, except that the securities division removed a reference to chapter 460-33A WAC because that chapter was repealed in 2022. In addition, the securities division added a statement that the chapter applies to broker-dealers to the extent permitted by the National Securities Markets Improvement Act of 1996. This language merely acknowledges the federal preemption that has applied to the state regulation of broker-dealers since 1996. For these reasons, we do not believe the draft rule represents any substantive changes that would increase costs.

However, the survey results indicated that approximately 16 percent of survey respondents believed that the proposed rule at WAC 460-20C-010 would increase costs. For all survey respondents, these costs included an average of \$105.70 per employee for professional services, \$32.24 for labor, and \$10.93 for administrative costs. Of the 16 percent of survey respondents who indicated that the rule amendments would increase costs, those costs include an average cost increase per employee of \$906.01 for professional services, \$483.82 for labor, and \$327.96 for increased administrative costs.

The draft rule WAC 460-20C-015 provided a cross-reference to other chapters that pertain to broker-dealers and salespersons. The draft rule was substantially similar to the current rule at WAC 460-22B-020. As compared to the current rule, the draft rule added a reference to chapter 460-21C WAC, which concerns to the provision of broker-dealer services on the premises of financial institutions. This rule chapter currently applies to broker-dealers regardless of whether it is mentioned in the cross-reference rule. The securities division also removed a reference to chapter 460-33A WAC because that chapter was repealed in 2022. Accordingly, we do not believe the draft rule represents any substantive changes that would increase costs.

The survey results indicated that approximately 10 percent of survey respondents believed that the proposed rule at WAC 460-20C-015 would increase costs. For all survey respondents, these costs included an average of \$10.55 per employee for professional services, \$7.02 for labor, and \$3.54 for administrative costs. Of the 10 percent of survey respondents who indicated that the rule amendments would increase costs, those costs include an average cost increase per employee of

\$300.81 for professional services, \$400.00 for labor, and \$201.61 for increased administrative costs.

The securities division reasonably believes that WAC 460-20C-010 and 460-20C-015 will not increase expenses for broker-dealers because these rules do not represent any substantive change as compared to our current rules. The survey questions regarding the anticipated expenses related to draft rules WAC 460-20C-010 and 460-20C-015 were the first two substantive questions in the survey. Based on our assessment that these draft rules should not increase expenses, we conclude that some survey respondents may have responded to these questions by providing information regarding the economic impact of the rule making in its entirety. However, the securities division invites interested persons who may disagree with this assessment to submit comments, as specified in the CR-102, to explain why the individual proposed rules WAC 460-20C-010 and 460-20C-015 would increase costs.

WAC 460-20C-050 Expiration and renewal of registration: The draft rule WAC 460-20C-050 addressed the expiration and renewal of broker-dealer registration for broker-dealers and salespersons, and would replace the existing provision currently in WAC 460-20B-050 (broker-dealers) and WAC 460-22B-050 (salespersons). The rule clarified the current procedures for the renewal or expiration of registration. The draft rule also raised the delinquency fee for late broker-dealer renewal applications from \$100 to \$200. This would increase costs by \$100 in the event a broker-dealer submitted a delinquent renewal application.

The survey results indicated that approximately nine percent of survey respondents believed that the proposed rule at WAC 460-20C-015 would increase costs. For all survey respondents, these costs included an average of \$0.16 per employee for professional services and \$0.16 for administrative costs. Of the nine percent of survey respondents who indicated that the rule amendments would increase costs, those costs include an average cost increase per employee of \$8.06 for professional services and \$8.06 for increased administrative costs. After reviewing the survey results, the securities division revised the draft rule to reduce costs, as described in Section 6.

WAC 460-20C-025 Filings made through CRD: The draft rules included a new rule at WAC 460-20C-025 that designated CRD to receive and store filings and collect fees with respect to initial and renewal applications of FINRA-member broker-dealers. Currently, all broker-dealers who are members of FINRA must submit initial and renewal registration applications through CRD. The draft rule simply reflected this fact. Regardless, the survey results indicated that approximately seven percent of survey respondents believed that the proposed rule at WAC 460-20C-025 would increase costs. For all survey respondents, these costs included an average of \$18.67 per employee for professional services and \$18.67 for labor. Of the seven percent of survey respondents who indicated that the rule amendments would increase costs, those costs include an average cost increase per employee of \$522.73 for professional services and \$522.73 for labor.

WAC 460-20C-150 Supervision of salespersons and employees: The draft rules included a supervision rule at WAC 460-20C-150 that would replace the rule currently at WAC 460-21B-070. As compared to the current rule, the draft rule added that the broker-dealer must reasonably supervise employees (in addition to the current requirement to supervise salespersons), added that the broker-dealer must comply with supervision requirements set forth in FINRA conduct rules, and stated that the director may require heightened supervision as a condition of

registration for salespersons with a history of past misconduct or industry or regulatory-related incidents that may pose a risk to customers. The rule also adds that broker-dealers must provide training regarding detecting the financial exploitation of vulnerable adults. The training must be provided to employees who have contact with customers and access to account information on a regular basis and as part of their jobs. This training is currently required in Washington under RCW 74.34.220(3), and therefore does not represent a new requirement. However, compliance with the draft rule may potentially increase professional services, labor, or administrative expenses related to reviewing supervision procedures to ensure compliance with the rule.

The survey results indicated that approximately eight percent of survey respondents believed that the proposed rule at WAC 460-20C-015 would increase costs. For all survey respondents, these costs included an average of \$1.09 per employee for professional services and \$4.34 for administrative costs. Of the eight percent of survey respondents who indicated that the rule amendments would increase costs, those costs included an average cost increase per employee of \$27.37 for professional services and \$108.62 for increased administrative costs.

WAC 460-20C-080 Mass transfer of salespersons: The draft rules included a new rule, WAC 460-20C-080, to describe the procedure for completing a mass transfer of salespersons from one FINRA-member broker-dealer to another. The rule would require the submission of a roster of all the salespersons the broker-dealer intends to transfer, together with an indication of whether any of the salespersons had disclosable items in Section 14 of Form U4 or were subject to heightened supervision. The draft rule would facilitate the transfer of large numbers of salespersons, with the goal of speeding up the process. The draft rule might increase costs for broker-dealers by requiring the preparation of a roster and a review of which salespersons have disclosable items. However, the rule would only apply in the infrequent event that a broker-dealer merges with or otherwise acquires a large number of salespersons from another broker-dealer.

The survey results indicated that approximately six percent of survey respondents believed that the draft rule at WAC 460-20C-015 would increase costs. For all survey respondents, these costs included an average of \$2.54 per employee for professional services, \$1.21 for labor, and \$1.33 for administrative costs. Of the six percent of survey respondents who indicated that the rule amendments would increase costs, those costs included an average cost increase per employee of \$63.60 for professional services, \$60.61 for labor, and \$33.30 for increased administrative costs.

Lost Sales or Revenue: The securities division's survey revealed that four percent of respondents believed that compliance with the draft rule changes would result in lost sales or revenue. In contrast, 96 percent of respondents did not believe the rule changes would cause lost sales or revenue. For all survey respondents, the estimated lost revenue per employee was \$132.02. The four percent who believed the changes would lead to lost sale or revenue estimated they would lose \$3,367.65 in revenue per employee.

The survey requested a free-form answer regarding which specific provisions in the proposed rules would cause lost sales or revenue. The comments received suggested that spending additional money on legal and compliance matters would mean fewer funds available for advertising. This in turn could decrease revenue. We note that any change in rules will typically result in chief compliance officers or similar employees at a broker-dealer spending time to review and implement any

rule changes, including changing processes and educating employees. While these expenses may reasonably represent the activities for which a chief compliance officer is currently compensated, certain broker-dealers may hire outside consultants or incur additional costs to assist with these tasks. Funds spent on compliance would not be available to spend on other activities that might potentially increase revenue.

SECTION 4: Analyze whether the proposed rule may impose more-than-minor costs on businesses in the industry: RCW 19.85.030 provides that an agency must prepare an SBEIS if the agency proposes rules that would impose more-than-minor costs on businesses in an industry. RCW 19.85.020 defines a "minor cost" as a cost per business that is less than three-tenths of one percent of annual revenue or income, or \$100, whatever is greater; or one percent of annual payroll.

The securities division has determined, based on the results of the survey as described in Section 3, that at least some of the rules may impose more-than-minor costs on broker-dealers because such costs may exceed \$100.

SECTION 5: Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule. Also consider, based on input received, whether compliance with the rule will cause businesses to lose sales or revenue: RCW 19.85.040 requires that the securities division determine whether compliance with the proposed rules would have a disproportionate impact on small businesses by comparing the cost of compliance for small business with the costs of compliance for the 10 percent of businesses that are the largest businesses required to comply with the proposed rules.

The securities division categorized each survey response based on whether it came from a small business or whether it represented the 10 percent of businesses that were the largest businesses that responded. Small businesses are defined by RCW 19.85.020(3) as 50 or fewer employees. We likewise determined the largest 10 percent of businesses by the number of employees. We then compared the two categories to each other.

The survey results demonstrated that the increased costs per employee of small businesses were generally greater than the increased costs per employee of the largest 10 percent of businesses.

The following table compares the average cost increase associated with the draft rules for small businesses and the largest 10 percent of businesses required to comply:

| Average Cost Increase - Comparison of Small Businesses and Largest 10% of Businesses | | | | | |
|--|-----------------------|-----------|----------|---------|--------|
| Rule Provision | Professional Services | Equipment | Supplies | Labor | Admin |
| Application of Chapter: WAC 460-20C-010 | | | | | |
| Small Businesses | \$135.98 | \$ - | \$ - | \$43.18 | \$7.58 |
| Largest 10% | \$0.28 | \$ - | \$ - | \$ - | \$ - |
| Cross-Reference to Other Sections: WAC 460-20C-015 | | | | | |
| Small Businesses | \$9.76 | \$ - | \$ - | \$9.76 | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Definitions: WAC 460-20C-020 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Filings Made Through CRD: WAC 460-20C-025 | | | | | |
| Small Businesses | \$25.50 | \$ - | \$ - | \$25.50 | \$ - |

| Average Cost Increase - Comparison of Small Businesses and Largest 10% of Businesses | | | | | |
|---|------------------------------|------------------|-----------------|--------------|--------------|
| Rule Provision | Professional Services | Equipment | Supplies | Labor | Admin |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Registration Procedure: WAC 460-20C-030 | | | | | |
| Small Businesses | \$229.68 | \$ - | \$0.74 | \$157.44 | \$69.86 |
| Largest 10% | \$23.81 | \$ - | \$ - | \$ - | \$11.90 |
| Canadian Broker-Dealers and Salespersons: WAC 460-20C-035 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Examination Requirements: WAC 460-20C-040 | | | | | |
| Small Businesses | \$5.56 | \$ - | \$0.08 | \$4.05 | \$1.43 |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Notice of Termination of Pending Applications: WAC 460-20C-045 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Expiration and Renewal of Registration: WAC 460-20C-050 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Notice of Changes by Broker-Dealers: WAC 460-20C-060 | | | | | |
| Small Businesses | \$11.10 | \$ - | \$ - | \$11.11 | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Submission of Business Email Address: WAC 460-20C-070 | | | | | |
| Small Businesses | \$14.91 | \$ - | \$ - | \$10.86 | \$ - |
| Largest 10% | \$4.17 | \$ - | \$ - | \$ - | \$4.17 |
| Mass Transfer of Salespersons: WAC 460-20C-080 | | | | | |
| Small Businesses | \$2.53 | \$ - | \$ - | \$1.68 | \$0.84 |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Termination of Broker-Dealer Registration: WAC 460-20C-090 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Termination of Salesperson Registration: WAC 460-20C-100 | | | | | |
| Small Businesses | \$11.11 | \$ - | \$ - | \$11.11 | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Minimum Net Capital Requirements: WAC 460-20C-110 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Reserve and Custody Requirements: WAC 460-20C-120 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Books and Records of Broker-Dealers: WAC 460-20C-130 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Financial Reporting Requirements: WAC 460-20C-140 | | | | | |
| Small Businesses | \$1.63 | \$ - | \$ - | \$0.82 | \$0.82 |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Supervision of Salespersons and Employees: WAC 460-20C-150 | | | | | |
| Small Businesses | \$1.04 | \$ - | \$ - | \$ - | \$5.56 |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Fraudulent Practices of Broker-Dealers and Salespersons: WAC 460-20C-160 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Excessive Trading: WAC 460-20C-170 | | | | | |
| Small Businesses | \$1.74 | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |

| Average Cost Increase - Comparison of Small Businesses and Largest 10% of Businesses | | | | | |
|--|-----------------------|-----------|----------|---------|----------|
| Rule Provision | Professional Services | Equipment | Supplies | Labor | Admin |
| Transmission or Maintenance of Underwriting Payments: WAC 460-20C-180 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Communications with Public: WAC 460-20C-190 | | | | | |
| Small Businesses | \$277.78 | \$ - | \$ - | \$ - | \$277.78 |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Deferred Variable Annuities: WAC 460-20C-200 | | | | | |
| Small Businesses | \$ - | \$ - | \$ - | \$ - | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Dishonest or Unethical Practices—Broker-Dealers: WAC 460-20C-210 | | | | | |
| Small Businesses | \$11.11 | \$ - | \$ - | \$11.11 | \$ - |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |
| Dishonest or Unethical Practices—Salespersons: WAC 460-20C-220 | | | | | |
| Small Businesses | \$10.81 | \$ - | \$ - | \$ - | \$10.81 |
| Largest 10% | \$ - | \$ - | \$ - | \$ - | \$ - |

Comparison of lost sales or revenue: The largest 10 percent of businesses indicated in their survey responses that they would not lose any revenue. The small businesses estimated that they would lose an average of \$182.03 in revenue per employee, with two small businesses reporting that they expected to lose revenue because of the rule changes.

Comparison of addition or elimination of jobs: Approximately two percent of survey respondents indicated that the rule changes would cause them to add jobs. This represented one business that was one of the 10 percent of the largest businesses. No respondents indicated that the rule changes would cause them to eliminate jobs. Therefore, with respect to adding or eliminating jobs, there does not appear to be a disproportionate impact on small businesses as compared to the largest 10 percent of businesses that are required to comply.

SECTION 6: If the proposed rule is likely to impose a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses: In drafting the rule amendments, the securities division attempted to balance the business concerns of registered broker-dealers with the securities division's mission to protect the investing public and to promote confidence in the capital markets.

As a result of feedback received from affected businesses, the securities division made certain revisions to the initial rules draft to reduce the cost of compliance for small businesses. We detail these revisions below. The securities division also outlines additional mitigation steps we intend to take to reduce the burden of compliance. The securities division does not believe that it can reduce costs further and still accomplish the investor protection purpose of the rule making.

Reducing, modifying, or eliminating substantive regulatory requirements: The securities division reconsidered the provision in its draft rule at WAC 460-20C-030 that would require all principals of the broker-dealer to register as salespersons in Washington. We removed this requirement. This will reduce registration and administrative expenses for broker-dealers whose principals are not currently registered as salespersons here.

Simplifying, reducing, or eliminating recordkeeping and reporting requirements: The securities division revised the draft rules to re-

move the requirement for the submission of a business email address for each salesperson registered in Washington. This will reduce reporting requirements and any associated administrative expenses.

Reducing the frequency of inspections: The securities division does not believe that reducing the frequency of inspections or examinations would be in the interest of the investing public. Therefore, we have not made any changes to the draft rules that would reduce the frequency of inspections or examinations.

Delaying compliance timetables: The securities division understands that broker-dealers may require input from outside attorneys or compliance consultants to assist them in understanding and implementing the new rules. The securities division will allow broker-dealers adequate time to adjust to the rule changes through existing processes. Through the exam and deficiency letter process, the securities division will provide reasonable time for broker-dealers to fix any deficiencies related to the new rules that the staff identifies during its routine examinations of broker-dealers.

Reducing or modifying fine schedules for noncompliance: To reduce potential costs for broker-dealers, the securities division revised the draft rule at WAC 460-20C-050 to remove the increase in the delinquency fee to \$200. The delinquency fee that applies to late renewal applications will therefore remain at the current amount of \$100. This will reduce the anticipated expenses associated with the draft rules.

Any other mitigation techniques, including those suggested by small businesses or small business advocates: The securities division will consider any comments received on the CR-102 that address how to reduce costs or suggest any additional mitigation techniques. To facilitate compliance with the new rules, the securities division will consider developing a Frequently Asked Questions (FAQ) publication or other interpretive guidance for distribution to registered broker-dealers. In addition, upon adoption of the rules, the securities division will fulfill reasonable requests received from broker-dealers headquartered in Washington to provide training or technical assistance visits regarding compliance with the new rules.

SECTION 7: Describe how small businesses were involved in the development of the proposed rule: Throughout the rule-making process, the securities division has involved its registered broker-dealers and interested persons. Many of these broker-dealers are small businesses with fewer than 50 employees.

The securities division filed a CR-101 preproposal statement of inquiry with the code reviser's office on April 3, 2023 stating that the securities division was considering amending the rules currently in chapters 460-20B, 460-21B, and 460-22B WAC. On April 18, 2023, the securities division electronically mailed the CR-101 to all broker-dealers registered in Washington to solicit comments. At the same time, the securities division electronically mailed the CR-101 to its securities rule making interested persons list. The securities division did not receive any comments on the CR-101 form.

The securities division subsequently prepared a draft of possible amendments to the rules that would combine the existing chapters into new chapter 460-20C WAC. On December 19, 2023, the securities division posted the draft rules on our website, along with a section-by-section analysis detailing the differences between the draft chapter 460-20C WAC and the current rules in chapters 460-20B, 460-21B, and 460-22B WAC. In addition, the securities division conducted a survey of all broker-dealers registered in Washington to determine the costs associated with the rule amendments. On December 20, 2023, the securities

division emailed a link to the draft and a link to the electronic survey to all broker-dealers registered in Washington. The survey period remained open until February 1, 2024.

Following the distribution of the initial draft and the completion of the survey, the securities division revised the draft rules in response to feedback received from broker-dealers in the survey. The securities division now intends to proceed with the rule making by formally proposing chapter 460-20C WAC in a CR-102 filing with the code reviser. The securities division will distribute the CR-102 to our registered broker-dealers and our securities rule-making interested persons list. Broker-dealers and all interested members of the public will have an opportunity to submit comments on the proposed rule and participate in the rule-making hearing.

SECTION 8: Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule: The results of the survey indicated that no jobs would be eliminated as a result of the proposed rules. One survey respondent indicated that one job would be added as a result of the proposed rules.

SECTION 9: Summarize the results of the analysis, including the determination if costs are disproportionate: As discussed in Section 5 above, the survey indicated that several of the rules may impose disproportionate costs on small businesses as compared to the largest 10 percent of businesses required to comply with the rules. To mitigate this, the securities division revised its draft rules to lower costs as detailed in Section 6.

While the potential rule changes may increase costs to licensees, the securities division believes the increased investor protection outweighs the concerns regarding cost increases. Further, we note that the rules were drafted consistent with requirements under federal law and subject to the restrictions of NSMIA. To the extent that there will be remaining disproportionate costs on small businesses, we note that as demonstrated in Section 3, the survey respondents, including small businesses, indicated that most rules would not cause additional expense.

A copy of the statement may be obtained by contacting Jill Vallely, P.O. Box 41200, Olympia, WA 98504-1200, phone 360-902-8801, fax 360-902-0524, TTY 1-800-833-6384, email jill.vallely@dfi.wa.gov.

May 3, 2024
Charlie Clark
Director

OTS-4968.3

**Chapter 460-20C WAC
BROKER-DEALERS AND SALESPERSONS OF BROKER-DEALERS**

NEW SECTION

WAC 460-20C-010 Application of chapter. The rules in this chapter apply to broker-dealers and salespersons of broker-dealers registered or required to be registered under RCW 21.20.040. The rules apply to broker-dealers to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

NEW SECTION

WAC 460-20C-015 Cross-reference to other sections relating to broker-dealers and salespersons. Chapter 460-23B WAC applies to salespersons of issuers. Chapter 460-21C WAC applies to the provision of broker-dealer services on the premises of financial institutions.

NEW SECTION

WAC 460-20C-020 Definitions. The following definitions apply for the purpose of this chapter and chapters 460-21C and 460-23B WAC:

(1) "Balance sheet" means a balance sheet prepared in accordance with generally accepted accounting principles in the United States.

(2) "Branch office" means any location where one or more salespersons of a broker-dealer regularly conducts the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of any security, or is held out as such, excluding:

(a) Any location that is established solely for customer service and/or back office-type function where no sales activities are conducted and that is not held out to the public as a branch office;

(b) Any location that is the salesperson's primary residence, provided that:

(i) Only one salesperson, or multiple salespersons who reside at that location and are members of the same immediate family, conduct business at the location;

(ii) The location is not held out to the public as an office and the salesperson does not meet with customers at the location;

(iii) Neither customer funds nor securities are handled at that location;

(iv) The salesperson is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, retail communications, and other communications to the public by such salesperson;

(v) The salesperson's correspondence and communications with the public are subject to the supervision of the broker-dealer with which the salesperson is associated;

(vi) Electronic communications are made through the broker-dealer's electronic system;

(vii) All orders are entered through the designated branch office or an electronic system established by the broker-dealer that is reviewable at the branch office;

(viii) Written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the broker-dealer; and

(ix) A list of the residence locations is maintained by the broker-dealer;

(c) Any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided the salesperson and broker-dealer comply with the provisions of (b) (i) through (ix) of this subsection. For the purpose of this subsection, the term "business day" does not include any partial business day provided that the salesperson spends at least 4 hours on such business day at the salesperson's designated branch office during the hours that such office is normally open for business;

(d) Any office of convenience, where salespersons occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office;

(e) Any location that is used primarily to engage in nonsecurities activities and from which the salespersons effect no more than 25 securities transactions in any one calendar year; provided that any retail communication identifying such location also sets forth the address and telephone number of the location from which the salesperson(s) conducting business at the nonbranch locations are directly supervised;

(f) The floor of a registered national securities exchange where a broker-dealer conducts a direct access business with public customers; or

(g) A temporary location established in response to the implementation of a business continuity plan.

Notwithstanding the exclusions provided in this subsection (2), any location that is responsible for supervising the activities of salespersons of the broker-dealer at one or more nonbranch locations of the broker-dealer is considered to be a branch office.

(3) "Central Registration Depository" or "CRD" means the national registration system operated by the Financial Industry Regulatory Authority, Inc., pursuant to a contract with the North American Securities Administrators Association.

(4) "Chief compliance officer" means each person designated as chief compliance officer on Schedule A of Form BD.

(5) "FINRA" means the Financial Industry Regulatory Authority, Inc., the self-regulatory organization for broker-dealers and salespersons of broker-dealers that is registered as a national securities association with the Securities and Exchange Commission under Section 15A of the Securities Exchange Act of 1934, 15 U.S.C. 78o.

(6) "FINRA member" means any broker-dealer that is a member of FINRA. "FINRA member" may also include any broker-dealer registered under the Securities Exchange Act of 1934 that has access to and the ability to make filings through the Central Registration Depository.

(7) "Form BD" means the Uniform Application for Broker-Dealer Registration.

(8) "Form BDW" means the Uniform Request for Broker-Dealer Withdrawal.

(9) "Form BR" means the Uniform Branch Office Registration Form.

(10) "Form U4" means the Uniform Application for Securities Industry Registration or Transfer.

(11) "Form U5" means the Uniform Termination Notice for Securities Industry Registration.

(12) "OTC non-NASDAQ equity securities" means equity securities not traded on a national securities exchange or on NASDAQ. Equity securities quoted on FINRA's OTC Bulletin Board are OTC non-NASDAQ equity securities.

(13) "Principal" means any person associated with a broker-dealer including, but not limited to, sole proprietor, officer, partner, manager of office of supervisory jurisdiction, director, or other person occupying similar status or performing similar functions, who is actively engaged in the management of the broker-dealer's investment banking or securities business, such as supervision, solicitation, conduct of business in securities, or the training of persons associated with a broker-dealer for any of these functions. Such persons include, among other persons, a broker-dealer's chief executive officer and chief financial officer (or equivalent officers), and any other person associated with a broker-dealer who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under FINRA rules. The term "actively engaging in the management of the broker-dealer's investment banking or securities business" includes the management of, and the implementation of corporate policies related to, such business, and managerial decision-making authority with respect to the broker-dealer's investment banking or securities business and management level responsibilities for supervising any aspect of such business, such as serving as a voting member of the broker-dealer's executive, management, or operations committees.

(14) "Securities and Exchange Commission" or "SEC" means the United States Securities and Exchange Commission.

(15) "Solicited" describes, but is not limited to, any transaction which involves the following action by a broker-dealer or salesperson:

(a) Making a direct or indirect communication that a customer purchase a security;

(b) Recommending the purchase of a security through market letters, newsletters, e-mail or other electronic communication, or by otherwise circulating information which recommends the purchase;

(c) Volunteering information on the issuer, either to a particular customer or to customers generally;

(d) Engaging in a transaction in a discretionary account or where the delivery of a prospectus or offering circular is required; or

(e) Bringing a specific security to the attention of the customer through any means including, but not limited to, direct telephone conversation, the delivery of promotional material, or the transmission of electronic messages.

NEW SECTION

WAC 460-20C-025 Filings made through the Central Registration Depository. (1) Pursuant to RCW 21.20.050, the director designates the Central Registration Depository (CRD) operated by FINRA to receive and store filings and collect related fees on behalf of the director with respect to broker-dealers that are members of FINRA and their salespersons.

(2) For the purposes of a filing made through CRD, a document is considered filed with the director when all fees are received and the filing is accepted by CRD on behalf of Washington.

(3) When a signature or signatures are required by the particular instructions of any filing to be made through CRD, the applicant or a duly authorized officer of the applicant, as required, must affix their electronic signature to the filing by typing their name in the

appropriate fields and submitting the filing through CRD. Submission of a filing in this manner will constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filings.

NEW SECTION

WAC 460-20C-030 Registration procedure. If you are applying to register as a broker-dealer or salesperson of a broker-dealer under RCW 21.20.040, you must follow the application procedures set forth in this section:

(1) **Broker-dealers.** If you are a broker-dealer applying for registration under RCW 21.20.040, you must follow the application procedures set forth in this subsection:

(a) **FINRA members.** If you are a broker-dealer that is a member of FINRA, you must submit the following through CRD:

(i) A Form BD completed in accordance with the instructions to the form. The Form BD must designate Washington as a state in which you request registration;

(ii) The required fee as set forth in WAC 460-05A-010 (1)(a);

(iii) An application for registration as a salesperson as set forth in subsection (2)(a) of this section for each officer, salesperson, employee, or other person who directly supervises, or will directly supervise, any registered salespersons associated with the broker-dealer in Washington; and

(iv) Such additional information as the director may require to complete an application in accordance with RCW 21.20.050(1).

(b) **Nonmembers of FINRA.** If you are a broker-dealer that is not a member of FINRA, you must submit the following to the director:

(i) A Form BD completed in accordance with the instructions to the form. The Form BD must designate Washington as a state in which you request registration;

(ii) An application for registration as a salesperson as set forth in subsection (2)(a) of this section for each officer, salesperson, employee, or other person who directly supervises, or will directly supervise, any registered salespersons associated with the broker-dealer in Washington; and

(iii) A check made out to "state treasurer" for the required fee as set forth in WAC 460-05A-010 (1)(a); and

(iv) A cover letter stating the following:

(A) The type of registration you seek (general securities or a limited registration);

(B) Why you are not required to register with the Securities and Exchange Commission and FINRA; and

(C) The name and CRD or Social Security number of each designated principal who has taken the examinations required by WAC 460-20C-040;

(v) A balance sheet as of a date not more than 120 days before the date of filing, and a computation of your net capital and your aggregate indebtedness ratio as of the same date as the balance sheet. If your net capital is not sufficient to meet the requirements set forth in WAC 460-20C-110, you may satisfy the net capital requirement with a surety bond;

(vi) A copy of any subordination agreement;

(vii) Proof of passage of qualifying examinations by the designated principals as required by WAC 460-20C-040; and

(viii) Such other information as the director may require to complete an application in accordance with RCW 21.20.050(1).

(c) **Withdrawal of pending application.** You may withdraw a pending application for broker-dealer registration by following the instructions for Form BDW and filing a completed Form BDW through CRD. If you are not a member of FINRA, you may file your Form BDW directly with the director.

(d) **Successor broker-dealer.** If you are a broker-dealer that is succeeding to and continuing the business of a broker-dealer currently registered under RCW 21.20.040, both you and the predecessor broker-dealer must follow Securities and Exchange Commission Rule 15b1-3 (17 C.F.R. 240.15b1-3 as amended effective January 25, 1993) and file Form BD, an amendment to Form BD, or Form BDW, as applicable. The fee for the transfer of a broker-dealer registration to a successor broker-dealer is set forth in RCW 21.20.340 (9)(a) and is payable directly to the director.

(e) **Notification of branch office.**

(i) You must notify the director of each branch office in Washington by submitting Form BR through CRD for FINRA broker-dealers and directly to the director for non-FINRA broker-dealers.

(ii) You must promptly notify the director on Form BR if you engage a new person in charge at a branch office in Washington, acquire a branch office of another broker-dealer in Washington, or relocate a branch office to Washington.

(2) **Salespersons.**

(a) **Salespersons of members of FINRA.** If you are seeking to register under RCW 21.20.040 as a salesperson of a broker-dealer that is a member of FINRA, you must submit the following application materials through CRD:

(i) A completed Form U4 marking Washington as a jurisdiction in which you seek registration; and

(ii) The fee as set forth in WAC 460-05A-010 (1)(c).

(b) **Salespersons of broker-dealers that are not members of FINRA.** If you are seeking to register under RCW 21.20.040 as a salesperson of a broker-dealer that is not a member of FINRA, you must submit the following application materials directly to the director:

(i) A completed Form U4 marking Washington as a jurisdiction in which you seek registration;

(ii) The fee set forth in WAC 460-05A-010 (1)(c); and

(iii) Proof of passage of the examinations required by WAC 460-20C-040.

(c) The director may require the submission of additional information as necessary to complete an application in accordance with RCW 21.20.050(1).

NEW SECTION

WAC 460-20C-035 Canadian broker-dealers and salespersons. (1)

If you are a Canadian broker-dealer that is a resident in Canada and has no office or other physical presence in the United States and is not an office of, branch of, or a natural person associated with a broker-dealer otherwise registered in the United States, you may transact business in Washington without registering as a broker-dealer pursuant to RCW 21.20.040 under the following conditions:

(a) The business you transact is limited to:

(i) Transactions subject to the exemption provided by RCW 21.20.320(8);

(ii) Transactions with or for a Canadian person who is temporarily present in Washington and with whom you had a bona fide customer relationship before the person entered Washington; or

(iii) Transactions with or for a Canadian person in a self-directed tax advantaged retirement plan in Canada of which that person is the holder or contributor; and

(b) You file the following with the director:

(i) A notice of claim of exemption in the form of a cover letter that provides the location of your head office, identifies a contact person, specifies the jurisdictions in Canada in which you are registered as a broker-dealer, and specifies the self-regulatory organization or stock exchange in Canada to which you belong; and

(ii) A consent to service process on Form U2 pursuant to RCW 21.20.330; and

(c) You maintain membership in a self-regulatory organization or stock exchange in Canada; and

(d) You maintain provincial or territorial registration in Canada; and

(e) You disclose to your customers in Washington that you are not subject to the full regulatory requirements of the Securities Act of Washington.

(2) If you are a salesperson representing a Canadian broker-dealer transacting business in Washington pursuant to subsection (1) of this section, you are not required to register pursuant to RCW

21.20.040 provided that you are registered in the appropriate Canadian jurisdiction.

(3) If you are a Canadian broker-dealer, the transactions conducted by you and your salespersons pursuant to subsections (1) and (2) of this section will be deemed not to involve the "offer" or "sale" of a security, as those terms are defined in RCW 21.20.005, for purposes of compliance with RCW 21.20.140. Nothing in this section limits the duty of you and your salespersons to comply with RCW 21.20.010 and the rules promulgated thereunder.

(4) If you have previously filed a notice of claim of exemption pursuant to subsection (1)(b) of this section, you must promptly notify the director if there is any material change in the information on file with the director. This includes, but is not limited to, any change with respect to the broker-dealer's eligibility for the exemption. An annual filing is not otherwise required to maintain the exemption.

NEW SECTION

WAC 460-29C-040 Examination requirements. (1) Broker-dealers.

If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must have at least one principal who has passed the Series 24 General Securities Principal Exam. If the principal who took and passed the required examination on your behalf ceases to be your principal, you must promptly update Form BD to identify a substitute principal who has passed the same examination.

(2) Salespersons of broker-dealers.

(a) In order to register under RCW 21.20.040 as a salesperson of a broker-dealer, you must, unless covered by (b) or (c) of this sub-

section or otherwise waived by the director, have passed within two years of the date of application:

(i) The Series 63 Uniform Securities Agent State Law Examination or the Series 66 Uniform Combined State Law Examination; and

(ii) All relevant examinations required by FINRA and accepted by Washington.

(b) If you have been registered as a salesperson of a broker-dealer in any state within two years from the date of filing an application for registration, you are not required to retake the examinations in (a) of this subsection to be eligible for registration.

(c) If you have not been registered as a salesperson of a broker-dealer in any state for more than two years but less than five years, and you have elected to participate in the FINRA Maintaining Qualifications Program pursuant to FINRA Rule 1240(c), and your appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the Maintaining Qualifications Program, you are deemed in compliance with the examination requirements set forth in (a)(i) of this subsection as long as you elect to participate in the NASAA Examination Validity Extension Program within two years of the termination of your salesperson registration.

(d) If you have not been registered as a salesperson of a broker-dealer in any state for more than two years but less than five years, and you have elected to participate in the FINRA Maintaining Qualifications Program pursuant to FINRA Rule 1240(c), and your appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the FINRA Maintaining Qualifications Program, you are deemed in compliance with the examination requirements set forth in (a)(ii) of this subsection.

(e) Successful participation in the FINRA Maintaining Qualifications Program does not extend the Series 66 Uniform Combined State Law Examination for purposes of investment adviser representative registration.

NEW SECTION

WAC 460-20C-045 Notice of termination of pending applications.

The director may send notice to an applicant for broker-dealer or salesperson registration with respect to any pending application in which the applicant has taken no action for the nine months immediately prior to the sending of such notice. The notice will advise such applicant that the pending application will be terminated 30 days from the date of sending such notice unless on or before the termination date the applicant responds in writing to the director showing good cause why the application should be continued as a pending application. If the applicant does not request in writing that the application be continued or show good cause why it should be continued, the director may terminate the pending application.

NEW SECTION

WAC 460-20C-050 Expiration and renewal of registration. (1) Expiration date.

(a) **Broker-dealers.**

(i) If you are a broker-dealer registered under RCW 21.20.040, your registration will be effective until December 31st of the year of issuance.

(ii) If you are a member of FINRA and you do not file an application to renew your broker-dealer registration by the deadline to submit renewal applications through CRD for the year, or if you are not a member of FINRA and do not file an application to renew your broker-dealer registration by December 31st, your registration will be considered delinquent and subject to the provisions in subsection (3)(a) of this section. If you do not renew your delinquent registration on or before March 1st of the following year, your registration will be considered to have terminated as of December 31st of the previous year.

(b) **Salespersons.**

(i) If you are registered as a salesperson of a broker-dealer pursuant to RCW 21.20.040, your registration will be effective until December 31st of the year of issuance.

(ii) If you are a salesperson of a broker-dealer that is a member of FINRA and you do not file an application to renew your registration by the deadline to submit renewal applications through CRD for the year, or if you are a salesperson of a broker-dealer that is not a member of FINRA and you do not submit an application to renew your registration by December 31st, your registration will be considered delinquent and subject to the provisions in subsection (3)(b) of this section. If you do not renew your delinquent registration on or before March 1st of the following year, your registration will be considered to have terminated as of December 31st of the previous year.

(2) Renewal procedure.

(a) **Broker-dealers.**

(i) **FINRA members.** If you are a broker-dealer who is a member of FINRA, you may renew your broker-dealer registration in Washington by filing the following through CRD prior to the renewal filing deadline set annually by FINRA:

(A) Any renewal application required by CRD; and

(B) The renewal fee set forth in WAC 460-05A-010 (1)(a); or

(ii) **Nonmembers of FINRA.** If you are a broker-dealer who is not a member of FINRA, you may renew your broker-dealer registration in Washington by filing the following with the director no later than December 1st:

(A) Form BD updated to reflect any material changes;

(B) A balance sheet dated not more than 120 days before the date of filing, and a computation of your net capital and your aggregate indebtedness ratio as of the same date as the balance sheet. If your net capital is not sufficient, you may satisfy the net capital requirement in WAC 460-20C-110 with a surety bond; and

(C) The renewal fee set forth in WAC 460-05A-010 (1)(a).

(b) **Salespersons.**

(i) **Salespersons for members of FINRA.** If you are registered under RCW 21.20.040 as a salesperson of a broker-dealer that is a member of FINRA, you may renew your salesperson registration in Washington by filing the following through CRD prior to the renewal filing deadline set annually by FINRA:

(A) Any renewal application required by CRD; and

(B) The renewal application fee set forth in WAC 460-05A-010

(1)(c); or

(ii) **Other salespersons for broker-dealers.** If you are registered under RCW 21.20.040 as a salesperson of a broker-dealer that is not a

member of FINRA, you may renew your salesperson registration in Washington by submitting the following directly to the director by December 1st:

- (A) An updated Form U4; and
- (B) The renewal application fee set forth in WAC 460-05A-010

(1) (c).

- (3) Delinquent renewal procedure.

(a) **Broker-dealers.** If you are a broker-dealer registered under RCW 21.20.040, and you filed a renewal application that was received by the director after the final date to submit renewal applications for the year as set forth in subsection (2) (a) of this section, but on or before March 1st of the next year, you must pay a delinquency fee of \$100 as set forth in RCW 21.20.340(8) in addition to the renewal fee. The delinquent renewal application and fees must be submitted directly to the director. No renewal applications will be accepted thereafter.

(b) **Salespersons.** If you are currently registered as a salesperson of a broker-dealer and the director receives your renewal application after deadlines set forth in subsection (2) (b) of this section but on or before March 1st of the next year, you must pay a delinquency fee of \$100 as set forth in RCW 21.20.340(8) in addition to the renewal fee. The delinquent renewal application and fees must be submitted directly to the director. No renewal applications will be accepted thereafter.

NEW SECTION

WAC 460-20C-060 Notice of changes by broker-dealers. If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must comply with the following requirements:

(1) You must promptly amend your Form BD if there is a material change to the information contained in the form, or if the information contained in the form is or becomes inaccurate or incomplete in any material respect. If you are a member of FINRA, you must file amendments to Form BD through CRD. If you are not a member of FINRA, you must submit your amended Form BD directly to the director. A material change includes, but is not necessarily limited to, the following:

(a) A change in the name, ownership, management, or control of a broker-dealer;

(b) A change in any of a broker-dealer's partners, directors, officers, or persons occupying a similar status performing similar functions;

(c) A change in the business address or creation or termination of a branch office;

(d) A change in the supervisory personnel of a branch office;

(e) A change in the type of business engaged in by the broker-dealer;

(f) Insolvency, dissolution, liquidation, or a material change in working capital;

(g) Noncompliance with minimum net capital requirements;

(h) Termination of business or discontinuance of activities as a broker-dealer;

(i) Filing of a criminal charge or civil action against the broker-dealer or any of the broker-dealer's salespersons registered under RCW 21.20.040 which alleges a violation of securities laws;

(j) Commencement of or notice of intent to commence any action by an administrative agency, regulatory agency, self-regulatory organization, or court to consider whether to deny, suspend, or revoke a registration, impose a fine, injunction, cease or desist, or other penalty upon the broker-dealer, and the result of such action, including subsequent measures taken by any agency, organization, or court;

(k) Filing of a civil action against any broker-dealer registered under RCW 21.20.040 alleging a cause of action other than a securities violation which, if proven, would materially affect the ability of the broker-dealer to do business, including any action materially affecting the financial condition of the broker-dealer; and

(l) Any restriction or condition placed on the activities of the broker-dealer by any regulatory agency or self-regulatory organization.

(2) You must promptly amend the Form U4 for any associated salesperson if there is a material change to the information contained in the form, or if the information contained in the form is or becomes inaccurate or incomplete in any material respect. If you are a member of FINRA, you must file amendments to Form U4 through CRD. If you are not a member of FINRA, you must submit the amended Form U4 directly to the director.

(3) You must notify the director of the employment or association of any new salesperson in Washington by submitting a completed Form U4 through CRD (or directly to the director if you are not a member of FINRA) within 21 days after the employment or association.

(4) You must notify the director of the termination of employment of any salesperson in Washington by submitting a completed Form U5 through CRD (or directly to the director if you are not a member of FINRA) within 30 days after the event occurs.

NEW SECTION

WAC 460-20C-080 Mass transfer of salespersons. If you are a broker-dealer registered or required to be registered under RCW 21.20.040 and you intend to mass transfer your salespersons to another broker-dealer, you must comply with the following procedures:

(1) **FINRA members.** If you are a broker-dealer that is a member of FINRA, and you are transferring your salespersons to a broker-dealer that is also a member of FINRA, you must file with the director a roster of all salespersons intending to transfer at least 30 days prior to the effective date of transfer, or such shorter period as the director may permit. Such roster must include the names and CRD numbers of each salesperson as well as an indication as to whether the salesperson has any currently disclosable items to the Disclosure Questions in Section 14 of Form U4. You must submit a transfer fee of \$25 per salesperson with the roster as set forth in RCW 21.20.340 (9) (b). The provisions in this subsection supplement and do not supersede any FINRA rules and policies concerning mass transfer of salespersons.

(2) **Nonmembers of FINRA.** If you are a broker-dealer that is not a member of FINRA, you must file with the director Form U4 for each salesperson you intend to transfer to another broker-dealer at least 30 days prior to the effective date of transfer. You must submit a transfer fee of \$25 per salesperson as set forth in RCW 21.20.340 (9) (b). No salesperson may conduct the business of a salesperson until the transferred registration becomes effective.

NEW SECTION

WAC 460-20C-090 Termination of broker-dealer registration. (1) **Termination procedure.** If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you may terminate your active registration in Washington by following the instructions on Form BDW and filing a completed Form BDW through CRD. If you are not a member of FINRA, you must file Form BDW directly with the director.

(2) **Date of termination.** Your broker-dealer registration will terminate 60 days after filing of Form BDW or within such shorter period of time as the director may determine, unless the registrant has any open customer accounts in Washington or a revocation or suspension proceeding is pending when Form BDW is filed.

(a) If the registrant has any open customer accounts in Washington, the settlement of those accounts is a condition of termination. Additional information may be required by the director and withdrawal is not complete until electronically noticed through CRD.

(b) If a revocation or suspension proceeding is pending, termination becomes effective upon such conditions as the director, by order, may determine. If no proceeding is pending or commenced, and termination automatically becomes effective, the director may nevertheless commence a revocation or suspension proceeding under RCW 21.20.110 (1)(b) within one year after withdrawal becomes effective, and enter a revocation or suspension order as of the last date on which registration was effective.

NEW SECTION

WAC 460-20C-100 Termination of salesperson registration. If you are a salesperson of a broker-dealer registered or required to be registered under RCW 21.20.040 and you or your associated broker-dealer terminate your employment or association, the following provisions apply:

(1) **Notification requirement.** Your associated broker-dealer must notify the director of the termination by submitting a completed Form U5 through CRD if the broker-dealer is a member of FINRA, or directly to the director if the broker-dealer is not a member of FINRA, within 30 days after the termination occurs.

(2) **Date of termination.** Except as provided in subsection (4) of this section, your salesperson registration terminates on the actual date of your termination of employment or association with the broker-dealer.

(3) **Association with new broker-dealer.** If you are transferring your association to another broker-dealer registered under RCW 21.20.040, your new broker-dealer must file Form U4 on your behalf no later than 21 days following your association with the new broker-dealer. In that situation, the effectiveness date of your registration with the new broker-dealer will be the date of association with the new broker-dealer.

(4) **Revocation or suspension proceedings.** If a revocation or suspension proceeding is pending against you at the time your associated broker-dealer files your Form U5, your termination of registration becomes effective upon such conditions as the director, by order, may determine. If no proceeding is pending or commenced at the time you file your Form U5, and your termination automatically becomes effec-

tive, the director may nevertheless commence a revocation or suspension proceeding against you under RCW 21.20.110 (1)(b) within one year after withdrawal becomes effective, and may enter a revocation or suspension order as of the last date on which registration was effective.

NEW SECTION

WAC 460-20C-110 Minimum net capital requirements for broker-dealers. If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must comply with the following requirements:

(1) You must meet the minimum net capital requirements established in Securities and Exchange Commission Rule 15c3-1 (17 C.F.R. 240.15c3-1, as amended effective October 21, 2019) and the appendices thereto;

(2) **Members of FINRA.** If you are a member of FINRA, you must comply with Securities and Exchange Commission Rule 17a-11 (17 C.F.R. 240.17a-11, as amended effective February 14, 2020). If you are required to provide notice to the Securities and Exchange Commission under Securities and Exchange Commission Rule 17a-11 for failure to comply with the net capital requirements, you must provide the notice and reports required by that rule to the director only upon request; and

(3) **Nonmembers of FINRA.** If you are not a member of FINRA, you must promptly notify the director if you fail to comply with the net capital requirements as set forth in subsection (1) of this section. The thresholds for notification of the director are the same as those set forth in Securities and Exchange Commission Rule 17a-11 (as amended effective February 14, 2020). You must provide such notification directly to the director in the form of a Financial and Operational Combined Uniform Single (FOCUS) Report.

NEW SECTION

WAC 460-20C-120 Reserve and custody requirements. If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must comply with the customer protection reserves and custody of securities requirements set forth in Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. 240.15c3-3, as amended effective October 21, 2019).

NEW SECTION

WAC 460-20C-130 Books and records of broker-dealers. (1) If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must make, maintain, and preserve books and records in compliance with the following Securities and Exchange Commission rules:

(a) Securities and Exchange Commission Rule 10b-10 (17 C.F.R. 240.10b-10, as amended effective July 7, 2014);

(b) Securities and Exchange Commission Rule 15c2-11 (17 C.F.R. 240.15c2-11, as amended effective December 28, 2020);

(c) Securities and Exchange Commission Rule 15g-2(c) (17 C.F.R. 240.15g-2(c), as amended effective September 12, 2005);

(d) Securities and Exchange Commission Rule 15g-4(b) (2) (17 C.F.R. 240.15g-4(b) (2), as adopted April 28, 1992);

(e) Securities and Exchange Commission Rule 15g-5(b) (2) (17 C.F.R. 240.15g-5(b) (2), as adopted April 28, 1992);

(f) Securities and Exchange Commission Rule 15g-6(f) (17 C.F.R. 240.15g-6(f), as adopted April 28, 1992);

(g) Securities and Exchange Commission Rule 17a-2(c) (17 C.F.R. 240.17a-2(c), as amended effective April 1, 1997);

(h) Securities and Exchange Commission Rule 17a-3 (17 C.F.R. 240.17a-3, as amended effective April 6, 2020);

(i) Securities and Exchange Commission Rule 17a-4 (17 C.F.R. 240.17a-4, as amended effective January 3, 2023);

(j) Securities and Exchange Commission Rule 17a-8 (17 C.F.R. 240.17a-8, as amended effective March 2, 2011); and

(k) Securities and Exchange Commission Rule 17a-13(b) (5) (17 C.F.R. 240.17a-13(b) (5), as amended effective September 13, 2022).

To the extent that the Securities and Exchange Commission promulgates changes to the above-referenced rules, your compliance with such rules as amended will not subject you to enforcement action by the director for violation of this rule to the extent that the violation results solely from your compliance with the amended rule.

(2) For purposes of the application of the Securities and Exchange Commission rules referenced in subsection (1) of this section, "member" also means "broker-dealer" as defined by RCW 21.20.005(1), "associated person" also means "salesperson" as defined by RCW 21.20.005(15), and "securities regulatory authority" also means the Washington department of financial institutions.

(3) If you are a broker-dealer registered or required to be registered under RCW 21.20.040 and you are a member of a self-regulatory organization, you must maintain all records which the self-regulatory organization requires you to maintain.

(4) The records required to be maintained and preserved pursuant to this section may be immediately produced or reproduced, and maintained and preserved on:

(a) Paper or hard copy form, as those records are kept in their original form;

(b) Micrographic media, including microfilm, microfiche, or any similar medium; or

(c) Electronic storage media, including any digital storage medium or system that meets the terms of this section.

(5) If you are a broker-dealer required to maintain and preserve records pursuant to this section, you must:

(a) Arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;

(b) Provide promptly any of the following that the director may request:

(i) A legible, true, and complete copy of the record in the medium and format in which it is stored;

(ii) A legible, true, and complete printout of the records; and

(iii) Means to access, view, and print the records; and

(c) If the records that the broker-dealer is required to maintain and preserve pursuant to this section are created or maintained on electronic storage media, the broker-dealer must establish and maintain procedures:

(i) To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, and destruction;

(ii) To limit access to the records to properly authorized personnel and the director; and

(iii) To reasonably ensure that any reproduction of a nonelectronic original record on electronic storage media is complete, true, and legible when retrieved.

(6) If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must make the records required to be maintained under this section easily accessible for inspection by the director or the director's representatives. In the conduct of an examination authorized by RCW 21.20.100(4), you must honor all requests by the director or the director's representatives to have physical access to all areas of the office which is the subject of the examination. Upon request, you must permit the director or the director's representatives to access, copy, scan, image, and examine all records and electronic data that you are required to retain under this section.

(7) The director may by order, upon written request and for good cause shown, waive any of the requirements of this section.

NEW SECTION

WAC 460-20C-140 Financial reporting requirements. If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must comply with the following financial reporting requirements:

(1) **FINRA members.**

(a) If you are a broker-dealer that is a member of FINRA, and your "principal business address" or "firm main address" as disclosed on Form BD is located in Washington, you must file annually with the director through the eFOCUS portal the financial statements that you are required to provide to the Securities and Exchange Commission or its designee; and

(b) If you are a broker-dealer that is a member of FINRA, and your "principal business address" or "firm main address" as disclosed on Form BD is not located in Washington you must, upon request, provide the director with any financial statements or financial information that you are required to provide to the Securities and Exchange Commission or its designee.

(2) **Nonmembers of FINRA.** If you are a broker-dealer that is not a member of FINRA, you must comply with the following:

(a) You must file annually with the director financial statements that have been prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant. You must file these financial statements with the director no later than 120 days after the close of your fiscal year end through the director's eFin electronic filing system or any successor electronic filing system; and

(b) If your "principal business address" or "firm main address" as reported on Form BD is located in Washington, you must file quarterly Financial and Operational Combined Uniform Single (FOCUS) Reports upon request through the director's eFin electronic filing system or any successor electronic filing system.

NEW SECTION**WAC 460-20C-150 Supervision of salespersons and employees. (1)**

If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must reasonably supervise your salespersons and your employees. Reasonable supervision for the purposes of RCW 21.20.110 (1)(j) includes, but is not limited to, the following:

(a) You must designate a qualified person as supervisor for each salesperson. For the purpose of this section, that person will be referred to as the "designated supervisor" of the salesperson(s) supervised. To be qualified, a designated supervisor must demonstrate competence by passing the examinations required by WAC 460-20C-040. A designated supervisor may only supervise the number of salespersons at any one time that will allow the supervisor to reasonably discharge the duties and obligations under the broker-dealer's established supervisory procedures and systems. The number of salespersons a designated supervisor can reasonably supervise depends upon the nature of the business conducted by the salespersons, technical resources available to the supervisor, additional personnel available to assist the supervisor, and other resources made available to assist the supervisor;

(b) You must comply with the supervision requirements set forth in the conduct rules of FINRA. For purposes of the application of FINRA conduct rules to broker-dealers who are not members of FINRA, "member" means "broker-dealer" as defined by RCW 21.20.005(1) and "associated person" means "salesperson" as defined by RCW 21.20.005(15);

(c) You must implement procedures for the reasonable oversight of your designated supervisors;

(d) You must investigate every complaint submitted to the broker-dealer by a customer. You must designate an employee who will investigate, track, and monitor customer complaints. You must respond to all complaints in a timely manner;

(e) You must establish and maintain written supervisory procedures reasonably designed to assist in detecting violations of, preventing violations of, and achieving compliance with the Securities Act of Washington and the rules adopted thereunder, and other applicable laws, regulations, and rules of self-regulatory organizations;

(f) You must conduct an annual review of the businesses in which you engage. The review must be reasonably designed to assist in detecting violations of, preventing violations of, and achieving compliance with the Securities Act of Washington and the rules adopted thereunder, and other applicable laws, regulations, and rules of self-regulatory organizations; and

(g) Pursuant to RCW 74.34.220, you must provide training to your employees who are salespersons registered under RCW 21.20.040 regarding the financial exploitation of vulnerable adults if such employees have contact with customers and access to account information on a regular basis and as part of their jobs. The training must include recognition of indicators of financial exploitation of a vulnerable adult, the manner in which employees may report suspected financial exploitation to the Washington department of social and health services and law enforcement as permissive reporters, and steps employees may take to prevent suspected financial exploitation of a vulnerable adult as authorized by law or agreements between you and your customers.

(2) The director may require heightened supervision as a condition of the registration of any salesperson who has a history of past

misconduct or industry or regulatory-related incidents that may pose a risk to customers. The director may require the submission of a written heightened supervisory plan developed to address the salesperson's past conduct and minimize the risks posed by the salesperson's ongoing activities.

(a) At a minimum, an effective heightened supervision plan must include the following:

(i) The designation of a principal with the appropriate training and experience to implement and enforce the plan;

(ii) A requirement for appropriate additional training for the salesperson subject to the plan to address the nature of incidents necessitating the plan;

(iii) The written acknowledgment of the heightened supervisory plan by the salesperson subject to the plan and the designated supervisory principal; and

(iv) A requirement that the supervising principal periodically review the heightened supervision plan to assess its effectiveness; and

(b) As appropriate under the facts and circumstances, an effective heightened supervision plan may also provide for the following:

(i) Heightened supervision of the salesperson's business activities including, but not limited to, customer-related activities, employee personal trading accounts, outside business activities, private securities transactions, and restrictions on the sale of certain products;

(ii) Proximity of the supervising principal to the salesperson;

(iii) More frequent contact between the supervising principal and the salesperson;

(iv) More frequent review of the salesperson's communications, particularly with customers; and

(v) Expedient handling of customer complaints related to the salesperson.

NEW SECTION

WAC 460-20C-160 Fraudulent practices of broker-dealers and salespersons. It is an "act, practice, or course of business which operates or would operate as a fraud" as used in RCW 21.20.010(3) for a broker-dealer or salesperson to engage in one or more of the following practices:

(1) Entering into a transaction with a customer in any security at an unreasonable price or at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(2) Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner;

(3) In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or salesperson is in possession of material, nonpublic information which would impact on the value of the security;

(4) In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors with similar investment objec-

tives for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstance of each investor;

(5) Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member by, among other things:

(a) Transferring securities to a customer, another broker-dealer, or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees; or

(b) Parking or withholding securities;

(6) Although nothing in this section precludes application of the general antifraud provisions against any person for practices similar in nature to the practices discussed below, the following prohibited activities specifically apply only in connection with the solicitation of a purchase or sale of OTC non-NASDAQ equity securities:

(a) Failing to comply with rules adopted by the Securities and Exchange Commission under authority granted by the Penny Stock Reform Act of 1990 (Pub. L. No. 101-429), including Securities and Exchange Commission Rules 15g-1 through 15g-6, 15g-8, 15g-9, and 15g-100 (17 C.F.R. 240.15g-1 as amended effective December 8, 2020; 17 C.F.R. 240.15g-2 as amended effective September 12, 2005; 17 C.F.R. 240.15g-3 through 17 C.F.R. 240.15g-6 as adopted April 28, 1992; 17 C.F.R. 240.15g-8 as adopted April 28, 1992; 17 C.F.R. 240.15g-9 as amended effective May 22, 2017; and 17 C.F.R. 240.15g-100 as amended effective September 12, 2005) which are hereby incorporated by reference;

(b) Conducting sales contests in a particular security;

(c) After a solicited purchase by a customer, failing or refusing, in connection with a principal transaction, to promptly execute sell orders;

(d) Soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market; and

(e) Engaging in a pattern of compensating a salesperson in different amounts for effecting sales and purchases in the same security;

(7) Effecting any transaction in, or inducing the purchase or sale of any security by means of any manipulative, deceptive, or other fraudulent device or contrivance including, but not limited to, the use of boiler room tactics or use of fictitious or nominee accounts. "Boiler room tactics" include any high-pressure sales tactics that have the effect of creating an artificially short period in which to make a decision or are designed to overcome a customer's reluctance to make an investment. Such tactics include the use of scripts designed to meet the customer's objections, repeated phone calls, phone calls designed to "set up" the customer, threatening tones on the telephone, informing the customer that there is little time to make a decision, and other similar techniques;

(8) Failing to comply with any prospectus delivery requirement promulgated under state or federal law;

(9) Giving or permitting to be given, directly or indirectly, anything of value, including gratuities, in excess of \$100 per individual per year to any person, principal, proprietor, employee, agent, or representative of another person where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity. For the purpose of this subsection, a gift of any kind is considered a gratuity. This subsection does not apply to contracts of employment with, or compensation for services rendered by

the persons enumerated in this subsection provided that a written agreement between you and the person who is to be employed to perform such services exists prior to the time of employment or before the services are to be rendered that includes the nature of the proposed employment, the amount of the proposed compensation, and the written consent of such person's employer or principal. You must retain a record of all payments or gratuities in any amount, and a copy of any employment agreement and compensation paid as a result thereof;

(10) Making or causing to be made any statement in any examination or other proceeding under the Securities Act of Washington or in any document filed with the director if the statement is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect; and

(11) Advertising or otherwise holding out as providing investment advisory services to others while not registered as an investment adviser in Washington. For the purposes of this subsection, the use of the terms "financial planner," "investment counselor," or similar terms as set forth in WAC 460-24A-040 are deemed to be holding out as providing investment advisory services. This subsection does not apply if you follow the procedures set forth in WAC 460-24A-045.

This section is not intended to be all inclusive, and thus, acts or practices not enumerated herein may also be fraudulent practices.

NEW SECTION

WAC 460-20C-170 Excessive trading. (1) The phrase "employ any device, scheme, or artifice to defraud" as used in RCW 21.20.010(1) includes any act of any broker-dealer or salesperson designed to effect with or for any customer's account with respect to which such broker-dealer or salesperson is vested with any discretionary power, or with respect to which the broker-dealer or salesperson is able by reason of the customer's trust and confidence to influence the volume and frequency of the trades, any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources and character of such customer or account.

(2) For the purposes of subsection (1) of this section, RCW 21.20.035, WAC 460-20C-210(2), and 460-20C-220(6), the director may determine that trades are excessive in size or frequency in view of the financial resources and character of the account based on consideration of the following:

(a) **The cost-to-equity ratio.** The cost-to-equity ratio calculates the rate of return the account has to earn during a given period to cover account costs. The cost-to-equity ratio is calculated by dividing the total commissions and costs for the security purchases in an account in a given period of time by the average net equity of the account during that period; and

(b) **The turnover ratio.** The turnover ratio is calculated by dividing the total dollar amount of securities purchased in a given period by the average net equity of the account during that period.

The above is not intended to be all inclusive, and thus the director may determine whether trades are excessive by other reasonable means.

NEW SECTION

WAC 460-20C-180 Transmission or maintenance of payments received in connection with underwritings. It constitutes a "device, scheme, or artifice to defraud" as used in RCW 21.20.010(1), for any broker-dealer participating in any distribution of securities, other than a firm commitment underwriting, to accept any part of the sale price of any security being distributed unless:

(1) The money or other consideration received is promptly transmitted to the persons entitled thereto; or

(2) If the distribution is being made on an "all-or-none" basis, or on any other basis which contemplates that payment is not to be made to the person on whose behalf the distribution is being made until some further event or contingency occurs:

(a) The money or other consideration received is promptly deposited in a separate bank account, as agent or trustee for the persons who have the beneficial interests therein, until the appropriate event or contingency has occurred, and then the funds are promptly transmitted or returned to the persons entitled thereto; or

(b) All such funds are promptly transmitted to a bank which has agreed in writing to hold all such funds in escrow for the persons who have the beneficial interests therein and to transmit or return such funds directly to the persons entitled thereto when the appropriate event or contingency has occurred.

NEW SECTION

WAC 460-20C-190 Communications with the public. If you are a broker-dealer or salesperson registered or required to be registered under RCW 21.20.040, it is an "act, practice, or course of business" which operates or would operate as fraud within the meaning of RCW 21.20.010 to, directly or indirectly, publish, circulate, or distribute any communications that do not comply with the following content standards:

(1) All your communications must be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service. You may not omit any material fact or qualification if the omission, in light of the context of the material presented, would cause the communications to be misleading.

(2) You may not make any false, exaggerated, unwarranted, promissory, or misleading statement or claim in any communication. You may not publish, circulate, or distribute any communication that you know or have reason to know contains any untrue statement of a material fact or is otherwise false or misleading.

(3) You must ensure that statements in communications are clear and not misleading within the context in which they are made, and that they provide balanced treatment of risks and potential benefits. Communications must be consistent with the risks of fluctuating prices and the uncertainty of dividends, rates of return, and yield inherent to investments.

(4) You must consider the nature of the audience to which the communication will be directed and must provide details and explanations appropriate to the audience.

(5) All your retail communications and correspondence must:

- (a) Prominently disclose the broker-dealer's name, or the name under which the broker-dealer primarily is conducted as disclosed on your Form BD, and may also include a fictional name by which you are commonly recognized or which is required by any state or jurisdiction;
- (b) Reflect any relationship between the broker-dealer and any nonbroker-dealer or individual who is also named; and
- (c) If it includes other names, reflect which products or services are being offered by the broker-dealer.

This subsection (5) does not apply to so-called "blind" advertisements used to recruit personnel.

NEW SECTION

WAC 460-20C-200 Deferred variable annuities. It constitutes a dishonest or unethical business practice for the purposes of RCW 21.20.110 (1)(g) for a broker-dealer or salesperson registered or required to be registered under RCW 21.20.040 to recommend the purchase or exchange of a deferred variable annuity unless the following requirements are met:

(1) The broker-dealer and salesperson must have reasonable basis to believe that the transaction is suitable for the customer; and, in particular:

(a) The broker-dealer and salesperson must have reasonable basis to believe that the customer has been informed, in general terms, of various features of variable annuities, including the following:

- (i) The potential surrender period and surrender charge;
- (ii) The potential tax penalty if customers sell or redeem deferred variable annuities before reaching the age of 59 1/2
- (iii) Mortality and expense fees;
- (iv) Investment advisory fees;
- (v) The potential charges for and features of riders; and
- (vi) The insurance and investment components of deferred variable annuities; and
- (vii) Market risk;

(b) The broker-dealer and salesperson must have reasonable basis to believe the customer would benefit from certain features of deferred variable annuities, such as tax-deferred growth, annuitization, or a death or living benefit; and

(c) The broker-dealer and salesperson must have a reasonable basis to believe that the particular deferred variable annuity as a whole, the underlying subaccounts to which funds are allocated at the time of the purchase or exchange of the deferred variable annuity, and the riders and similar product enhancements, if any, are suitable (and, in the case of an exchange, the transaction as a whole also suitable) for the particular customer based on the information required by subsection (3) of this section;

(2) In the case of an exchange of a deferred variable annuity, the exchange also must be consistent with the suitability determination required by subsection (1) of this section taking into consideration whether:

- (a) The customer would incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees or charges (such as mortality and expense fees, in-

vestment advisory fees, or charges for riders and similar product enhancements);

(b) The customer would benefit from product enhancements and improvements; and

(c) The customer has had another deferred variable annuity exchanged within the preceding 36 months.

The salesperson making the recommendation must document and sign the determinations required by this subsection;

(3) Prior to recommending the purchase or exchange of a deferred variable annuity, the broker-dealer or salesperson must make reasonable efforts to obtain, at a minimum, information concerning the customer's age, annual income, financial situation and needs, investment experience, investment objectives, intended use of the deferred variable annuity, investment time horizon, existing assets (including investment and life insurance holdings), liquidity needs, liquid net worth, risk tolerance, tax status, and such other information used or considered to be reasonable in making recommendations to customers;

(4) Prior to recommending the purchase or exchange of a deferred variable annuity to a retail customer, the broker-dealer or salesperson must make inquiry regarding other reasonably available securities and investment strategies offered by the broker-dealer that could achieve the retail customer's investment objectives;

(5) Promptly after receiving information necessary to prepare a complete and correct application package for a deferred variable annuity, the salesperson who recommends the deferred variable annuity must transmit the complete and correct application package to a principal for review;

(6) The principal must review and approve the transaction. The principal may approve the transaction only if the principal has determined that there is a reasonable basis to believe the transaction would be suitable based on subsections (1) and (2) of this section;

(7) The broker-dealer must have established and maintained written supervisory procedures reasonably designed to achieve the standards set forth in this section. The broker-dealer must (a) implement surveillance procedures to determine if any of its salesperson have rates of effecting deferred variable annuity exchanges that raise for review whether such rates of exchange evidence conduct inconsistent with this section or federal or state securities laws and (b) have policies and procedures reasonably designed to implement corrective measures to address inappropriate exchanges and the conduct of its salespersons who engage in inappropriate exchanges; and

(8) The broker-dealer must have developed and documented specific training policies or programs reasonably designed to ensure that salespersons who effect and principals who review transactions in deferred variable annuities comply with the requirements of this section and that they understand the material features of deferred variable annuities.

NEW SECTION

WAC 460-20C-210 Dishonest or unethical practices—Broker-dealers. If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must observe high standards of commercial honor and just and equitable principles of trade in conducting

your business. If you engage in acts and practices contrary to such standards, this may constitute grounds for denial, suspension, or revocation of your registration. The phrase "dishonest or unethical practices" as used in RCW 21.20.110 (1)(g) and as applied to broker-dealers includes, but is not limited to, any of the following:

- (1) Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers;
- (2) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;
- (3) Recommending to a customer the purchase, sale, or exchange any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, age, other investments, tax status, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other relevant information known by the broker-dealer;
- (4) Making a recommendation of any security transaction or investment strategy involving securities (including account recommendations) to a retail customer if the recommendation does not comply with the obligations set forth in Regulation Best Interest (17 C.F.R. 240.121-1 as amended effective September 10, 2019);
- (5) Executing a transaction on behalf of a customer without authorization to do so;
- (6) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;
- (7) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement;
- (8) Failing to segregate customers' free securities or securities held in safekeeping;
- (9) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent, except as permitted by rules of the Securities and Exchange Commission;
- (10) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;
- (11) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and if the latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering;
- (12) Charging unreasonable and inequitable compensation, fees, concessions, discounts, commissions, or other allowances for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;
- (13) Offering to buy from or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell;

(14) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by such broker-dealer, or by any person for whom the broker-dealer is acting or with whom the broker-dealer is associated in such distribution, or any person controlled by, controlling, or under common control with such broker-dealer;

(15) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance, which may include, but is not limited to:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; provided, however, nothing in this subsection prohibits a broker-dealer from entering bona fide agency cross transactions for its customer;

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(d) Effecting any transaction in a security or a related financial instrument when the salesperson causing such transaction to be executed has material, nonpublic market information concerning an imminent block transaction in that security, a related financial instrument, or a security underlying the related financial instrument prior to the time information concerning the block transaction has been made publicly available or has otherwise become stale or obsolete. For the purposes of this subsection, "related financial instrument" means any option, derivative, security-based swap, or other financial instrument overlying a security, the value of which is materially related to, or otherwise acts as a substitute for, such security, as well as any contract that is the functional economic equivalent of a position in such security;

(e) Effecting any transaction in an equity security on the same side of the market for the broker-dealer's own account at a price that would satisfy the customer order, if the broker-dealer has accepted and holds an order for the same equity security from its customer or the customer of another broker-dealer without immediately executing such order, unless the broker-dealer immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account; and

(f) Using aggressive, high-pressure, or deceptive marketing tactics to affect the market price of the security;

(16) Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(17) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article,

investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security;

(18) Using, ratifying, or condoning any communication, advertising, or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice is the distribution of any nonfactual data, material, or presentation based on conjecture, or unfounded or unrealistic claims or assertions in any customer correspondence, social media, electronic communication, brochure, flyer, or display by words, pictures, graphs, or otherwise designed to supplement, detract from, supersede, or defeat the purpose or effect of any prospectus or disclosure; and the distribution of any communications inconsistent with WAC 460-20C-190;

(19) Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with, or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of security, the existence of such control to such customer, and if such disclosure is not made in writing, it must be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

(20) Failing to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member by, amongst other things:

(a) Transferring securities to a customer, another broker-dealer, or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees; or

(b) Parking or withholding securities;

(21) Failing or refusing to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond within 14 calendar days to a formal written request or complaint;

(22) In connection with the solicitation of a sale or purchase of an OTC non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under Section 13 of the Securities Exchange Act of 1934, when requested to do so by a customer;

(23) Marking any order ticket or confirmation as unsolicited when in fact the transaction is solicited;

(24) For any month in which activity has occurred in a customer's account, but in no event less than every three months, failing to provide each customer with a statement of account which with respect to all OTC non-NASDAQ equity securities in the account, contains a value for each such security based on the closing market bid on a date certain, provided that this subsection will apply only if the firm has been a market maker in such security at any time during the month in which the monthly or quarterly statement is issued;

(25) Failing to comply with any applicable provision of the Conduct Rules of FINRA or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission, Commodity Futures Trading Commission, Municipal Securities Rulemaking Board, New York Stock Exchange, Chicago Board Options Exchange, Consumer Financial Protection Board, National Futures Association, state securities

regulator, state insurance regulator, state or federal banking regulator, or by a self-regulatory organization approved by the Securities and Exchange Commission;

(26) Any acts or practices enumerated in WAC 460-20C-160 and 460-20C-170;

(27) Using any term or abbreviation thereof in a manner that misleadingly states or implies that a person has special expertise, certification, or training in financial planning including, but not limited to, the misleading use of a senior-specific certification or designation as set forth in WAC 460-25A-020;

(28) Operating a securities business while unable to meet current liabilities, or violating any statutory provision, rule, or order relating to minimum capital or surety bond;

(29) Extending, arranging for, or participating in arranging for credit to a customer in violation of any federal law or regulation including, but not limited to, 15 U.S.C 78k(d) (as amended effective September 23, 1994) or 12 C.F.R. 220.7 (as amended effective April 1, 1998);

(30) Failing to refrain from soliciting prospective customers who have informed the broker-dealer that such person does not want to be solicited, or conducting business by telephone at unreasonable times;

(31) Failing to disclose to a person purchasing securities on the premises of a depository institution that such investment is not insured by the Federal Deposit Insurance Corporation or the National Credit Union Association (as applicable), is not a deposit or other obligation of the depository institution or guaranteed by the depository institution, and is subject to investment risk; or failing to cause a written disclosure statement to be presented to, and signed by such person, acknowledging that such person has received such information;

(32) Altering or creating any document relevant to or on the books and records of any broker-dealer, investment adviser, bank, credit union, insurance company, or commodities futures business with any entry or deletion which is materially false or misleading;

(33) Failing to comply with a suspension or bar order of the Securities and Exchange Commission, FINRA, any other self-regulatory organization, or any other securities regulator;

(34) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

(35) Engaging in acts or practices that constitute deceptive market-timing in the trading of securities including, but not limited to:

(a) Breaking a trade into smaller trades to avoid detection; or

(b) Using multiple accounts, nominees, agent numbers, or multiple agents or representatives to avoid breakpoints, internal controls, exception reports, or other forms of firm or regulatory supervision;

(36) Engaging in acts or practices that constitute deceptive sales practices in the trading of mutual funds including, but not limited to:

(a) Recommending mutual funds just under breakpoints;

(b) Recommending a share class that does not align with customers' needs; or

(c) Recommending a mutual fund switch that does not align with customers' needs;

(37) Disclosing the identity, investment, or other financial information of any customer or former customer unless required by law to do so, or unless consented to by the customer;

(38) Failing to disclose in any retail communications, correspondence, or other materials used in connection with the promotion or transaction of securities business in Washington, the name of the broker-dealer or the name under which the broker-dealer's business is primarily conducted as disclosed on Form BD. For purposes of this subsection, "other materials" include, but are not limited to, business cards, business stationery, and display signs;

(39) Representing that securities will be listed or that application for listing will be made on a securities exchange or the National Association of Securities Dealers Automated Quotations (NASDAQ) system or other quotation system without reasonable basis in fact for the representation;

(40) Engaging in any act, practice, or course of business which is fraudulent, deceptive, manipulative, or unethical;

(41) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Securities Act of Washington, chapter 21.20 RCW, or any rule or regulation thereunder;

(42) Making, in the solicitation of customers, any untrue statement of fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading;

(43) Failing to pay and fully satisfy any final judgment or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the customer and the broker-dealer, in writing, and the broker-dealer complies with the terms of the alternative payment arrangement;

(44) Attempting to avoid payment of any final judgment or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the customer and the broker-dealer, in writing, and the broker-dealer complies with the terms of the alternative payment arrangement;

(45) Failing to pay and fully satisfy and fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the broker-dealer by the Securities and Exchange Commission, the securities or other financial services regulator of any state or province, or any self-regulatory organization;

(46) Accessing a customer's account by using the customer's own unique identifying information (such as username and password);

(47) Failing to provide training regarding the financial exploitation of vulnerable adults pursuant to RCW 74.34.220 to employees who are required to be registered as salespersons under RCW 21.20.040 if such employees have contact with customers and access to account information on a regular basis and as part of their jobs;

(48) Failing to establish, maintain, and enforce a business continuity and succession plan that identifies procedures to be followed in the event of an emergency or significant business disruption, including a disruption caused by the loss of principals and other key persons;

(49) Paying, directly or indirectly, any compensation, fees, concessions, discounts, commissions, or other allowances to any person that is not registered as a broker-dealer or salesperson under applicable state or federal securities laws but, by reason of receipt of such payment and the activities related thereto, is required to be so registered under state or federal securities laws;

(50) Allowing an individual who is not registered as a salesperson in Washington to enter trades on behalf of retail customers of the broker-dealer who are located in Washington, unless an exemption from salesperson registration would apply; and

(51) Receiving fees or commissions on customer accounts or holdings if such fees or commissions are made unreasonable because there is no salesperson of the broker-dealer assigned to the account who currently provides the specific services for which the fees or commissions are charged, except as permitted under FINRA Rule 2040(b).

The conduct set forth above is not inclusive. Engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure, or misstatement of material facts, or manipulative or deceptive practices will also be grounds for denial, suspension, or revocation of registration.

NEW SECTION

WAC 460-20C-220 Dishonest or unethical practices—Salespersons.

If you are a salesperson registered or required to be registered under RCW 21.20.040, you must observe high standards of commercial honor and just and equitable principles of trade in conducting your business.

The phrase "dishonest or unethical practices" as used in RCW 21.20.110 (1)(g) and as applied to salespersons includes, but is not limited to, any of the following:

(1) Engaging in the practice of lending to or borrowing money or securities from a customer, or acting as a custodian for money, securities, or an executed stock power of a customer;

(2) Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the salesperson represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

(3) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

(4) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the salesperson represents;

(5) Dividing or otherwise splitting the salesperson's commissions, profits, or other compensation from the purchase or sale of securities with any person not also registered with the same broker-dealer, or with a broker-dealer under direct or indirect common control;

(6) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(7) Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, age, other investments, tax status, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other relevant information known by the broker-dealer;

(8) Recommending the purchase, sale, or exchange of any security or investment strategy involving a security without reasonable grounds

to believe that the transaction is suitable based on the performance of reasonable diligence to understand the nature of the recommended security or investment strategy and its potential risks and rewards for investors;

(9) Making a recommendation of any security transaction or investment strategy involving securities (including account recommendations) to a retail customer if the recommendation does not comply with Regulation Best Interest (17 C.F.R. 240.121-1 as amended effective September 10, 2019);

(10) Executing a transaction on behalf of a customer without authorization to do so;

(11) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

(12) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement;

(13) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(14) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and if the latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering;

(15) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless such salesperson knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by the broker-dealer, or by any person for whom the salesperson is acting or with whom the salesperson is associated in such distribution, or any person controlled by, controlling, or under common control with such broker-dealer;

(16) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance, which may include, but is not limited to:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security;

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(d) Effecting any transaction in a security or a related financial instrument when the salesperson causing such transaction to be executed has material, nonpublic market information concerning an imminent block transaction in that security, a related financial instrument, or a security underlying the related financial instrument prior

to the time information concerning the block transaction has been made publicly available or has otherwise become stale or obsolete. For the purposes of this subsection, "related financial instrument" means any option, derivative, security-based swap, or other financial instrument overlying a security, the value of which is materially related to, or otherwise acts as a substitute for, such security, as well as any contract that is the functional economic equivalent of a position in such security; and

(e) Effecting any transaction in an equity security on the same side of the market for the broker-dealer's own account at a price that would satisfy the customer order, if the broker-dealer has accepted and holds an order for the same equity security from its customer or the customer of another broker-dealer without immediately executing such order, unless the broker-dealer immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account;

(17) Using aggressive, high-pressure, or deceptive sales practices or marketing tactics to affect the market price of the security;

(18) Using aggressive, high-pressure, or deceptive sales practices or marketing tactics to make unsuitable recommendations;

(19) Guaranteeing a customer against loss in any securities account for such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(20) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation presents a bona fide bid for, or offer of, such security;

(21) Using, ratifying, or condoning any communication, advertising, or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice is the distribution of any nonfactual data, material, or presentation based on conjecture, or unfounded or unrealistic claims or assertions in any customer correspondence, social media, electronic communication, brochure, flyer, or display by words, pictures, graphs, or otherwise designed to supplement, detract from, supersede, or defeat the purpose or effect of any prospectus or disclosure; or the distribution of any communications inconsistent with WAC 460-20C-190;

(22) In connection with the solicitation of a sale or purchase of an OTC non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under Section 13 of the Securities Exchange Act of 1934, when requested to do so by a customer;

(23) Marking any order ticket or confirmation as unsolicited when in fact the transaction is solicited;

(24) Failing to comply with any applicable provision of the Conduct Rules of FINRA or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission, Commodity Futures Trading Commission, Municipal Securities Rulemaking Board, New York Stock Exchange, Chicago Board Options Exchange, Consumer Financial Protection Board, National Futures Association, state securities regulator, state insurance regulator, state or federal banking regula-

tor, or by a self-regulatory organization approved by the Securities and Exchange Commission;

(25) Any act or practice enumerated in WAC 460-20C-160 or 460-20C-170;

(26) Using any term or abbreviation thereof in a manner that misleadingly states or implies that a person has special expertise, certification, or training in financial planning including, but not limited to, the misleading use of a senior-specific certification or designation as set forth in WAC 460-25A-020;

(27) Contradicting or negating the importance of any information contained in a prospectus or any other offering materials with the intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner;

(28) Extending, arranging for, or participating in arranging for credit to a customer in violation of any federal law or regulation including, but not limited to, 15 U.S.C 78k(d) (as amended effective September 23, 1994) or 12 C.F.R. 220.7 (as amended effective April 1, 1998);

(29) Altering or creating any document relevant to or on the books and records of any broker-dealer, investment adviser, bank, credit union, insurance company, or commodities futures business with any entry or deletion which is materially false or misleading;

(30) Failing to comply with a suspension or bar order of the Securities and Exchange Commission, FINRA, any other self-regulatory organization, or any other securities regulator;

(31) Engaging in acts or practices that constitute deceptive market-timing in the trading of securities including, but not limited to:

(a) Breaking a trade into smaller trades to avoid detection; or

(b) Using multiple accounts, nominees, agent numbers, or multiple agents or representatives to avoid breakpoints, internal controls, exception reports, or other forms of firm or regulatory supervision;

(32) Engaging in acts or practices that constitute deceptive sales practices in the trading of mutual funds including, but not limited to:

(a) Recommending mutual funds just under breakpoints;

(b) Recommending a share class that does not align with customers' needs; or

(c) Recommending a mutual fund switch that does not align with customers' needs;

(33) Disclosing the identity, investment, or other financial information of any customer or former customer unless required by law to do so, or unless consented to by the customer;

(34) Failing to disclose in any retail communications, correspondence, or other materials used in connection with the promotion or transaction of securities business in Washington the name of the salesperson's associated broker-dealer or the name under which the broker-dealer's business is primarily conducted as disclosed on Form BD. For purposes of this subsection, "other materials" include, but are not limited to, business cards, business stationery, and display signs;

(35) Representing that securities will be listed or that application for listing will be made on a securities exchange or the National Association of Securities Dealers Automated Quotations (NASDAQ) system or other quotation system without reasonable basis in fact for the representation;

(36) Engaging in any act, practice, or course of business which is fraudulent, deceptive, manipulative, or unethical;

(37) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Securities Act of Washington, chapter 21.20 RCW, or any rule or regulation thereunder;

(38) Making, in the solicitation of customers, any untrue statement of fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading;

(39) Failing to pay and fully satisfy any final judgment or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the customer and salesperson, in writing, and the salesperson complies with the terms of the alternative payment arrangement;

(40) Attempting to avoid payment of any final judgment or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the customer and the salesperson, in writing, and the salesperson complies with the terms of the alternative payment arrangement;

(41) Failing to pay and fully satisfy and fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the broker-dealer or salesperson by the Securities and Exchange Commission, the securities or other financial services regulator of any state or province, or any self-regulatory organization; and

(42) Accessing a customer's account by using the customer's own unique identifying information (such as username and password).

The conduct set forth above is not inclusive. Engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure, or misstatement of material facts, or manipulative or deceptive practices will also be grounds for denial, suspension, or revocation of registration.

OTS-4965.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

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|-----------------|---|
| WAC 460-20B-010 | Application. |
| WAC 460-20B-020 | Definitions. |
| WAC 460-20B-030 | Registration procedure. |
| WAC 460-20B-035 | Canadian broker-dealers and salespersons. |
| WAC 460-20B-040 | Examination requirements. |
| WAC 460-20B-050 | Expiration of broker-dealer license, renewal procedure, and delinquency fees. |
| WAC 460-20B-060 | Notice of changes by broker-dealers. |

OTS-4966.1REPEALER

The following chapter of the Washington Administrative Code is repealed:

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| WAC 460-21B-008 | Fraudulent practices of broker-dealers. |
| WAC 460-21B-010 | Churning. |
| WAC 460-21B-020 | Transmission or maintenance of payments received in connection with underwritings. |
| WAC 460-21B-030 | Minimum net capital requirement for broker-dealers. |
| WAC 460-21B-040 | Net capital defined. |
| WAC 460-21B-050 | Books and records of broker-dealers. |
| WAC 460-21B-060 | Dishonest or unethical business practices—Broker-dealers. |
| WAC 460-21B-070 | Supervision of securities salespersons. |

OTS-4967.1REPEALER

The following chapter of the Washington Administrative Code is repealed:

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| WAC 460-22B-010 | Application. |
| WAC 460-22B-020 | Cross-reference to other sections relating to securities salespersons. |
| WAC 460-22B-030 | Registration procedure. |
| WAC 460-22B-040 | Salesperson registration and examination. |
| WAC 460-22B-050 | Expiration of salesperson license, renewal procedure, and delinquency fees. |
| WAC 460-22B-060 | Duty to update application. |
| WAC 460-22B-090 | Dishonest and unethical business practices—Salespersons. |