

WSR 24-19-055
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)

[Filed September 12, 2024, 4:09 p.m., effective October 13, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of financial institutions hereby adopts a new chapter of rules for broker-dealers and salespersons of broker-dealers at chapter 460-20C WAC, and repeals the rules in chapters 460-20B, 460-21B, and 460-22B WAC. The new chapter updates the rules consistent with current federal law and Financial Industry Regulatory Authority (FINRA) rules, incorporates North American Securities Administrators Association model rules, and describes the current application procedures and registration requirements for broker-dealers and salespersons of broker-dealers.

Citation of Rules Affected by this Order: New WAC 460-20C-010, 460-20C-015, 460-20C-020, 460-20C-025, 460-20C-030, 460-20C-035, 460-20C-040, 460-20C-045, 460-20C-050, 460-20C-060, 460-20C-080, 460-20C-090, 460-20C-100, 460-20C-110, 460-20C-120, 460-20C-130, 460-20C-140, 460-20C-150, 460-20C-160, 460-20C-170, 460-20C-180, 460-20C-190, 460-20C-200, 460-20C-210 and 460-20C-220; and repealing WAC 460-20B-010, 460-20B-020, 460-20B-030, 460-20B-035, 460-20B-040, 460-20B-050, 460-20B-060, 460-21B-008, 460-21B-010, 460-21B-020, 460-21B-030, 460-21B-040, 460-21B-050, 460-21B-060, 460-21B-070, 460-22B-010, 460-22B-020, 460-22B-030, 460-22B-040, 460-22B-050, 460-22B-060, and 460-22B-090.

Statutory Authority for Adoption: RCW 21.20.070, 21.20.450.

Adopted under notice filed as WSR 24-11-013 on May 6, 2024.

Changes Other than Editing from Proposed to Adopted Version: The securities division deleted the proposed unethical practice for broker-dealers that was located at WAC 460-20C-210(50) in the proposed rules. The provision would have made it an unethical practice for broker-dealers to "allow an individual who is not registered as a salesperson in Washington to enter trades on behalf of a retail customers of the broker-dealer who are located in Washington, unless an exemption from registration would apply."

The securities division revised the exam validity extension provision at WAC 460-20C-040 (2)(c) and (d) to add the clause "but were registered as a salesperson in at least one jurisdiction for at least one year immediately preceding the termination of the salesperson registration." This language is consistent with the current eligibility requirements for participating in FINRA's maintaining qualifications program.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 0; Federal Rules or Standards: New 18, Amended 0, Repealed 3; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 25, Amended 0, Repealed 22.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 25, Amended 0, Repealed 22.

Number of Sections Adopted using Negotiated Rule Making: New 25, Amended 0, Repealed 22; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.
Date Adopted: September 12, 2024.

Charlie Clark
Director

OTS-4968.5

**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 con-

versation, 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 di-

rectly 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 subsection 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, but were registered as a salesperson in at least one jurisdiction for at least one year immediately preceding the termination of the salesperson registration, 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, but were registered as a salesperson in at least one jurisdiction for at least one year immediately preceding the termination of the salesperson registration, 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.

Reviser's note: The above new section was filed by the agency as WAC 460-29C-040. This section is placed among sections forming new chapter 460-20C WAC, and therefore should be numbered WAC 460-20C-040. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

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 effective, 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 com-

ply 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 di-

rector 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) Expeditious 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 objectives 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 re-

quired 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, investment 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 salesper-

son 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 moneys 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 cus-

tomer 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; and

(50) 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 securi-

ties 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 regulator, 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 pay-

ment 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:

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-4966.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

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-4967.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- 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.