

Chapter 460-28A WAC

ADVERTISEMENTS

WAC

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WAC 460-28A-010 Advertisements—Scope of rules.

Any advertisement, display, pamphlet, brochure, letter, articles, or communication published in any newspaper, magazine, or periodical, or script or any recording, radio or television announcement, broadcast, or commercial to be used or circulated in connection with the sale and promotion of a registered offering of securities will be subject to the requirements and restrictions set out in WAC 460-28A-015 and 460-28A-020.

[Order 342, § 460-28A-010, filed 9/29/75; Order 304, § 460-28A-010, filed 2/28/75, effective 4/1/75. Formerly chapter 460-28 WAC.]

WAC 460-28A-015 All advertisements to be filed. All sales and advertising literature and promotional material, other than that exempted by these rules, shall be governed by the following:

(1) The registration applicant or registrant shall file with the division, at least five business days before its intended dissemination, one copy of each item of literature or material.

(2) If not disallowed by the administrator by written notice or otherwise within three business days from the date filed, the literature or material may be disseminated.

(3) No formal approval of the literature or material shall be issued by the administrator.

(4) The disseminator of the literature or material shall be responsible for the accuracy and reliability of the literature and material, and its conformance with the code and these rules.

[Statutory Authority: RCW 21.20.450. WSR 99-03-053, § 460-28A-015, filed 1/15/99, effective 2/15/99; Order 342, § 460-28A-015, filed 9/29/75; Order 304, § 460-28A-015, filed 2/28/75, effective 4/1/75. Formerly chapter 460-28 WAC.]

WAC 460-28A-020 Specific prohibitions. The following devices or sales presentation, and the use thereof, will be deemed deceptive or misleading practices:

(1) Comparison charts or graphs showing a distorted, unfair or unrealistic relationship between the issuer's past performance, progress or success and that of another company, business, industry or investment media;

(2) Lay-out, format, size, kind and color of type used so as to attract attention to favorable or incomplete portions of the advertising matter, or to minimize less favorable, modified or modifying portions necessary to make the entire advertisement a fair and truthful representation;

(3) Statements or representations, which by themselves predict future profit, success, appreciation, performance or otherwise relate to the merit or potential of the securities which are positive or imperative in form;

(4) Generalizations, generalized conclusions, opinions, representations and general statements based upon a particular set of facts and circumstances unless those facts and circumstances are stated and modified or explained by such additional facts or circumstances as are necessary to make the entire advertisement a full, fair and truthful representation;

(5) Sales kits or film clips, displays or exposures, which, alone or by sequence and progressive compilation, tend to present an accumulative or composite picture or impression of certain, or exaggerated potential, profit, safety, return or assured or extraordinary investment opportunity or similar benefit to the prospective purchaser;

(6) Distribution of any nonfactual or inaccurate data or material by words, pictures, charts, graphs, or otherwise, based on conjectural, unfounded, extravagant, or flamboyant claims, assertions, predictions or excessive optimism;

(7) Memoranda, reports, letters and similar distributions which tend, alone or by compilation, to substitute, repeat or detract from disclosure in the registered offering circular.

[Order SD-131-77, § 460-28A-020, filed 11/23/77; Order 304, § 460-28A-020, filed 2/28/75, effective 4/1/75. Formerly chapter 460-28 WAC.]

WAC 460-28A-025 Exceptions from filing requirements. The following forms and types of advertising are permitted without the necessity for filing or prior authorization by the administrator, unless specifically prohibited.

(1) So-called "tombstone" advertising, containing no more than the following information:

(a) Name and address of issuer.

(b) Identity or title of security.

(c) Per unit offering price, number of shares and amount of offering.

(d) Brief, general description of business.

(e) Name and address of underwriter, or address where offering circular or prospectus can be obtained.

(f) Date of issuance.

(2) Dividend notices, proxy statements and reports to shareholders, including investment company quarterly and semi-annual reports.

(3) Sales literature, advertising or market letters prepared in conformity with the applicable regulations and in compliance with the filing requirements of the SEC, the NASD, or an approved securities exchange.

(4) Factual or informative letters, bulletins or releases, similar to "news letters," relating to issuer's progress or activities, status of the offering or current financial conditions.

[Order 304, § 460-28A-025, filed 2/28/75, effective 4/1/75. Formerly chapter 460-28 WAC.]