

WSR 23-17-115
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)

[Filed August 18, 2023, 8:18 a.m., effective September 18, 2023]

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

Purpose: The securities division hereby amends chapter 460-80 WAC to adopt the statement of policy regarding the use of franchise questionnaires and acknowledgments (statement of policy) promulgated by the North American Securities Administrators Association, Inc. (NASAA). On September 18, 2022, NASAA adopted the statement of policy regarding the use of statement of policy. The statement of policy sets uniform standards for the proper use of questionnaires and acknowledgments in franchise offerings. The statement of policy prohibits provisions that would require a prospective franchisee to make statements that are subjective, unreasonable, or that attempt to absolve the franchisor or its agents of liability in connection with the sale of a franchise. These provisions are also inconsistent with the Franchise Investment Protection Act's antiwaiver provisions. See RCW 19.100.220(2) and 19.100.180 (2)(g). It is important to note that the adoption of the statement of policy does not represent a material change in requirements for franchise offerings in Washington. However, adoption of the statement of policy will aid franchisors in complying with existing Washington law by providing specific examples of prohibited questionnaires and acknowledgments, while also increasing compliance with antiwaiver and antifraud requirements across the states with such requirements.

Citation of Rules Affected by this Order: New WAC 460-80-325.

Statutory Authority for Adoption: RCW 19.100.250.

Adopted under notice filed as WSR 23-10-048 on April 28, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 18, 2023.

Charlie Clark
Director

OTS-4307.1

NEW SECTION

WAC 460-80-325 NASAA statement of policy regarding the use of franchise questionnaires and acknowledgments. In order to promote uniform regulation, the administrator adopts the North American Securities Administrators Association (NASAA) Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments, as adopted September 18, 2022.