



Rules of
Elected Officials
Division 30—Secretary of State
Chapter 53—Sales and Advertising Literature

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Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 53—Sales and Advertising
Literature

15 CSR 30-53.010 Promotional Materials To Be Filed, Permitted Without Filing and Prohibited

PURPOSE: This rule prescribes the requirements for filing sales and advertising literature of the public offering of securities, and the types of advertising that are permitted and those that are prohibited.

(1) Any advertisement, display, pamphlet, brochure, letter, article, or communication published in any newspaper, magazine or periodical, or script of any recording, radio or television announcement, broadcast, or commercial to be used or circulated in connection with the sale and promotion of a public offering of securities will be subject to the following requirements and restrictions:

(A) All sales and advertising literature and promotional material, other than that exempted by the Missouri Securities Act of 2003 (the Act) (section 409.5-504) and this rule, shall be governed by the following:

1. The applicant shall file with the commissioner, at least five (5) days before its intended dissemination, one (1) copy of each item of literature or material;

2. If not disallowed by the commissioner by written notice or otherwise within three (3) 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 commissioner; and

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 Act and this rule;

(B) 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. Layout, 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 predict future profit, success, appreciation, performance, or otherwise relate to the merit or potential of the securities unless the state-

ments or representations clearly indicate that they represent solely the opinion of the publisher thereof;

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 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; and

7. Any package or bonus deal, prize, gift, gimmick, or similar inducement, combined with or dependent upon the sale of some other product, contract, or service, unless that unit or combination has been fully disclosed and specifically described and identified in the application as the security being offered; and

(C) All sales and advertising literature and promotional material other than that described in subsection (3)(A) of this rule and including that intended for broker-dealer and internal use only shall be submitted to the commissioner for comment upon request. Literature and material containing representations inconsistent with the offering document and that employing deceptive and misleading practices as described in subsection (1)(B) of this rule shall be prohibited.

(2) No sales or advertising literature or promotional material containing any ranking or rating of offering terms or prospective program performance shall be disseminated unless specifically permitted by the commissioner by written notice or otherwise.

(3) The following forms and types of advertising are permitted without the necessity for filing or prior authorization by the commissioner, unless specifically prohibited:

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

1. Name and address of issuer;
2. Identity or title of security;
3. Per unit offering price, number of shares, and amount of offering;

4. Brief, general description of business;

5. Name and address of underwriter, or address where offering circular or prospectus can be obtained; and

6. Date of issuance;

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

(C) Unless requested by the commissioner pursuant to subsection (1)(C) of this rule, sales literature, advertising, or market letters prepared in conformity with the applicable regulations and in compliance with the filing requirements of the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), or an approved securities exchange;

(D) Factual or informative letters, bulletins, or releases, similar to newsletters, relating to issuer's progress or activities, status of the offering, or current financial condition; and

(E) Dissemination of any data incorporated in the offering circular or prospectus, so long as the use of that material, out of context, does not tend to detract from, distort, supersede, or express a different meaning of the representations or disclosures contained in this rule.

(4) Any person who prepares, distributes, or causes to be issued or published any sales literature which is knowingly inaccurate, false, misleading, or tending to mislead in any material respect or otherwise in violation of the provisions in this rule may be held responsible and accountable therefor in any administrative or civil proceeding arising under the Act or these rules.

AUTHORITY: sections 409.2-201(7), 409.2-203, 409.3-303, 409.3-304, 409.5-501, 409.5-504, and 409.6-605, RSMo Supp. 2008. Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed Oct. 9, 1970, effective Oct. 19, 1970. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed March 21, 1974, effective April 1, 1974. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed March 27, 1989, effective June 12, 1989. Amended: Filed July 30, 1992, effective April 8, 1993. Emergency amendment filed Aug. 26, 2003, effective Sept. 12, 2003, expired March 9, 2004. Amended: Filed Aug. 26, 2003, effective Feb. 29, 2004. Amended: Filed May 21, 2009, effective Nov. 30, 2009.*

**Original authority: 409.2-201, RSMo 2003; 409.2-203, RSMo 2003; 409.3-303, RSMo 2003; 409.3-304, RSMo 2003; 409.5-501, RSMo 2003; 409.5-504, RSMo 2003; and 409.6-605, RSMo 2003.*