80A.461 MNVEST REGISTRATION EXEMPTION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in paragraphs (b) through (f) have the meanings given them.

(b) "MNvest issuer" means an entity, other than a general partnership, that satisfies the requirements of Code of Federal Regulations, title 17, part 230.147A, and the following requirements:

(1) for purposes of this section only, the MNvest issuer shall at the time of any offers and sales have its principal place of business in Minnesota and be doing business within Minnesota;

(i) the MNvest issuer shall be deemed to have its principal place of business in Minnesota if the officers, partners, or managers of the issuer primarily direct, control, and coordinate the activities of the issuer from within Minnesota; and

(ii) the MNvest issuer shall be deemed to be doing business within Minnesota if the issuer satisfies at least one of the following requirements:

(A) the issuer derived at least 80 percent of its consolidated gross revenues from the operation of a business or of real property located in or from the rendering of services within Minnesota. Revenues must be calculated based on the issuer's most recent fiscal year, if the first offer of securities pursuant to this section is made during the first six months of the issuer's current fiscal year, and based on the first six months of the issuer's current fiscal year or during the 12-month fiscal period ending with such six-month period, if the first offer of securities pursuant to this section is made during the last six months of the issuer's current fiscal year;

(B) the issuer had, at the end of its most recent semiannual fiscal period prior to an initial offer of securities in any offering or subsequent offering pursuant to this section, at least 80 percent of its assets and those of its subsidiaries on a consolidated basis located within Minnesota;

(C) the issuer intends to use and uses at least 80 percent of the net proceeds to the issuer from sales made pursuant to Code of Federal Regulations, title 17, part 230.147A, in connection with the operation of a business or of real property, the purchase of real property located in, or the rendering of services within Minnesota; or

(D) a majority of the issuer's employees are based in Minnesota;

(2) an issuer that has previously conducted an intrastate offering pursuant to Code of Federal Regulations, title 17, part 230.147A, or Rule 147, part 230.147, may not conduct another intrastate offering pursuant to Code of Federal Regulations, title 17, part 230.147A, in a different state or territory, until the expiration of the time period specified in Code of Federal Regulations, title 17, part 230.147A (e), or Rule 147, section 230.147 (e), calculated on the basis of the date of the last sale in such offering;

(3) the entity does not attempt to limit its liability, or the liability of any other person, for fraud or intentional misrepresentation in connection with the offering of its securities in a MNvest offering; and

(4) the entity is not:

(i) engaged in the business of investing, reinvesting, owning, holding, or trading in securities, except that the entity may hold securities of one class in an entity that is not itself engaged in the business of investing, reinvesting, owning, holding, or trading in securities; or

(ii) subject to the reporting requirements of the Securities and Exchange Act of 1934, section 13 or 15(d), United States Code, title 15, sections 78m and 78o(d).

(c) "MNvest offering" means an offer, or an offer and sale, of securities by a MNvest issuer that: (1) is conducted exclusively through a MNvest portal, and (2) satisfies the requirements of this section and other requirements the administrator imposes by rule.

(d) "MNvest portal" means an Internet website that is operated by a portal operator for the offer or sale of MNvest offerings under this section or registered securities under section 80A.50, paragraph (b), or 80A.52, and satisfies the requirements of subdivision 6.

(e) "Portal operator" means an entity, including an issuer, that:

(1) is authorized to do business in Minnesota;

(2) is a broker-dealer registered under this chapter or otherwise registers with the administrator as a portal operator in accordance with subdivision 7, paragraph (a), and is therefore excluded from broker-dealer registration; and

(3) satisfies such other conditions as the administrator may determine.

(f) "Purchaser" means a person or entity that complies with this section and satisfies other requirements the administrator imposes by rule.

Subd. 2. **Generally.** The offer, sale, and issuance of securities in a MNvest offering is exempt from the requirements of sections 80A.49 to 80A.54, except 80A.50, paragraph (a), clause (3), and 80A.71, if the issuer meets the qualifications under this section.

Subd. 3. **MNvest offering.** A MNvest offering must satisfy the following requirements:

(1) the issuer must be a MNvest issuer on the date that its securities are first offered for sale in the offering and continuously through the closing of the offering;

(2) the offering must meet the requirements of the federal exemption for intrastate offerings in Rule 147A, adopted under the Securities Act of 1933, Code of Federal Regulations, title 17, part 230.147A;

(3) the sale of securities must be conducted exclusively through a MNvest portal;

(4) the MNvest issuer shall require the portal operator to provide or make available to prospective purchasers through the MNvest portal a copy of the MNvest issuer's balance sheet and income statement for the MNvest issuer's most recent fiscal year, if the issuer was in existence. For offerings beginning more than 90 days after the issuer's most recent fiscal year end, or if the MNvest issuer was not in existence the previous calendar year, the MNvest issuer must provide or make available a balance sheet as of a date not more than 90 days before the commencement of the MNvest offering for the MNvest issuer's most recently completed fiscal year, or such shorter portion the MNvest issuer was in existence during that period, and the year-to-date period, or inception-to-date period, if shorter, corresponding with the more recent balance sheet required by this clause;

(5) in any 12-month period, the MNvest issuer shall not raise more than the aggregate amounts set forth in item (i) or (ii), either in cash or other consideration, in connection with one or more MNvest offerings:

(i) $2,000,000 if the financial statements described in clause (4) have been (A) audited by a certified public accountant firm licensed under chapter 326A using auditing standards issued by either the American

Institute of Certified Public Accountants or the Public Company Accounting Oversight Board, or (B) reviewed by a certified public accountant firm licensed under chapter 326A using the Statements on Standards for Accounting and Review Services issued by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants; or

(ii) $1,000,000 if the financial statements described in clause (4) have not been audited or reviewed as described in item (i);

(6) offers or sales made in reliance on this section will not be integrated with:

(i) offers or sales of securities made prior to the commencement of offers and sales of securities pursuant to this section; or

(ii) offers or sales made after completion of offers and sales of securities pursuant to this section that are:

(A) registered under the Securities Act of 1933, except as provided in Code of Federal Regulations, part 230.147A, paragraph (h);

(B) exempt from registration under Regulation A, title 17, parts 230.251 to 230.263;

(C) exempt from registration under Rule 701, title 17, part 230.701;

(D) made pursuant to an employee benefit plan;

(E) exempt from registration under Regulation S, title 17, parts 230.901 to 230.905;

(F) exempt from registration under section 4(a)(6) of the Securities Act of 1933, United States Code, title 15, section 77d(a)(6); or

(G) made more than six months after the completion of an offering conducted pursuant to this section.

For purposes of clarity, this section does not permit a MNvest issuer to conduct simultaneous securities offerings;

(7) no single purchaser may purchase more than $10,000 in securities of the MNvest issuer under this exemption in connection with a single MNvest offering unless the purchaser is an accredited investor under Rule 501, adopted under the Securities Act of 1933, Code of Federal Regulations, title 17, part 230.501;

(8) all payments for the purchase of securities must be held in escrow until the aggregate capital deposited into escrow from all purchasers is equal to or greater than the stated minimum offering amount. Purchasers will receive a return of all their subscription funds if the minimum offering amount is not raised by the stipulated expiration date required in subdivision 4, clause (2). The escrow agent must be a bank, regulated trust company, savings bank, savings association, or credit union authorized to do business in Minnesota. Prior to the execution of the escrow agreement between the issuer and the escrow agent, the escrow agent must conduct searches of the issuer, its executive officers, directors, governors, and managers, as provided to the escrow agent by the portal operator, against the Specially Designated Nationals list maintained by the Office of Foreign Assets Control. The escrow agent is only responsible to act at the direction of the party establishing the escrow account and does not have a duty or liability, contractual or otherwise, to an investor or other person except as set forth in the applicable escrow agreement or other contract;

(9) the MNvest issuer shall require the portal operator to make available to the prospective purchaser through the MNvest portal a disclosure document that meets the requirements set forth in subdivision 4;

(10) before selling securities to a prospective purchaser on a MNvest portal, the MNvest issuer shall require the portal operator to obtain from the prospective purchaser the certification required under subdivision 5;

(11) not less than ten days before the beginning of an offering of securities in reliance on the exemption under this section, the MNvest issuer shall provide the following to the administrator:

(i) a notice of claim of exemption from registration, specifying that the MNvest issuer will be conducting an offering in reliance on the exemption under this section;

(ii) a copy of the disclosure document to be provided to prospective purchasers in connection with the offering, as described in subdivision 4;

(iii) a filing fee of $300; and

(iv) MNvest offerings otherwise registered pursuant to sections 80A.50 and 80A.52 are excluded from such ten-day wait period; and

(12) the MNvest issuer and the portal operator may engage in solicitation and advertising of the MNvest offering provided that:

(i) the advertisement contains disclaiming language which clearly states:

(A) the advertisement is not the offer and is for informational purposes only;

(B) the offering is being made in reliance on the exemption under this section;

(C) the offering indicates that purchasers may only be residents of the state;

(D) all offers and sales are made through a MNvest portal; and

(E) the Department of Commerce is the securities regulator in Minnesota;

(ii) along with the disclosures required under item (i), the advertisement may contain no more than the following information:

(A) the name and contact information of the MNvest issuer;

(B) a brief description of the general type of business of the MNvest issuer;

(C) the minimum offering amount the MNvest issuer is attempting to raise through its offering;

(D) a description of how the issuer will use the funds raised through the MNvest offering;

(E) the duration that the MNvest offering will remain open;

(F) the MNvest issuer's logo; and

(G) a link to the MNvest issuer's website and the MNvest portal in which the MNvest offering is being made; and

(iii) the advertisement complies with all applicable state and federal laws.

Subd. 4. **Required disclosures to prospective MNvest offering purchasers.** The MNvest issuer shall require the portal operator to make available to the prospective purchaser through the MNvest portal a printable or downloadable disclosure document containing the following:

(1) the MNvest issuer's type of entity, the address and telephone number of its principal office, its formation history for the previous five years, a summary of the material facts of its business plan and its capital structure, and its intended use of the offering proceeds, including any amounts to be paid from the proceeds of the MNvest offering, as compensation or otherwise, to an owner, executive officer, director, governor, manager, member, or other person occupying a similar status or performing similar functions on behalf of the MNvest issuer;

(2) the MNvest offering must stipulate the date on which the offering will expire, which must not be longer than 12 months from the date the MNvest offering commenced;

(3) a copy of the escrow agreement between the escrow agent, the MNvest issuer, and, if applicable, the portal operator, as described in subdivision 3, clause (8);

(4) the financial statements required under subdivision 3, clause (4);

(5) the identity of all persons owning more than ten percent of any class of equity interests in the company;

(6) the identity of the executive officers, directors, governors, managers, members, and other persons occupying a similar status or performing similar functions in the name of and on the behalf of the MNvest issuer, including their titles and their relevant experience;

(7) the terms and conditions of the securities being offered, a description of investor exit strategies, and of any outstanding securities of the MNvest issuer; the minimum and maximum amount of securities being offered; either the percentage economic ownership of the MNvest issuer represented by the offered securities, assuming the minimum and, if applicable, maximum number of securities being offered is sold, or the valuation of the MNvest issuer implied by the price of the offered securities; the price per share, unit, or interest of the securities being offered; any restrictions on transfer of the securities being offered; and a disclosure that any future issuance of securities might dilute the value of securities being offered;

(8) the identity of and consideration payable to a person who has been or will be retained by the MNvest issuer to assist the MNvest issuer in conducting the offering and sale of the securities, including a portal operator, but excluding (i) persons acting primarily as accountants or attorneys, and (ii) employees whose primary job responsibilities involve operating the business of the MNvest issuer rather than assisting the MNvest issuer in raising capital;

(9) a description of any pending material litigation, legal proceedings, or regulatory action involving the MNvest issuer or any executive officers, directors, governors, managers, members, and other persons occupying a similar status or performing similar functions in the name of and on behalf of the MNvest issuer;

(10) a statement of the material risks unique to the MNvest issuer and its business plans;

(11) a statement that the securities have not been registered under federal or state securities law and that the securities are subject to limitations on resale;

(12) the following legend must be displayed conspicuously in the disclosure document:

"IN MAKING AN INVESTMENT DECISION, PURCHASERS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR DIVISION OR OTHER REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT.

ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (e) OF SEC RULE 147A (CODE OF FEDERAL REGULATIONS, TITLE 17, PART 230.147A (e)) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. PURCHASERS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

SALES WILL BE MADE ONLY TO RESIDENTS OF MINNESOTA. OFFERS AND SALES OF THESE SECURITIES ARE MADE UNDER AN EXEMPTION FROM FEDERAL REGISTRATION AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. FOR A PERIOD OF SIX MONTHS FROM THE DATE OF THE SALE BY THE ISSUER OF THE SECURITIES, ANY RESALE OF THE SECURITIES (OR THE UNDERLYING SECURITIES IN THE CASE OF CONVERTIBLE SECURITIES) SHALL BE MADE ONLY TO PERSONS RESIDENT WITHIN MINNESOTA. ANY RESALE OF THESE SECURITIES MUST BE REGISTERED OR EXEMPT PURSUANT TO THIS CHAPTER."; and

(13) the following legend must be displayed conspicuously on the certificate or other document, if applicable, evidencing the security stating that:

"OFFERS AND SALES OF THESE SECURITIES WERE MADE UNDER AN EXEMPTION FROM FEDERAL REGISTRATION AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. FOR A PERIOD OF SIX MONTHS FROM THE DATE OF THE SALE BY THE ISSUER OF THESE SECURITIES, ANY RESALE OF THESE SECURITIES (OR THE UNDERLYING SECURITIES IN THE CASE OF CONVERTIBLE SECURITIES) SHALL BE MADE ONLY TO PERSONS RESIDENT WITHIN MINNESOTA. ANY RESALE OF THESE SECURITIES MUST BE REGISTERED OR EXEMPT PURSUANT TO THIS CHAPTER."

Subd. 5. **Required certification from MNvest offering purchasers.** Before selling securities to a prospective purchaser through a MNvest portal, the MNvest issuer shall require the portal operator to obtain from the prospective purchaser through the applicable MNvest portal a written or electronic certification that includes, at a minimum, the following statements:

"I UNDERSTAND AND ACKNOWLEDGE THAT:

If I make an investment in an offering through this MNvest portal, it is very likely that I am investing in a high-risk, speculative business venture that could result in the complete loss of my investment, and I need to be able to afford such a loss.

This offering has not been reviewed or approved by any state or federal securities commission or division or other regulatory authority and that no such person or authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.

If I make an investment in an offering through this MNvest portal, it is very likely that the investment will be difficult to transfer or sell and, accordingly, I may be required to hold the investment indefinitely.

By entering into this transaction with the company, I am affirmatively representing myself as being a Minnesota resident at the time that this contract is formed, and if this representation is subsequently shown to be false, the contract is void."

Subd. 6. **MNvest portal.** A MNvest portal must satisfy the requirements of clauses (1) through (4):

(1) the website does not contain the word "MNvest" in its URL address;

(2) the website implements steps to limit website access to sale of securities to only Minnesota residents when conducting MNvest offerings; and

(3) MNvest offerings may not be viewed on the MNvest portal by a prospective purchaser until:

(i) the portal operator verifies, through its exercise of reasonable steps, such as using a third-party verification service or as otherwise approved by the administrator, that the prospective purchaser is a Minnesota resident; and

(ii) the prospective purchaser makes an affirmative acknowledgment, electronically through the MNvest portal, that:

(A) I am a Minnesota resident;

(B) the securities and investment opportunities listed on this website involve high-risk, speculative business ventures. If I choose to invest in any securities or investment opportunity listed on this website, I may lose all of my investment, and I can afford such a loss;

(C) the securities and investment opportunities listed on this website have not been reviewed or approved by any state or federal securities commission or division or other regulatory authority, and no such person or authority, including this website, has confirmed the accuracy or determined the adequacy of any disclosure made to prospective investors relating to any offering; and

(D) if I choose to invest in any securities or investment opportunity listed on this website, I understand that the securities I will acquire may be difficult to transfer or sell, that there is no ready market for the sale of such securities, that it may be difficult or impossible for me to sell or otherwise dispose of this investment at any price, and that, accordingly, I may be required to hold this investment indefinitely; and

(4) the website complies with all other rules adopted by the administrator.

Subd. 7. **Portal operator.** (a) An entity, other than a registered broker-dealer, wishing to become a portal operator shall file with the administrator:

(1) the Portal Operator Registration Form, including all applicable schedules and supplemental information;

(2) a copy of the articles of incorporation or other documents that indicate the entity's form of organization; and

(3) a filing fee of $200.

(b) A portal operator's registration expires 12 months from the date the administrator has approved the entity as a portal operator, and subsequent registration for the succeeding 12-month period shall be issued upon written application and upon payment of a renewal fee of $200, without filing of further statements or furnishing any further information, unless specifically requested by the administrator. This section is not applicable to a registered broker-dealer functioning as a portal operator.

(c) A portal operator that is not a broker-dealer registered under this chapter shall not:

(1) offer investment advice or recommendations, provided that a portal operator shall not be deemed to be offering investment advice or recommendations merely because it (i) selects, or may perform due diligence with respect to, issuers or offerings to be listed, or (ii) provides general investor educational materials;

(2) provide transaction-based compensation for securities sold under this chapter to employees, agents, or other persons unless the employees, agents, or other persons are registered with the administrator and permitted to receive such compensation;

(3) charge a fee to the issuer for an offering of securities on a MNvest portal unless the fee is (i) a fixed amount for each offering, (ii) a variable amount based on the length of time that the securities are offered on the MNvest portal, or (iii) a combination of such fixed and variable amounts; or

(4) hold, manage, possess, or otherwise handle purchaser funds or securities. This restriction does not apply if the issuer is the portal operator.

(d) A portal operator shall provide the administrator with read-only access to administrative sections of the MNvest portal.

(e) A portal operator shall comply with the record-keeping requirements of this paragraph, provided that the failure of a portal operator that is not an issuer to maintain records in compliance with this paragraph shall not affect the MNvest issuer's exemption from registration afforded by this section:

(1) a portal operator shall maintain and preserve, for a period of five years from either the date of the closing or termination of the securities offering, the following records:

(i) the name of each issuer whose securities have been listed on its MNvest portal;

(ii) the full name, residential address, Social Security number, date of birth, and copy of a state-issued identification for all owners with greater than ten percent voting equity in an issuer;

(iii) copies of all offering materials that have been displayed on its MNvest portal;

(iv) the names and other personal information of each purchaser who has registered at its MNvest portal;

(v) any agreements and contracts between the portal operator and the issuer; and

(vi) any information used to establish that a MNvest issuer, prospective MNvest purchaser, or MNvest purchaser is a Minnesota resident;

(2) a portal operator shall, upon written request of the administrator, furnish to the administrator any records required to be maintained and preserved under this subdivision;

(3) the records required to be kept and preserved under this subdivision must be maintained in a manner, including by any electronic storage media, that will permit the immediate location of any particular document so long as such records are available for immediate and complete access by representatives of the administrator. Any electronic storage system must preserve the records exclusively in a nonrewriteable, nonerasable format; verify automatically the quality and accuracy of the storage media recording process; serialize the original and, if applicable, duplicate units storage media, and time-date for the required period of retention the information placed on such electronic storage media; and be able to download indexes and records preserved on electronic storage media to an acceptable medium. In the event that a records retention system commingles records required to be kept under this subdivision with records not required to be kept, representatives of the administrator may review all commingled records; and

(4) a portal operator shall maintain such other records as the administrator shall determine by rule.

Subd. 8. **Portal operator; privacy of purchaser information.** (a) For purposes of this subdivision, "personal information" means information provided to a portal operator by a prospective purchaser or purchaser that identifies, or can be used to identify, the prospective purchaser or purchaser.

(b) Except as provided in paragraph (c), a portal operator must not disclose personal information without written or electronic consent from the prospective purchaser or purchaser that authorizes the disclosure.

(c) Paragraph (b) does not apply to:

(1) records required to be provided to the administrator under subdivision 7, paragraph (e);

(2) the disclosure of personal information to a MNvest issuer relating to its MNvest offering; or

(3) the disclosure of personal information to the extent required or authorized under other law.

Subd. 9. **Bad actor disqualification.** (a) An exemption under this section is not available for a sale if securities in the MNvest issuer; any predecessor of the MNvest issuer; any affiliated issuer; any director, governor, executive officer, other officer participating in the MNvest offering, general partner, or managing member of the MNvest issuer; any beneficial owner of 20 percent or more of the MNvest issuer's outstanding voting equity securities, calculated on the basis of voting power; any promoter connected with the MNvest issuer in any capacity at the time of the sale; any investment manager of an issuer that is a pooled investment fund; any general partner or managing member of any investment manager; or any director, governor, executive officer, or other officer participating in the offering of any investment manager or general partner or managing member of the investment manager:

(1) has been convicted, within ten years before the offering, or five years, in the case of MNvest issuers, their predecessors, and affiliated issuers, of any felony or misdemeanor:

(i) in connection with the purchase or sale of any security;

(ii) involving the making of any false filing with the Securities and Exchange Commission or a state administrator; or

(iii) arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of securities;

(2) is subject to any order, judgment, or decree of any court of competent jurisdiction, entered within five years before the sale, that, at the time of the sale, restrains or enjoins the person from engaging or continuing to engage in any conduct or practice:

(i) in connection with the purchase or sale of any security;

(ii) involving the making of any false filing with the Securities and Exchange Commission or a state administrator; or

(iii) arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of securities;

(3) is subject to a final order of a state securities commission or an agency or officer of a state performing like functions; a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission or an agency or officer of a state performing like functions; an appropriate federal banking agency; the United States Commodity Futures Trading Commission; or the National Credit Union Administration that:

(i) at the time of the offering, bars the person from:

(A) association with an entity regulated by the commission, authority, agency, or officer;

(B) engaging in the business of securities, insurance, or banking; or

(C) engaging in savings association or credit union activities; or

(ii) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within ten years before the offering;

(4) is subject to an order of the Securities and Exchange Commission entered pursuant to section 15(b) or 15B(c) of the Securities Exchange Act of 1934, United States Code, title 15, section 78o(b) or 78o-4(c) or section 203(e) or (f) of the Investment Advisers Act of 1940, United States Code, title 15, section 80b-3(e) or (f) that, at the time of the offering:

(i) suspends or revokes the person's registration as a broker, dealer, municipal securities dealer, or investment adviser;

(ii) places limitations on the activities, functions, or operations of the person; or

(iii) bars the person from being associated with any entity or from participating in the offering of any penny stock;

(5) is subject to any order of the Securities and Exchange Commission or a state administrator entered within five years before the sale that, at the time of the sale, orders the person to cease and desist from committing or causing a violation or future violation of:

(i) any scienter-based antifraud provision of the federal securities laws, including without limitation section 17(a)(1) of the Securities Act of 1933, United States Code, title 15, section 77q(a)(1), section 10(b) of the Securities Exchange Act of 1934, United States Code, title 15, section 78j(b) and Code of Federal Regulations, title 17, section 240.10b-5, section 15(c)(1) of the Securities Exchange Act of 1934, United States Code, title 15, section 78o(c)(1) and section 206(1) of the Investment Advisers Act of 1940, United States Code, title 15, section 80b-6(1), or any other rule or regulation thereunder; or

(ii) section 5 of the Securities Act of 1933, United States Code, title 15, section 77e;

(6) is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

(7) has filed as a registrant or issuer, or was or was named as an underwriter in, any registrations statement or Regulation A offering statement filed with the Securities and Exchange Commission or a state administrator that, within five years before the sale, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is, at the time of the sale, the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or

(8) is subject to a United States Postal Service false representation order entered within five years before the offering, or is, at the time of the offering, subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

(b) Paragraph (a) does not apply:

(1) with respect to any conviction, order, judgment, decree, suspension, expulsion, or bar that occurred or was issued before September 23, 2013;

(2) upon a showing of good cause and without prejudice to any other action by the Securities and Exchange Commission or a state administrator, if the Securities and Exchange Commission or a state administrator determines that it is not necessary under the circumstances that an exemption be denied;

(3) if, before the relevant offering, the court of regulatory authority that entered the relevant order, judgment, or decree advises in writing, whether contained in the relevant judgment, order, or decree or separately to the Securities and Exchange Commission or a state administrator or their staff, that disqualification under paragraph (a) should not arise as a consequence of the order, judgment, or decree; or

(4) if the MNvest issuer establishes that it did not know and, in the exercise of reasonable care, could not have known that a disqualification existed under paragraph (a).

(c) For purposes of paragraph (a), events relating to any affiliated issuer that occurred before the affiliation arose will not be considered disqualifying if the affiliated entity is not:

(1) in control of the issuer; or

(2) under common control with the issuer by a third party that was in control of the affiliated entity at the time of the events.

Subd. 10. **Residence of purchasers.** Sales of securities pursuant to this section must be made only to residents of Minnesota, or who the issuer reasonably believes, at the time of sale, are residents of Minnesota. For purposes of determining the residence of purchasers:

(1) a corporation, partnership, limited liability company, trust, or other form of business organization shall be deemed to be a resident of Minnesota if, at the time of sale to it, it has its principal place of business determined in the same manner as the principal place of business for a MNvest issuer within Minnesota;

(2) individuals shall be deemed to be residents of Minnesota if the individuals have, at the time of sale to them, their principal residence in Minnesota;

(3) a corporation, partnership, trust, or other form of business organization, which is organized for the specific purpose of acquiring securities offered pursuant to this section, shall not be a resident of Minnesota unless all of the beneficial owners of the organization are residents of Minnesota;

(4) obtaining a written representation from purchasers of in-state residency status will not, without more, be sufficient to establish a reasonable belief that the purchasers are in-state residents; and

(5) a trust that is not deemed by the law of the state or territory of its creation to be a separate legal entity is deemed to be a resident of each state or territory in which its trustee is, or trustees are, residents.

History: *1Sp2015 c 1 art 3 s 12; 2017 c 10 s 1*