80B.01 DEFINITIONS.

Subdivision 1. **Scope.** When used in sections 80B.01 to 80B.13, unless the context otherwise requires, the following words shall have the meanings herein ascribed to them.

Subd. 2. **Affiliate.** "Affiliate" of a person means any person controlling, controlled by, or under common control with such person.

Subd. 3. **Associate.** "Associate" of a person means any person acting jointly or in concert with such person for the purpose of acquiring, holding or disposing of, or exercising any voting rights attached to the equity securities of an issuer.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5. **Equity security.** "Equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security; or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules as the commissioner may prescribe in the public interest and for the protection of investors, to treat as an equity security.

Subd. 6. **Offeror.** "Offeror" means a person who makes or in any way participates in making a takeover offer. Offeror does not include any bank or broker-dealer loaning funds to an offeror in the ordinary course of its business, or any bank, broker-dealer, attorney, accountant, consultant, employee, or other person furnishing information or advice to or performing ministerial duties for an offeror, and not otherwise participating in the takeover offer. When two or more persons act as a partnership, limited partnership, limited liability company, syndicate, or other group pursuant to any agreement, arrangement, relationship, understanding, or otherwise (whether or not in writing) for the purpose of acquiring, owning, or voting securities of a target company, all members of the partnership, limited liability company, syndicate, or other group constitute "a person."

Subd. 7. **Offeree.** "Offeree" means the beneficial owner, residing in Minnesota, of equity securities which an offeror offers to acquire in connection with a takeover offer.

Subd. 8. **Takeover offer.** "Takeover offer" means the offer to acquire any equity securities of a target company from a resident of this state pursuant to a tender offer or request or invitation for tenders, if after the acquisition of all securities acquired pursuant to the offer either (1) the offeror would be directly or indirectly a beneficial owner of more than ten percent of any class of the outstanding equity securities of the target company and was directly or indirectly the beneficial owner of less than ten percent of any class of the outstanding equity securities of the target company prior to the commencement of the offer; or (2) the beneficial ownership by the offeror of any class of the outstanding equity securities of the target company would be increased by more than ten percent of that class and the offeror was directly or indirectly the beneficial owner of ten percent or more of any class of the outstanding equity securities of the target company prior to the commencement of the offer. Takeover offer does not include:

(a) an offer in connection with the acquisition of a security which, together with all other acquisitions by the offeror of securities of the same class of equity securities of the issuer, would not result in the offeror having acquired more than two percent of this class during the preceding 12-month period;

(b) an offer by the issuer to acquire its own equity securities unless the offer is made during the pendency of a takeover offer by a person who is not an associate or affiliate of the issuer;

(c) an offer in which the target company is an insurance company subject to regulation by the commissioner, a financial institution regulated by the commissioner, or a public service utility subject to regulation by the Public Utilities Commission.

Subd. 9. **Target company.** "Target company" means an issuer of publicly traded equity securities (a) which (1) has its principal place of business or its principal executive office located in this state, or (2) owns or controls assets located within this state which have a fair market value of at least $1,000,000, and (b) which (1) has more than ten percent of its beneficial or record equity security holders resident in this state, (2) has more than ten percent of its equity securities owned beneficially or of record by residents in this state, or (3) has more than 1,000 beneficial or record equity security holders resident in this state. For the purposes of this chapter, an equity security is publicly traded if a trading market exists for the security at the time the offeror makes a takeover offer for the security. A trading market exists if the security is traded on a national securities exchange, whether or not registered pursuant to the Securities Exchange Act of 1934, or the over-the-counter market.

Subd. 10. **Beneficial owner.** "Beneficial owner" includes, but is not limited to, any person who directly or indirectly through any contract, arrangement, understanding, relationship, or otherwise has or shares the power to vote or direct the voting of a security and/or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes, but is not limited to, the right, exercisable within 60 days, to acquire securities through the exercise of options, warrants, or rights or the conversion of convertible securities, or otherwise. The securities subject to these options, warrants, rights, or conversion privileges held by a person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by this person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person. A person shall be deemed the beneficial owner of securities beneficially owned by any relative or spouse or relative of the spouse residing in the home of this person, any trust or estate in which this person owns ten percent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which this person owns ten percent or more of the equity, and any affiliate or associate of this person.

History: *1973 c 331 s 1; 1974 c 406 s 94,95; 1980 c 516 s 2; 1984 c 488 s 2; 1Sp1985 c 5 s 1-3; 1986 c 444; 1Sp1987 c 1 s 1,2; 2014 c 170 s 2*