80A.56 SECTION 401; BROKER-DEALER REGISTRATION REQUIREMENT AND EXEMPTIONS.

(a) **Registration requirement.** It is unlawful for a person to transact business in this state as a broker-dealer unless the person is registered under this chapter as a broker-dealer or is exempt from registration as a broker-dealer under subsection (b) or (d).

(b) **Exemptions from registration.** The following persons are exempt from the registration requirement of subsection (a):

(1) a broker-dealer without a place of business in this state if its only transactions effected in the state are with:

(A) the issuer of the securities involved in the transactions;

(B) a broker-dealer registered under this chapter or not required to be registered as a broker-dealer under this chapter;

(C) an institutional investor;

(D) an accredited investor;

(E) a nonaffiliated federal covered investment adviser with investments under management in excess of $100,000,000 acting for the account of others pursuant to discretionary authority in a signed record;

(F) a bona fide preexisting customer whose principal place of residence is not in this state and the person is registered as a broker-dealer under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities act of the state in which the customer maintains a principal place of residence;

(G) a bona fide preexisting customer whose principal place of residence is in this state but was not present in this state when the customer relationship was established, if:

(i) the broker-dealer is registered under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities laws of the state in which the customer relationship was established and where the customer had maintained a principal place of residence; and

(ii) within 45 days after the customer's first transaction in this state, the person files an application for registration as a broker-dealer in this state and a further transaction is not effected more than 75 days after the date on which the application is filed, or, if earlier, the date on which the administrator notifies the person that the administrator has denied the application for registration or has stayed the pendency of the application for good cause;

(H) not more than three customers in this state during the previous 12 months, in addition to those customers specified in subparagraphs (A) through (G) and under subparagraph (I), if the broker-dealer is registered under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities act of the state in which the broker-dealer has its principal place of business; and

(I) any other person exempted by rule adopted or order issued under this chapter; and

(2) a person that deals solely in United States government securities and is supervised as a dealer in government securities by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Office of Thrift Supervision; and

(3) a broker-dealer that is registered in Canada and who has no office or other physical presence in this state if the broker-dealer complies with the following conditions:

(A) the broker-dealer is registered with or is a member of a self-regulatory organization in Canada, a stock exchange in Canada, or the Bureau des services financiers;

(B) the broker-dealer maintains in good standing its provincial or territorial registration and its registration with or membership in a self-regulatory organization in Canada, a stock exchange in Canada, or the Bureau des services financiers; and

(C) the broker-dealer effects or attempts to effect transactions in securities:

(i) with or for a person from Canada who is temporarily present in this state, with whom the broker-dealer had a bona fide broker-dealer-client relationship before the person entered the United States; or

(ii) with or for a person from Canada who is present in this state, whose transactions are in a Canadian self-directed tax advantaged retirement account of which the person is the holder or contributor.

(c) **Limits on employment or association.** It is unlawful for a broker-dealer, or for an issuer engaged in offering, offering to purchase, purchasing, or selling securities in this state, directly or indirectly, to employ or associate with an individual to engage in an activity related to securities transactions in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with a broker-dealer, an issuer, an investment adviser, or a federal covered investment adviser by an order of the administrator under this chapter, the Securities and Exchange Commission, or a self-regulatory organization. A broker-dealer or issuer does not violate this subsection if the broker-dealer or issuer did not know and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from a broker-dealer or issuer and for good cause, an order under this chapter may modify or waive, in whole or in part, the application of the prohibitions of this subsection to the broker-dealer.

(d) **Foreign transactions.** A rule adopted or order issued under this chapter may permit:

(1) a broker-dealer that is registered in Canada or other foreign jurisdiction and that does not have a place of business in this state to effect transactions in securities with or for, or attempt to effect the purchase or sale of any securities by:

(A) an individual from Canada or other foreign jurisdiction who is temporarily present in this state and with whom the broker-dealer had a bona fide customer relationship before the individual entered the United States;

(B) an individual from Canada or other foreign jurisdiction who is present in the state and whose transactions are in a self-directed tax advantaged retirement plan of which the individual is the holder or contributor in that foreign jurisdiction; or

(C) an individual who is present in this state, with whom the broker-dealer customer relationship arose while the individual was temporarily or permanently resident in Canada or the other foreign jurisdiction; and

(2) an agent who represents a broker-dealer that is exempt under this subsection to effect transactions in securities or attempt to effect the purchase or sale of securities in this state as permitted for a broker-dealer described in paragraph (1).

History: *2006 c 196 art 1 s 17,52; 2008 c 256 s 8*