Title 48 - DEPARTMENT OF BANKING AND FINANCE

Chapter 6 - AGENTS OF BROKER-DEALERS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120 of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to agents of broker-dealers is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 apply to the provisions of this Rule, unless otherwise specified.

001.05 Federal statutes and rules of the Securities and Exchange Commission ("SEC") and of the Financial Industry Regulatory Authority ("FINRA") referenced herein means those statutes and rules as amended on or before the effective date of this Rule. A copy of the statutes or rules referenced in this Rule is available as an appendix to this rule at www.ndbf.nebraska.gov.

002 REGISTRATION. An agent may be registered to transact business in Nebraska if he or she complies with the Act and the rules promulgated thereunder.

003 CENTRAL REGISTRATION DEPOSITORY. The Department utilizes the Central Registration Depository/Investment Advisor Registration Depository ("CRD/IARD") to register agents, and to terminate, renew, and transfer agent registrations.

004 APPLICATION. An agent's application for registration must be submitted to the Director by the employing broker-dealer.

004.01 Broker-dealers that are affiliated with the Financial Industry Regulatory Authority ("FINRA broker-dealers") must submit a Uniform Application for Securities Industry Registration or Transfer ("Form U4") and application fee of forty dollars ($40.00) to the Director through CRD/IARD. For purposes of Section 8-1103(4)(a) of the Act, a form submitted through CRD/IARD is deemed filed with the Director when the record is transmitted to the Director for review.

004.02 Broker-dealers that are not affiliated with FINRA ("non-FINRA broker-dealers") must submit the agent's Form U4 and application fee of forty dollars ($40.00) directly to the Director.

005 RENEWAL. An agent's registration must be renewed annually by the employing broker-dealer prior to the broker-dealer's December 31 renewal date.

005.01 FINRA broker-dealers must submit the agent's renewal fee to the Director through CRD/IARD.

005.02 Non-FINRA broker-dealers must submit the agent's renewal fee directly to the Director.

006 TERMINATION. To terminate an agent's registration under the Act, a Uniform Termination Notice For Securities Industry Registration ("Form U5") must be submitted by the former employing broker-dealer within thirty days after the agent's termination.

006.01 FINRA broker-dealers must submit the agent's Form U5 to the Director through the CRD/IARD system.

006.02 Non-FINRA broker-dealers must submit the agent's Form U5 directly to the Director.

007 DUAL AND MULTIPLE REGISTRATION. Dual and multiple registration is prohibited in Nebraska except when an agent is in the process of transferring his or her registration or when the broker-dealers involved are affiliates.

007.01 Dual registration pending transfer is permitted only if the following conditions are satisfied:

007.01A The agent's new broker-dealer notifies the Director about the transfer within seven days after the agent's termination with his or her former broker-dealer.

007.01B The agent's new broker-dealer submits the agent's Form U4 to the Director within twenty-one days after the notice of termination has been submitted.

007.01C The agent does not have a disciplinary history that must be disclosed on Form U4.

007.02 An agent can be registered with more than one broker-dealer if the broker-dealers involved are affiliates.

007.02A Affiliate means a person who, directly or indirectly, controls, is controlled by, or is under common control with, another person.

007.02B For purposes of this section, control is defined as ownership, directly or beneficially, of eighty percent or more of the outstanding voting securities of another company.

008 QUALIFYING EXAMINATIONS. Every applicant for registration of an agent shall have passed, unless covered by subsections 008.03 through 008.05 below, within two years of the date of application:

008.01 The Uniform Securities Agent State Law Examination (Series 63 examination)or the Uniform Combined State Law Examination (Series 66); and

008.02 The examinations required by FINRA pursuant to FINRA Rule 1220.

008.03 Any individual who has been registered as an agent in any state within two years from the date of filing an application for registration shall not be required to retake the examinations in subsections 008.01 and 008.02 to be eligible for registration.

008.04 Any individual who is not registered as an agent in any state for more than two years but less than five years, who has elected to participate in the FINRA Maintaining Qualifications Program pursuant to FINRA Rule 1240(c), and whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the MQP program shall be deemed in compliance with the examination requirements of subsections 008.01 and 008.02 as long as the individual elects to participate in the North American Securities Administrators Association's Examination Validity Extension Program within two years of agent registration termination.

008.05 Any individual who has not been registered as an agent in any state for more than two years but less than five years, who has elected to participate in the FINRA Maintaining Qualifications Program pursuant to FINRA Rule 1240(c), and whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the FINRA Maintaining Qualifications Program shall be deemed in compliance with the examination requirements of subsections 008.01 and 008.02.

008.06 Successful participation in the FINRA Maintaining Qualifications Program shall not extend the Uniform Combined State Law Examination (Series 66) for purposes of investment adviser representative registration.

008.07 The Director may waive the requirement of this section if the Director finds the waiver is consistent with investor protection and is in the public interest.

009 CORRECTION OF DOCUMENTS. If the information contained in any document filed with the Director is or becomes inaccurate or incomplete in any material respect, the agent shall file a correcting amendment on Form U4 within the time period specified in the instructions to that form.

010 USING THE INTERNET FOR GENERAL DISSEMINATION OF INFORMATION ON PRODUCTS AND SERVICES. Agents shall not be deemed to be "transacting business" in this state for purposes of Section 8-1103 of the Act based solely on the use of the Internet, world wide web, and similar proprietary or common carrier electronic systems (hereinafter the "Internet") to distribute information on available products and services through certain communications made on the Internet directed generally to anyone having access to the Internet, and transmitted through postings on bulletin boards, social networking sites, blogs or similar sites, displays on "Home Pages" or

similar methods (hereinafter, “Internet Communications”) if the following conditions are observed:

010.01 The Internet Communications contain a disclosure statement which clearly states that:

010.01A The agent in question may only transact business in this state if first registered or excluded or exempted from the agent registration requirements of the Act; and

010.01B The agent will not make follow-up, individualized responses to persons in this state that involve either the effecting or attempting to effect transactions in securities, unless the agent has complied with, or has qualified for an applicable exemption or exclusion from, the agent registration requirements of the Act.

010.02 The Internet Communications contain a mechanism, including and without limitation, technical “firewalls” or other implemented policies and procedures, designed reasonably to ensure that prior to any subsequent, direct communication with prospective customers or clients in this state, said agent is first registered in this state or qualifies for an exemption or exclusion from such requirement.

010.02A Nothing in this paragraph shall be construed to relieve an agent from any applicable securities registration requirement in this state.

010.03 The Internet Communications do not involve either effecting or attempting to effect transactions in securities in this state over the Internet, but is limited to the dissemination of general information on products and services.

010.04 The Internet Communications meet the following requirements:

010.04A The affiliation with the broker-dealer of the agent is disclosed in a non-italicized font, of at least ten points, within the Internet Communications;

010.04B The broker-dealer with whom the agent is associated retains responsibility for reviewing and approving the content of any Internet Communications by the agent;

010.04C The broker-dealer with whom the agent is associated first authorizes the distribution of information on the particular products through the Internet Communications; and

010.04D In disseminating information through the Internet Communications, the agent acts within the scope of the authority granted by the broker-dealer.

011 DISHONEST AND UNETHICAL BUSINESS PRACTICES.

011.01 The conduct set forth in 48 NAC 12.002 constitutes “an act, practice or course of business which operates, or would operate, as a fraud or deceit upon another person” by an agent for purposes of Section 8-1102(1)(c) of the Act.

011.02 The conduct set forth in 48 NAC 12.003, 48 NAC 12.004 and 48 NAC 12.005 constitutes “dishonest or unethical business practices” by an agent for purposes of Section 8-1103(9)(a)(vii) of the Act.

011.03 The delineation of certain acts and practices is not intended to be all inclusive. Acts or practices not enumerated therein may also be deemed fraudulent and dishonest.