

Part 14 Chapter 7: EXEMPTIONS

Rule 7.01 Reserved.

Rule 7.03 Exemption from Registration for Certain Offerings by Domestic Issuers. By authority delegated to the Secretary of State in Section 75-71-203 of the Act, transactions pursuant to the following requirements are determined to be exempt from the registration requirements of the Act:

- A. The sale of its securities by an issuer organized in this state to not more than thirty-five (35) persons within a twelve (12) month period beginning with the date of filing for exemption under this Rule, whether residents or non-residents, provided that the issuer reasonably believes that the purchasers are acquiring the securities for investment purposes only and not for the purpose of resale. Purchasers of the issuer's securities which are registered pursuant to Section 75-71-303 or Section 75-71-304 of the Act shall not be considered in computing the number of purchasers during the twelve (12) month period.
- B. Prior to the receipt of consideration or the delivery of a subscription agreement by an investor which results from an offer being made in reliance upon this exemption, the issuer shall file with the Division:
 - 1. A notice on a form prescribed by the Division;
 - 2. The prospectus, private placement memorandum, offering circular, or similar document, which shall contain a full disclosure of material information to be furnished by the issuer to offerees. The use of the Small Corporate Offering Registration Form (SCOR), a copy of which is available upon request, may be acceptable for compliance with this Subsection; and
 - 3. A filing fee as specified in Rule 4.07.
- C. Securities issued under the provisions of this Rule shall be without payment of commission, compensation, or remuneration, directly or indirectly, except where it shall have been determined by the Division prior to the initial purchase under this exemption, that such commission, compensation, or remuneration is allowable.
- D. Offerings or sales of securities pursuant to this Rule shall be made only by duly elected and acting officers of the issuers, or by the general partner of a limited partnership, or by a broker-dealer and his agents registered under the Act.
- E. The following legend shall be printed in all capitals on the prospectus, private placement memorandum, offering circular, or similar document used in connection with an offering under this Rule:

“IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE SECURITIES AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS

AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES AGENCY OR 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 GENERALLY NOT BE TRANSFERRED OR RESOLD FOR A PERIOD OF ONE (1) YEAR. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.”

- F. Neither the issuer nor any person acting on its behalf shall offer, offer to sell, offer for sale, or sell the securities by means of any form of general solicitation or general advertising, including, but not limited to, the following:
 - 1. Any advertisement, article, notice, or other communication published in any newspaper, magazine, or similar medium or broadcast over television or radio;
 - 2. Any seminar or meeting unless otherwise approved by the Division; or
 - 3. Any letter, circular, notice, or other written communication unless the communication contains the information required by this Rule or unless otherwise ordered by the Division.

- G. For the purposes of computing the number of investors under this Rule:
 - 1. There shall be counted as one investor any corporation, partnership, association, joint stock company, trust, or unincorporated organization, unless such entity was organized for the specific purpose of acquiring the securities offered, in which case each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser;
 - 2. A purchase by a husband and wife in the joint names of both husband and wife shall be deemed to be made by a single investor; and
 - 3. The original limited partner who purchased an interest in the limited partnership primarily to enable the limited partnership to be formed and whose interest will be extinguished once the offering of the limited partnership interest has terminated shall not be considered to be a purchaser.

- H. Securities exempt under the provisions of this Rule may not be transferred for one (1) year after the date of purchase except in a transaction which is exempt from registration or in a transaction which complies with the registration requirements of the Act.

- I. The Division and every purchaser or offeree shall be notified within five (5) business days of any material change in the information submitted in accordance with this Rule.
- J. No sales may be made until a written Acknowledgment of Notice Filing has been issued by the Division.
- K. For offerings that exceed one (1) year, notification that the offering is continuing must be filed with the Division annually.
- L. A notice of termination or completion of the transactions exempted under this Rule must be filed with the Division within thirty (30) days of termination or completion of the offering.

Source: *Miss. Code Ann.* §§ 75-71-203, 605(a)(3) (2016).

Rule 7.05 Securities Markets Exemption. Only Tier I (or the equivalent thereof) securities listed on the following securities markets are entitled to exemption from registration pursuant to Section 75-71-201(6) of the Act:

- A. American Stock Exchange (excluding Emerging Company Marketplace (ECM) listings)
- B. Boston Stock Exchange
- C. Chicago Board Options Exchange
- D. Chicago Stock Exchange
- E. New York Stock Exchange
- F. Philadelphia Stock Exchange
- G. NASDAQ/National Market System

Source: *Miss. Code Ann.* §§ 75-71-201(6) (2016).

Rule 7.07 Recognized Securities Manuals. A recognized securities manual shall be deemed to include the following:

- A. Mergent's Industrial Manual;
- B. Mergent's Municipal and Government Manual;
- C. Mergent's Transportation Manual;
- D. Mergent's Public Utility Manual;
- E. Mergent's Bank and Finance Manual;
- F. Mergent's OTC Industrial Manual;

- G. Mergent's International Manual;
- H. OTCQX Market and OTCQB Market; and
- I. Periodic supplements to each recognized securities manual.

Source: *Miss. Code Ann.* § 75-71-202(2)(D) (2016)

Rule 7.09 NASDAQ/NMS Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules exempting certain transactions from the registration requirements of the Act, the following shall be exempt from Section 75-71-301 of the Act: An offer or sale of a security designated or approved for designation upon notice of issuance on the National Association of Securities Dealers Automated Quotation National Market System, or any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so designated or approved, or any warrant or right to purchase or subscribe to any of the foregoing.

Source: *Miss. Code Ann.* §75-71-202(2)(E)(i) (2016).

Rule 7.11 Internet Solicitations Exemption.

- A. **Internet** means the global information system comprised of independent computer networks which are interconnected and share information without the use of a central processing center by use of the Transmission Control Protocol/Internet Protocol (TCP/IP) suite, to include without limitation, the World Wide Web, proprietary or "common carrier" electronic delivery systems, or similar medium.
- B. **Internet Offer** means a communication regarding the offering of securities within the meaning of Sections 75-71-102(19), (26), and 75-71-105 of the Act, made on the Internet and directed generally to anyone who has access to the Internet, including persons in this state.
- C. *Exemption.* The Division finds that registration is not necessary or appropriate for the protection of investors in connection with Internet Offers, provided:
 - 1. The Internet Offer indicates, directly or indirectly, that the securities are not being offered to residents of this state;
 - 2. The Internet Offer is not specifically directed to any person in this state by, or on behalf of, the issuer of the securities; and
 - 3. No sales of the issuer's securities are made in this state as a result of the Internet Offering.

Source: *Miss. Code Ann.* § 75-71-203 (2016).

Rule 7.13 Exemption of Certain Cooperative Securities. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules, the Secretary of State finds that it is not in the public interest or necessary for the protection of investors to require registration under Section 75-71-301 of the Act of the following securities transactions:

- A. Any transaction in a membership, equity interest, or retention certificate, issued by a cooperative, corporation, or nonprofit corporation organized under the cooperative, business corporation, or nonprofit corporation laws, respectively, of any state, and operated as a nonprofit membership cooperative (collectively a “cooperative”), if:
 - 1. Not traded to the public;
 - 2. Each member of the cooperative has one vote with respect to matters that must be approved by the members of the cooperative or has a number of votes that are in proportion to the amount of business transacted (patronage) with the cooperative and not in proportion to the number of shares of ownership interests held by the member in the cooperative;
 - 3. The governing documents of the cooperative provide that the shares or other ownership interests can be held only by persons or parties who patronize the cooperative;
 - 4. The governing documents of the cooperative provide that no dividends shall be paid or no distributions shall be made except for cash patronage dividends or non-cash patronage dividends; and
 - 5. No person receives any commission or other compensation directly or indirectly as a result of or based upon the sale of such securities.
- B. Any transaction in an instrument, certificate, or like security issued by a cooperative as defined in Subsection (A) of this Rule in lieu of a cash patronage dividend to a member of the cooperative.

Source: *Miss. Code Ann.* §75-71-201, 203 (2016).

Rule 7.15 Exemption of Certain Securities of Cross-Border Transactions. Pursuant to Section 75-71-203 of the Act, the Secretary of State finds that it is not in the public interest or necessary for the protection of investors to require registration under Section 75-71-301 of the Act of an offer or sale of a security effected by a person exempted from the broker-dealer registration requirements under Rule 5.33.

Source: *Miss. Code Ann.* § 75-71-203 (2016).

Rule 7.17 Accredited Investor Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules, the following transaction involving any offer or sale of a security by an issuer in a transaction that meets the requirements of this Rule is exempt from the registration requirements of the Act:

- A. Sales of securities shall be made only to persons who are or the issuer reasonably believes are accredited investors. “Accredited investor” is defined in 17 C.F.R. Section 230.501(a) as currently enacted or as amended.
- B. The exemption is not available to an issuer in the development stage that either has no specific business plan or purpose or had indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies or other entity or person.
- C. The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within twelve (12) months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under Article 3 of the Act or to an accredited investor pursuant to an exemption available under the Act.
- D. The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:
 - 1. Within the last five (5) years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC;
 - 2. Within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;
 - 3. Is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or
 - 4. Is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily, or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.
- E. Subsection (D)(1) of this Rule shall not apply if:
 - 1. The party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment, or decree creating the disqualification was entered against such party;

2. Before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or
 3. The issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this Subsection.
- F. A general announcement of the proposed offering may be made by any means. The general announcement shall include only the following information, unless additional information is specifically permitted by the Secretary of State.
1. The name, address, and telephone number of the issuer of the securities;
 2. The name, a brief description, and price (if known) of any security to be issued;
 3. A brief description of the business of the issuer in twenty-five (25) words or less;
 4. The type, number, and aggregate amount of securities being offered;
 5. The name, address, and telephone number of the person to contact for additional information; and;
 6. A statement that:
 - a. Sales will only be made to accredited investors;
 - b. No money or other consideration is being solicited or will be accepted by way of this general announcement; and
 - c. The securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold pursuant to an exemption from registration.
- G. The issuer, in connection with an offer, may provide information in addition to the general announcement under Subsection (E) of this Rule, if such information:
1. Is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or
 2. Is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.
- H. No telephone solicitation shall be permitted unless, prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

- I. Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this Rule.
- J. The issuer shall file with the Division a notice of transaction, a consent to service of process, a copy of the general announcement, and a fee as specified in Rule 4.09 within fifteen (15) days after the first sale in this state.

Source: *Miss. Code Ann.* §§ 75-71-203, 401-404, 605(a)(1),(3), 605(b), 608(c), 610(e) (2016).

Rule 7.19 Broker-Dealers, Investment Advisers, Broker-Dealer Agents, and Investment Adviser Representatives Using the Internet. Broker-dealers, investment advisers, broker-dealer agents (hereinafter “BD agents”), and investment adviser agents/representatives (hereinafter “IA reps”) who use the Internet, the World Wide Web, and similar proprietary or common carrier electronic systems (collectively, 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, displays on “Home Pages” or similar methods (hereinafter “Internet Communications”) shall not be deemed to be “transacting business” in this state for purposes of Sections 75-71-401 and 75-71-404 of the Act based solely on that fact if the following conditions are observed:

- A. The Internet Communication contains a legend in which it is clearly stated that:
 1. The broker-dealer, investment adviser, BD agent, or IA rep in question may only transact business in this state if first registered, excluded or exempted from state broker-dealer, investment adviser, BD agent, or IA rep registration requirements, as may be; and
 2. Follow-up, individualized responses to persons in this state by such broker-dealer, investment adviser, BD agent, or IA rep that involve either the effecting or attempting to effect transactions in securities, or the rendering of personalized investment advice for compensation, as may be, will not be made absent compliance with state broker-dealer, investment adviser, BD agent, or IA rep registration requirements, or an applicable exemption or exclusion;
- B. The Internet Communication contains a mechanism, including and without limitation, technical “firewalls” or other implemented policies and procedures, designed to reasonably ensure that prior to any subsequent direct communication with prospective customers or clients in this state, said broker-dealer, investment adviser, BD agent, or IA rep is first registered in this state or qualifies for an exemption or exclusion from such requirement. Nothing in this Subsection (B) shall be construed to relieve a state registered broker-dealer, investment adviser, BD agent, or IA rep from any applicable securities registration requirement in this state;

- C. The Internet Communication does not involve either effecting or attempting to effect transactions in securities, or the rendering of personalized investment advice for compensation, as may be, in this state over the Internet, but is limited to the dissemination of general information on products and services; and
- D. In the case of a BD agent or IA rep:
 - 1. The affiliation with the broker-dealer or investment adviser of the BD agent or IA rep is prominently disclosed within the Internet Communication;
 - 2. The broker-dealer or investment adviser with whom the BD agent or IA rep is associated retains responsibility for reviewing and approving the content of any Internet Communication by a BD agent or IA rep;
 - 3. The broker-dealer or investment adviser with whom the BD agent or IA rep is associated first authorizes the distribution of information on the particular products and services through the Internet Communication; and
 - 4. In disseminating information through the Internet Communication, the BD agent or IA rep acts within the scope of the authority granted by the broker-dealer or investment adviser;
- E. The position expressed in this Rule extends to state broker-dealer, investment adviser, BD agent and IA rep registration requirements only and does not excuse compliance with applicable securities registration, anti-fraud, or related provisions;
- F. Nothing in this Rule shall be construed to affect the activities of any broker-dealer, investment adviser, BD agent, or IA rep engaged in business in this state that is not subject to the jurisdiction of the Mississippi Secretary of State as a result of the National Securities Markets Improvements Act of 1996, as amended.

Source: *Miss. Code Ann.* §§ 75-71-203; 401-404; 605(a)(1),(3); 605(b); 608(c); 610(e) (2016).

Rule 7.21 Invest Mississippi Crowdfunding Intrastate Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act, the Division has adopted an exemption from the registration requirements of the Act for any offer or sale of securities offered or sold in compliance with Section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. Section 77c(a)(11), and SEC Rule 147, 17 C.F.R. Section 230.147 or such federal laws as are enacted or rules that are adopted by the SEC that govern intrastate Internet crowdfunding offerings and any amendments thereto, which also satisfy the further conditions and limitations set forth in this Rule below.

- A. *Definitions.* The following terms, as used in this Rule, shall have the meaning ascribed to them below unless the context requires otherwise:

1. **Accredited Investor** is defined in 17 C.F.R. Section 230.501(a), as currently enacted or as amended, and a non-accredited investor means an investor who does not meet the definition of an accredited investor.
2. **Annual Income** means:
 - a. For individuals, income is determined as the sum of the individual's:
 - i. Wages, salaries, commissions, bonuses, and tips from all jobs before deductions for taxes, dues or other items;
 - ii. Self-employment net income (after business expenses);
 - iii. Retirement pensions from companies and unions; federal, state, and local governments; and the U.S. military;
 - iv. Monthly income from annuities, IRAs, or KEOGH retirement plans;
 - v. Interest, dividends, and rental income; and
 - vi. Partner, shareholder, and beneficiary income as reported to the Internal Revenue Service on Schedule K-1 (Form 1065) (a reported loss on Schedule K-1 is counted against the sum of income).
 - b. For entities, income is determined as the revenue in excess of expenses, including depreciation, determined before taxes and as filed with the Mississippi Department of Revenue or the Internal Revenue Service on the entity's last tax return.
3. **Bank** means a depository institution that is organized or chartered under the laws of this state or of the United States, is authorized to do business in this state, and is located in this state. For the purposes of this Rule, a credit union is included in the definition of bank.
4. **IMC Form** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Form."
5. **Intermediary** means a person that is registered with the Division pursuant to this Rule to be an intermediary who has been or will be retained by the issuer in conducting the offering and sales of securities through an Internet website. An intermediary can be a broker-dealer or agent that is registered with the Division or a bank or an intermediary funding portal.
6. **Intermediary Funding Portal** is a person operating an Internet website that is not a bank, broker-dealer, or agent registered under the Act.
7. **Intermediary Registration Form** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Intermediary Registration

Form.” A person registering as an Intermediary pursuant to this Rule must select on the form whether registering as a Bank, Broker-Dealer, or Intermediary Funding Portal.

8. **Issuer** means a limited liability company or business corporation formed under the laws of this state that seeks to conduct an offering of securities in reliance on the exemption provided in this Rule.
 9. **Minimum Target Offering Amount** means fifty percent (50%) of the total offering amount of an offering made by the issuer in reliance on the exemption provided in this Rule which amount shall be set out on the IMC Form.
 10. **Net Worth** means the amount by which an investor’s assets exceed liabilities, excluding the investor’s primary residence, as defined in 17 C.F.R. Section 230.501(a)(5)(i).
 11. **Offering Deadline** means the date stated in the IMC Form by which the sum of the offering proceeds held in escrow will equal the minimum target offering amount or investors may request a refund of their investment.
 12. **Qualified Purchaser** is defined in Section 2(a)(51) of the Investment Company Act of 1940, as currently enacted or as amended.
- B. In order to comply with this Rule, the following conditions and limitations are required in order to be exempt from the registration requirements of the Act:
1. The securities must be sold only to persons who are residents of this state at the time of purchase.
 2. The issuer of the securities is a business corporation or limited liability company with a principal place of business in this state and authorized to do business in this state.
 3. The issuer is not, either before or as a result of the offering, an investment company, as defined in Section 3 of the Investment Company Act of 1940, 15 U.S.C. Section 80a-3, or subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. Sections 78m and 78o(d).
 4. The aggregate amount sold to all investors by the issuer, including any amount sold in reliance on the exemption provided under this Rule during the twelve (12) month period preceding the date of such transaction, is not more than:
 - a. One Million Dollars (\$1,000,000.00), if the issuer has not undergone and made available to each prospective investor the documentation resulting from a financial audit of its most recently completed fiscal year; or

- b. Two Million Dollars (\$2,000,000.00), if the issuer has undergone and made available to each prospective investor the documentation resulting from a financial audit of its most recently completed fiscal year.

The documentation in a financial audit to be made available to each prospective investor shall consist of a balance sheet and a statement of income and expense for the issuer's most recently completed fiscal year if the issuer has been in existence for twelve (12) months or more and shall be certified by an independent certified public accountant. The financial statements must be prepared in accordance with Generally Accepted Accounting Principles ("US GAAP"), complete with footnote disclosure. If the issuer has been in existence for fewer than twelve (12) months, the issuer must provide to each prospective investor a balance sheet and statement of income and expense for the time period since its existence. If the issuer is not providing a financial audit, then the issuer must provide to each prospective investor an unaudited balance sheet and statement of income and expense of its most recently completed fiscal year. In addition, regardless of whether the annual financial statements are audited or unaudited, the documentation to be made available to each prospective investor shall also include interim unaudited quarterly financial statements if the issuer's fiscal year ended more than ninety (90) days prior to the date of the IMC Form; and shall include the issuer's financial projections of income and expense for two (2) years from the date of the IMC Form. The non-audited financial statements shall be signed by the principal executive officer of the issuer who shall certify under penalties of perjury that the statements therein are true, complete and correct in all material respects to the best of the signer's knowledge.

- 5. The aggregate amount sold to any single investor by multiple issuers in reliance on the exemption provided in this Rule during the twelve (12) month period preceding the date of such transaction:
 - a. For accredited investors, the aggregate amount sold by multiple issuers to any single accredited investor does not exceed the greater of:
 - i. If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married) and have the expectation to make the same amount in the current year, five percent (5%) of the investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or
 - ii. If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).
 - b. For non-accredited investors, the aggregate amount sold to a single non-accredited investor by multiple issuers does not exceed the greater of:
 - i. Five Thousand Dollars (\$5,000.00);

- ii. If the investor has had an annual income of less than Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or less than Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married), five percent (5%) of the investor's annual income; or
 - iii. If the investor's net worth is less than One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth.
 - c. For investors that are qualified purchasers there shall be no aggregate limit on the amount the qualified purchaser investor can purchase from a single issuer or multiple issuers in offerings conducted pursuant to this Rule.
- 6. No remuneration shall be paid or given, directly or indirectly, for any person's participation in the offer or sale of the securities for the issuer unless the person is registered as an intermediary as such term is defined in Subsection (A)(5) of this Rule.
- 7. All funds received from investors shall be deposited into a bank and all the funds shall be used in accordance with the representations made to investors and in accordance with the terms of an escrow agreement which provides that:
 - a. The investor funds will be deposited into an escrow account in a Bank, with the Bank acting as escrow agent;
 - b. For each investment, the issuer will provide to the escrow agent a copy of the subscription agreement setting forth the names, addresses, and respective amounts paid by each investor whose funds comprise each deposit;
 - c. The issuer must raise the minimum target offering amount specified as necessary to implement the business plan by the offering deadline before the escrow agent may release the offering proceeds to the issuer upon joint written notice from the issuer and the intermediary;
 - d. If the issuer does not raise the minimum target offering amount by the offering deadline, investors will have the option to obtain a refund of their investment by providing written notice to the intermediary, which shall provide written notice to the issuer and the escrow agent, at which time the escrow agent shall return the investor's amount contributed. Written notice includes electronic mail.
 - e. All offering proceeds not returned to the investor by the escrow agent after the offering deadline as provided above will be released to the issuer when the escrow agent has received written notice from the issuer or the intermediary to release the remaining proceeds to the issuer, or they may be returned to the investors at the issuer's option if the issuer or the intermediary provides written notice to the escrow agent authorizing and instructing the escrow agent to return the remaining investors amounts contributed; and

- f. All offering proceeds not returned to the investor or released to the issuer after twelve (12) months from the date of receipt may be returned to the investor by the escrow agent to the last known address of the investor, or if not, shall be submitted to the state treasurer in accordance with the unclaimed property laws.
 - g. The escrow agent may contract with the issuer to collect reasonable fees for its escrow services regardless of whether the minimum target offering amount is reached.
- 8. No offerings or sales of securities shall be made in reliance on this exemption until the issuer files the IMC Form in writing or in electronic form with the Division, completed with specificity as required by the instructions in the IMC Form, and the issuer receives an Acknowledgment of Completed Invest Mississippi Crowdfunding Form from the Division. The issuer must also include in such filing a copy of the escrow agreement as required by Subsection (B)(7) above, all other exhibits to the IMC Form except as otherwise specified by the Division, and any other documents or information the Division may require. A copy of the IMC Form is available upon request.
- 9. The Division will issue a written Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form within five (5) business days after receiving the completed IMC Form and all other exhibits to the IMC Form except as otherwise specified by the Division. Incomplete IMC Forms, IMC Forms with responses that are not specific as required by this Rule and the instructions, or IMC Forms with missing exhibits will be returned to the issuer for completion and/or resubmission. No offerings or sales may be made in this state until the written Acknowledgment has been issued.
- 10. The completed IMC Form, including exhibits, shall be provided to the relevant intermediary and shall be made available to potential investors after the Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form has been issued by the Division.
- 11. The issuer shall inform all investors that the securities have not been registered under federal or state securities law and the securities are subject to limitations on resale.
- 12. Prior to the consummation of a sale, the issuer shall require the prospective investor to certify in writing or electronically as follows:
 - a. The investor's name, address, social security number, annual income, and net worth, that each investor is a resident of this state and, if applicable, either an accredited investor or a qualified purchaser; and
 - b. The aggregate amount of securities sold to the investor in reliance on the exemption provided in this Rule during the twelve (12) month period

preceding the date of the purchase, together with the securities to be sold by the issuer to the investor:

- i. For accredited investors that are not qualified purchasers the investor has not invested more than the greater of:
 - (a) If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married) and have the expectation to make the same amount in the current year, five percent (5%) of the investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or
 - (b) If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).
 - ii. For non-accredited investors, that the investor has not invested more than the greater of:
 - (a) Five Thousand Dollars (\$5,000.00);
 - (b) If the investor has had an annual income of less than Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or less than Three Hundred Thousand Dollars (\$300,000.00) together with a spouse if married), five percent (5%) of the investor's annual income; or
 - (c) If the investor's net worth is less than One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth.
 - c. The issuer must maintain the above certifications and provide ready access to the records to the Division, upon request. The Division may access, inspect, and review such records.
13. Offers and sales of securities pursuant to this Rule must be made in compliance with any rules adopted by the SEC that govern intrastate Internet crowdfunding offerings and any amendments thereto.
- C. Offers and sales of securities pursuant to this Rule shall be made exclusively through an Internet website that is operated by an intermediary. Each issuer and intermediary shall comply with the following:
1. Before any offer or sale of securities, the issuer must provide to the intermediary evidence of the issuer's state of organization, evidence that the issuer has a principal place of business in this state, and evidence that the issuer is authorized to do business in this state.

2. An intermediary is not required to register as a broker-dealer under the Act if all the following apply with respect to the Internet website and its operator:
 - a. It does not offer investment advice or recommendations;
 - b. It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Internet website;
 - c. It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Internet website;
 - d. It does not hold, manage, possess, or otherwise handle investor funds or securities, unless it is a bank operating as an escrow agent for the offering;
 - e. It does not identify, promote, or otherwise refer to any individual security offered on the Internet website in any advertising for the Internet website; and
 - f. Neither the intermediary, nor any director, executive officer, general partner, twenty percent (20 %) or greater beneficial owner, managing member, or other person with management authority over the intermediary has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify an issuer under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)-(c)).
3. Subject to Subsection (13) below, persons desiring to be an intermediary must register as an Intermediary with the Division.
 - a. Registered broker-dealers may register to be an intermediary by filing the Intermediary Registration Form with the Division, a copy of which is available upon request. No filing fee shall be required for registered broker-dealers acting as intermediaries. The Form shall include the following information:
 - i. The identity, contact information, and location for the broker-dealer, including the broker-dealer's CRD number;
 - ii. That the broker-dealer is authorized to do business in this state; and
 - iii. That the broker-dealer is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule.
 - b. A Bank may register to be an intermediary by filing the Intermediary Registration Form with the Division, a copy of which is available upon request. No filing fee shall be required for banks acting as intermediaries. The Form shall include the following information:

- i. The identity, contact information, and location for the bank;
 - ii. That the bank is authorized to do business in this state;
 - iii. That the bank is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule; and
 - iv. That the bank meets the requirements set forth in Subsection (C)(2) of this Rule.
 - c. An Internet website operator may register to be an intermediary by filing the Intermediary Registration Form, a copy of which is available upon request, accompanied by a nonrefundable annual filing fee of Two Hundred Dollars (\$200.00), that includes the following information:
 - i. The identity, contact information, and location for the intermediary funding portal;
 - ii. That the intermediary funding portal is authorized to do business in this state;
 - iii. That the intermediary funding portal is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule;
 - iv. That the intermediary funding portal meets the requirements set forth in Subsection (C)(2) of this Rule; and
 - v. Any other information the Division considers necessary or appropriate in the public interest and for the protection of investors, including the financial responsibility, business repute, or qualifications of the Internet website operator and to determine whether the operator can carry out the requirements of this Rule and will comply with this Rule.
4. The intermediary funding portal is not required to register as a broker-dealer under Subsection (3) above if the intermediary funding portal is a funding portal registered under the Securities Act of 1933 (15 U.S.C. 77d-1) and the SEC rules under authority of Section 3(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (h)) and P.L.112-106, Section 304, governing funding portals.
5. Registration as an intermediary expires at the close of the calendar year, but subsequent registration for the following year shall be issued upon filing of a renewal form, a copy of which is available upon request, and upon payment of the appropriate renewal fee.
6. The issuer must maintain records of all offers and sales of securities effected through the intermediary and must provide to the Division, upon request, ready access to the records.

7. The intermediary shall maintain and preserve for a period of five (5) years from either the date of the document or communication or the date of the closing or termination of the securities offering, whichever is later, the following records related to offers and sales made of issuer securities effected by the intermediary through the intermediary's Internet website and related to transactions in which the intermediary receives compensation from the issuer for such services, including but not limited to:
 - a. Records of compensation received for acting as an intermediary, including the name of the payor, the date of payment, and name of the issuer;
 - b. For each offering effected by the intermediary through the intermediary's Internet website, the issuer's name and the name, address, and amount of purchase for each investor in such offering;
 - c. Copies of information provided by the intermediary to issuers offering securities through the intermediary, prospective purchasers, and investors;
 - d. Any agreements and/or contracts between the intermediary and an issuer, to prospective purchaser, or investor;
 - e. Any information used to establish the issuer's state of organization, principal place of business, and its authorization to do business in this state;
 - f. Any information used to establish that a prospective purchaser or investor is a resident of this state;
 - g. Any information used to establish that a prospective purchaser or investor is an accredited investor or qualified purchaser;
 - h. Any correspondence or other communications with issuers, prospective purchasers, and/or investors;
 - i. Any information made available through the Internet website relating to an offering; and
 - j. Ledgers (or other records) that reflect all assets and liabilities, income and expense, and capital accounts.
8. The records and the Internet website portal of an intermediary or intermediary applicant under this Rule are subject to reasonable periodic, special, or other audits or inspections by the Division, in or outside this state, as the Division considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The Division may copy and remove for audit or inspection copies of all records the Division reasonably considers necessary or appropriate to conduct the audit or

inspection. The Division may assess a reasonable charge for conducting an audit or inspection under this Rule.

9. The intermediary:
 - a. Shall limit website access to the sale of securities conducted pursuant to this Rule to only residents of this state;
 - b. Shall not hold, manage, possess, or handle investor funds or securities, unless it is a bank operating as an escrow agent for the offering;
 - c. Shall ensure that each investor answers questions demonstrating:
 - i. An understanding of the level of risk generally applicable to investments in startups and small issuers; and
 - ii. An understanding of the risk of illiquidity, including an acknowledgment that there is no ready market for the sale of the securities acquired from an offering under this Rule. It may be difficult or impossible for the investor to sell or otherwise dispose of an investment under this Rule and the investor may be required to hold and bear the financial risks of this investment indefinitely.
 - d. Shall perform a background and securities enforcement regulatory history check on each person holding a position listed in Subsection (J) of this Rule to determine if such person is subject to any disqualification as described in Subsection (J) of this Rule.
 - e. Shall ensure that all offering proceeds are only provided to the issuer when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount and allow investors to cancel their commitments to invest and obtain a refund if the minimum target offering amount is not raised by the offering deadline.
10. The intermediary shall not purchase or receive more than fifteen percent (15%) of the securities in the offering and shall prohibit its directors, officers, or partners (or any person occupying a similar status or performing a similar function) from having any financial interest in an issuer using its services as an intermediary, unless the financial interest in the aggregate does not exceed fifteen percent (15%) of the ownership of the issuer.
11. All communications between the issuer, prospective purchasers, or investors that take place during the offer of securities pursuant to this Rule must occur through the intermediary's Internet website. Notwithstanding the foregoing, the issuer or the intermediary may distribute a notice within this state limited to the statement that the issuer is conducting an offering, the name of the intermediary through which the offering is being conducted and a link directing the potential investor to

the intermediary's website. The notice must contain a disclaimer reflecting that the offering is limited to residents of this state and that sales of the securities appearing on the Internet website are limited to persons that are residents of this state.

12. The website operated by the Intermediary must meet the following requirements:
 - a. The website must contain a disclaimer reflecting that sales of the securities appearing on the website are limited to persons that are residents of this state;
 - b. Evidence of residency within this state is required before a sale is made to a prospective purchaser. An affirmative representation made by a prospective purchaser that the prospective purchaser is a resident of this state and proof of a valid Mississippi driver license or official personal identification card issued by the State of Mississippi will be considered sufficient evidence that the individual is a resident of this state.
13. If any change occurs that affects the intermediary's registration, the intermediary must notify the Division within thirty (30) days after the change occurs. Within thirty (30) days of the delivery of the notice to the Division, the intermediary shall, unless otherwise permitted or directed by the Division, cease and desist from operating as an intermediary pursuant to this Rule and shall, within five (5) business days, notify each issuer for which it is conducting offerings that the intermediary's registration has been revoked.

- D. *Report.* For so long as securities issued under the exemption provided in this Rule are outstanding, the issuer shall provide a quarterly report to the issuer's investors. The report required by this Rule shall be free of charge. An issuer may satisfy the reporting requirement of this Rule if the information is made available within forty-five (45) days of the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. An issuer must provide a written copy of the report to any investor upon request. The issuer shall make each such quarterly report available to the Division upon request. The report must contain each of the following:
 1. Compensation received by each director and executive officer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received; and
 2. An analysis by management of the issuer of the business operations and financial condition of the issuer, such as a recent financial statement and profit and loss statement.
- E. Securities exempt under the provisions of this Rule may not be transferred for one (1) year after the date of purchase except in a transaction which is exempt from registration or in a transaction which complies with the registration requirements of the Act.

- F. The Division and every investor or prospective purchaser shall be notified within thirty (30) days of any material change in the issuer's information submitted in accordance with this Rule.
- G. For offerings that exceed one (1) year, notification that the offering is continuing must be filed with the Division annually.
- H. The issuer must file a sales report with the Division within thirty (30) days of termination, expiration, abandonment, or completion of the offering in a form prescribed by the Division.
- I. All sales that are part of the same offering and are made in reliance on this exemption must meet all of the terms and conditions of this exemption, except, offers and sales to controlling persons shall not count toward the limitation in Subsection (B)(4) of this Rule. A controlling person is an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.
- J. *Disqualification.* The exemption allowed by this Rule shall not apply if an issuer, any of its executive officers, directors, managing members, persons with twenty percent (20%) or greater beneficial ownership, persons with management authority over the issuer, promoters, selling agents, or any officer, director or partner of any selling agent has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify the person under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)-(c)).
- K. Nothing in this exemption shall be construed to alleviate any person from the anti-fraud provisions of the Act, nor shall such exemption be construed to provide relief from any other provisions of the Act other than as expressly stated.
- L. The Division may deny, refuse to renew, condition, limit, suspend, or revoke the intermediary's registration as an intermediary for any reason as determined by the Secretary of State in his sole discretion.
- M. The Secretary of State may by order waive any conditions of registration of intermediaries or other requirements set forth in this Rule.

Source: *Miss. Code Ann.* §75-71-203 (2016).

Part 14 Chapter 7: EXEMPTIONS

Rule 7.01 Reserved. Uniform Limited Offering Exemption. ~~By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules, the following transaction is determined to be exempt from the registration provisions of the Act:~~

~~A. Any offer or sale of securities offered or sold in compliance with the Securities Act of 1933, Regulation D, Rule 230.505, and any amendments thereto, which satisfies the following further conditions and limitations:~~

- ~~1. No commission, fee, or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in this state unless such person is appropriately registered in Mississippi. It is a defense to a violation of this subsection if the issuer sustains the burden of proof to establish that it did not know and, in the exercise of reasonable care, could not have known that the person who received a commission, fee, or other remuneration was not appropriately registered in Mississippi.~~
- ~~2. No exemption under this Rule shall be available for the securities of any issuer if any of the parties described in the Securities Act of 1933, Regulation A, Rule 230.262:~~
 - ~~a. Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to any state's securities law within five (5) years prior to the filing of the notice required under this exemption.~~
 - ~~b. Has been convicted within five (5) years prior to the filing of the notice required under this exemption of any felony or misdemeanor in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit, including but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud.~~
 - ~~c. Is currently subject to any state administrative enforcement order or judgment entered by that state's securities administrator within five (5) years prior to the filing of the notice required under this exemption or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including but not limited to, making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within five (5) years prior to the filing of the notice required under this exemption.~~
 - ~~d. Is subject to any state's administrative enforcement order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase, or sale of securities.~~

- e. ~~Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminary restraining or enjoining, or is subject to any order, judgment, or decree of any court of competent jurisdiction permanently restraining or enjoining such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the state entered within five (5) years prior to the filing of the notice required under this exemption.~~
 - f. ~~The prohibitions of Rule 701(A)(2)(a) (c), (e) above shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in the state in which the administrative order or judgment was entered against such person or if the broker dealer employing such party is licensed or registered in Mississippi and the Form BD filed with Mississippi discloses the order, conviction, judgment, or decree relating to such person. No person disqualified under this paragraph may act in a capacity other than that for which the person is licensed or registered.~~
 - g. ~~Any disqualification caused by Rule 701(A)(2) is automatically waived if the state securities administrator or agency of the state which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.~~
3. ~~In reliance upon this “safe harbor” exemption, the issuer shall file the following with the Division or its designee:~~
- a. ~~A copy of SEC Form D as filed with the SEC in the version of that form accepted at the time of filing by the SEC for filings made pursuant to the Securities Act of 1933, Regulation D, Rule 230.505;.~~
 - b. ~~The prospectus, private placement memorandum, offering circular, or similar document to be furnished by the issuer to offerees. The use of the Small Corporate Offering Registration Form (SCOR), a copy of which is available upon request, may be acceptable for compliance with this subsection; and~~
 - c. ~~A filing fee as specified in Rule 4.05.~~
4. ~~In all sales to nonaccredited investors in Mississippi one of the following conditions must be satisfied, or the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that one of the following conditions is satisfied:~~

- a. ~~The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to the purchaser's other security holdings, financial situation, and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent (10%) of the investor's net worth, it is suitable.~~
 - b. ~~The purchaser either alone or with his/her purchaser representative(s) has such knowledge and experience in financial and business matters that he/she is, or they are, capable of evaluating the merits and risks of the prospective investment.~~
- B. ~~A failure to comply with a term, condition, or requirement of Rule 701(A)(1), (A)(3) or (A)(4) of this Rule will not result in loss of the exemption from the requirements of Section 75-71-203 of the Act for any offer or sale to a particular individual or entity if the person relying on the exemption shows:~~
 - 1. ~~The failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity;~~
 - 2. ~~The failure to comply was insignificant with respect to the offering as a whole; and~~
 - 3. ~~A good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of Rule 701(A)(1), (A)(3), or (A)(4).~~
- C. ~~Where an exemption is established only through reliance upon Section (B) of this Rule, the failure to comply shall nonetheless be actionable by the Division under Section 75-71-604 of the Act.~~
- D. ~~Transactions which are exempt under this Rule may not be combined with offers and sales exempt under any other Rule or section of this Act; however, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions for this exemption, the issuer may claim the availability of any other applicable exemption.~~
- E. ~~The Division may, by rule or order, increase the numbers of purchasers or waive any other conditions of this exemption.~~
- F. ~~No sales may be made in this state until a written Acknowledgment of Notice Filing has been issued by the Division. The Division will issue the Acknowledgment of Notice Filing within five (5) business days after receiving the filing. If the Acknowledgment of Notice Filing is not issued within five (5) business days, the issuer may proceed with sale of securities in Mississippi until it receives the Acknowledgment.~~
- G. ~~For offerings that exceed one (1) year, notification that the offering is continuing must be filed with the Division annually.~~

~~H. A notice of termination or completion of the offering must be filed with the Division within thirty (30) days offerings specified in Rule 405.~~

~~I. The exemption authorized by this Rule shall be known and may be cited as the “Uniform Limited Offering Exemption.”~~

Source: *Miss. Code Ann.* §§ 75-71-203, 605(a)(3) (Rev. 2009).

Rule 7.03 Exemption from Registration for Certain Offerings by Domestic Issuers. By authority delegated to the Secretary of State in Section 75-71-203 of the Act, transactions pursuant to the following requirements are determined to be exempt from the registration requirements of the Act:

- A. The sale of its securities by an issuer organized in this State to not more than thirty-five (35) persons within a twelve (12) month period beginning with the date of filing for exemption under this Rule, whether residents or non-residents, provided that the issuer reasonably believes that the purchasers are acquiring the securities for investment purposes only and not for the purpose of resale. Purchasers of the issuer's securities which are registered pursuant to Section 75-71-303 or Section 75-71-304 of the Act shall not be considered in computing the number of purchasers during the twelve (12) month period.
- B. Prior to the receipt of consideration or the delivery of a subscription agreement by an investor which results from an offer being made in reliance upon this exemption, the issuer shall file with the Division:
 1. A notice on a form prescribed by the Division;
 2. The prospectus, private placement memorandum, offering circular, or similar document, which shall contain a full disclosure of material information to be furnished by the issuer to offerees. The use of the Small Corporate Offering Registration Form (SCOR), a copy of which is available upon request, may be acceptable for compliance with this subsection; and
 3. A filing fee as specified in Rule 4.07.
- C. Securities issued under the provisions of this Rule shall be without payment of commission, compensation, or remuneration, directly or indirectly, except where it shall have been determined by the Division prior to the initial purchase under this exemption, that such commission, compensation, or remuneration is allowable.
- D. Offerings or sales of securities pursuant to this Rule shall be made only by duly elected and acting officers of the issuers, or by the general partner of a limited partnership, or by a broker-dealer and his agents registered under the Act.

- E. The following legend shall be printed in all capitals on the prospectus, private placement memorandum, offering circular, or similar document used in connection with an offering under this Rule:

“IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE SECURITIES AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES AGENCY OR 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 GENERALLY NOT BE TRANSFERRED OR RESOLD FOR A PERIOD OF ONE (1) YEAR. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.”

- F. Neither the issuer nor any person acting on its behalf shall offer, offer to sell, offer for sale, or sell the securities by means of any form of general solicitation or general advertising, including, but not limited to, the following:

1. Any advertisement, article, notice, or other communication published in any newspaper, magazine, or similar medium or broadcast over television or radio;
2. Any seminar or meeting unless otherwise approved by the Division; or
3. Any letter, circular, notice, or other written communication unless the communication contains the information required by this Rule or unless otherwise ordered by the Division.

- G. For the purposes of computing the number of investors under this Rule:

1. There shall be counted as one investor any corporation, partnership, association, joint stock company, trust, or unincorporated organization, unless such entity was organized for the specific purpose of acquiring the securities offered, in which case each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser;
2. A purchase by a husband and wife in the joint names of both husband and wife shall be deemed to be made by a single investor; and
3. The original limited partner who purchased an interest in the limited partnership primarily to enable the limited partnership to be formed and whose interest will be

extinguished once the offering of the limited partnership interest has terminated shall not be considered to be a purchaser.

- H. Securities exempt under the provisions of this Rule may not be transferred for one (1) year after the date of purchase except in a transaction which is exempt from registration or in a transaction which complies with the registration requirements of the Act.
- I. The Division and every purchaser or offeree shall be notified within five (5) business days of any material change in the information submitted in accordance with this Rule.
- J. No sales may be made until a written Acknowledgment of Notice Filing has been issued by the Division.
- K. For offerings that exceed one (1) year, notification that the offering is continuing must be filed with the Division annually.
- L. A notice of termination ~~or~~ of completion of the transactions exempted under this Rule must be filed with the Division within thirty (30) days of termination or completion of the offering, as specified in Rule 407.

Source: *Miss. Code Ann.* §§ 75-71-203, 605(a)(3) (~~Rev. 2009~~ 2016).

Rule 7.05 Securities Markets Exemption. Only Tier I (or the equivalent thereof) securities listed on the following securities markets are entitled to exemption from registration pursuant to Section 75-71-201(6) of the Act:-

- A. American Stock Exchange (excluding Emerging Company Marketplace (ECM) listings)
- B. Boston Stock Exchange
- C. Chicago Board Options Exchange
- D. ~~Cincinnati Stock Exchange~~
- E. Chicago Stock Exchange
- F. New York Stock Exchange
- G. ~~Pacific Stock Exchange~~
- H. Philadelphia Stock Exchange
- I. NASDAQ/National Market System

Source: *Miss. Code Ann.* §§ 75-71-201(6) (~~Rev. 2009~~ 2016).

Rule 7.07 Recognized Securities Manuals. A recognized securities manual shall be deemed to include the following:

- A. Mergent's Industrial Manual;
- B. Mergent's Municipal and Government Manual;
- C. Mergent's Transportation Manual;
- D. Mergent's Public Utility Manual;
- E. Mergent's Bank and Finance Manual;
- F. Mergent's OTC Industrial Manual;
- G. Mergent's International Manual;
- H. ~~S & P Capital IQ Standard Corporation Descriptions; and~~ OTCQX Market and OTCQB Market; and
- I. Periodic supplements to each recognized securities manual.

Source: ~~[Authority]~~ *Miss. Code Ann.* § 75-71-202(2)(D) (~~Rev. 2009~~ 2016)

Rule 7.09 NASDAQ/NMS Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules exempting certain transactions from the registration requirements of the Act, the following shall be exempt from Section 75-71-301 of the Act: An offer or sale of a security designated or approved for designation upon notice of issuance on the National Association of Securities Dealers Automated Quotation National Market System, or any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so designated or approved, or any warrant or right to purchase or subscribe to any of the foregoing.

Source: *Miss. Code Ann.* §75-71-202(2)(E)(i) (~~Rev. 2009~~ 2016).

Rule 7.11 Internet Solicitations Exemption.

- A. **Internet** means the global information system comprised of independent computer networks which are interconnected and share information without the use of a central processing center by use of the Transmission Control Protocol/Internet Protocol

(TCP/IP) suite, to include without limitation, the World Wide Web, proprietary or “common carrier” electronic delivery systems, or similar medium.

- B. **Internet Offer** means a communication, regarding the offering of securities within the meaning of Sections 75-71-102(19), (26), and 75-71-105, of the Act, made on the Internet and directed generally to anyone who has access to the Internet, including persons in this state ~~Mississippi~~.
- C. *Exemption.* The Division finds that registration is not necessary or appropriate for the protection of investors in connection with Internet Offers, provided:
1. The Internet Offer indicates, directly or indirectly, that the securities are not being offered to residents of this state ~~Mississippi~~;
 2. The Internet Offer is not specifically directed to any person in this state ~~Mississippi~~ by, or on behalf of, the issuer of the securities; and
 3. No sales of the issuer's securities are made in this state ~~Mississippi~~ as a result of the Internet Offering.

Source: *Miss. Code Ann.* § 75-71-203 (~~Rev. 2009~~ 2016).

Rule 7.13 Exemption of Certain Cooperative Securities. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules, the Secretary of State finds that it is not in the public interest or necessary for the protection of investors to require registration under Section 75-71-~~404~~ 301 of the Act of the following securities transactions:

- A. Any transaction in a membership, equity interest, or retention certificate, issued by a cooperative, corporation, or non-profit corporation organized under the cooperative, business corporation, or non-profit corporation laws, respectively, of any state, and operated as a non-profit membership cooperative (collectively a “cooperative”), if:
1. Not traded to the public;
 2. Each member of the cooperative has one vote with respect to matters that must be approved by the members of the cooperative or has a number of votes that are in proportion to the amount of business transacted (patronage) with the cooperative and not in proportion to the number of shares of ownership interests held by the member in the cooperative;
 3. The governing documents of the cooperative provide that the shares or other ownership interests can be held only by persons or parties who patronize the cooperative;

4. The governing documents of the cooperative provide that no dividends shall be paid or no distributions shall be made except for cash patronage dividends or non-cash patronage dividends; and,
 5. No person receives any commission or other compensation directly or indirectly as a result of or based upon the sale of such securities.
- B. Any transaction in an instrument, certificate, or like security issued by a cooperative (as defined in Subsection (A) of this Rule in lieu of a cash patronage dividend to a member of the cooperative.

Source: *Miss. Code Ann.* §75-71-201, 203 (~~Rev. 2009~~ 2016).

Rule 7.15 Exemption of Certain Securities of Cross-Border Transactions. Pursuant to Section 75-71-203 of the Act, the Secretary of State finds that it is not in the public interest or necessary for the protection of investors to require registration under Section 75-71-301 of the Act of an offer or sale of a security effected by a person exempted from the broker-dealer registration requirements under Rule 5.33.

Source: *Miss. Code Ann.* § 75-71-203 (~~Rev. 2009~~ 2016).

Rule 7.17 Accredited Investor Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act to promulgate rules, the following transaction involving any offer or sale of a security by an issuer in a transaction that meets the requirements of this Rule is exempt from the registration requirements of the Act:

- A. Sales of securities shall be made only to persons who are or the issuer reasonably believes are accredited investors. “Accredited investor” is defined in 17 C.F.R. Section 230.501(a) as currently enacted or as amended.
- B. The exemption is not available to an issuer ~~that is~~ in the development stage that either has no specific business plan or purpose or had indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.
- C. The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within twelve (12) months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under Article 3 of the Act or to an accredited investor pursuant to an exemption available under the Act.
- D. The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten percent (10%) or more of any class of its equity

securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:

1. ~~W~~Within the last five (5) years, has filed a registration statement ~~which that~~ is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC;
2. ~~W~~within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;
3. ~~I~~s currently subject to any state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or
4. ~~I~~s currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily, or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

E. ~~Subsection Rule 717(D)(1) of this Rule~~ shall not apply if:

1. ~~T~~he party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment, or decree creating the disqualification was entered against such party;
2. ~~B~~efore the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or
3. ~~T~~he issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this ~~Subsection. paragraph.~~

F. A general announcement of the proposed offering may be made by any means. The general announcement shall include only the following information, unless additional information is specifically permitted by the Secretary of State:

1. The name, address, and telephone number of the issuer of the securities;
2. The name, a brief description, and price (if known) of any security to be issued;
3. A brief description of the business of the issuer in twenty-five (25) words or less;

4. The type, number, and aggregate amount of securities being offered;
 5. The name, address, and telephone number of the person to contact for additional information; and;
 6. A statement that:
 - a. Sales will only be made to accredited investors;
 - b. No money or other consideration is being solicited or will be accepted by way of this general announcement; and,
 - c. The securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold pursuant to an exemption from registration.
- G. The issuer, in connection with an offer, may provide information in addition to the general announcement under Subsection (E) of this Rule, if such information:
1. Is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or
 2. Is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.
- H. No telephone solicitation shall be permitted unless, prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.
- I. Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this Rule.
- J. The issuer shall file with the Division a notice of transaction, a consent to service of process, a copy of the general announcement, and a fee as specified in Rule 4.09 within fifteen (15) days after the first sale in this state.

Source: *Miss. Code Ann.* §§ 75-71-203, 401-404, 605(a)(1),(3), 605(b), 608(c), 610(e) (~~Rev. 2009~~ 2016).

Rule 7.19 Broker-Dealers, Investment Advisers, Broker-Dealer Agents, and Investment Adviser Representatives Using the Internet. Broker-dealers, investment advisers, broker-dealer agents (hereinafter “BD agents”), and investment adviser agents/representatives (hereinafter “IA reps”) who use the Internet, the World Wide Web, and similar proprietary or common carrier electronic

systems (collectively, 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, displays on “Home Pages” or similar methods (hereinafter “Internet Communications”) shall not be deemed to be “transacting business” in this state for purposes of Sections 75-71-401 and 75-71-404 of the Act based solely on that fact if the following conditions are observed:

- A. The Internet Communication contains a legend in which it is clearly stated that:
 1. The broker-dealer, investment adviser, BD agent, or IA rep in question may only transact business in this state if first registered, excluded or exempted from sState broker-dealer, investment adviser, BD agent, or IA rep registration requirements, as may be; and
 2. Follow-up, individualized responses to persons in this state by such broker-dealer, investment adviser, BD agent, or IA rep that involve either the effecting or attempting to effect transactions in securities, or the rendering of personalized investment advice for compensation, as may be, will not be made absent compliance with sState broker-dealer, investment adviser, BD agent, or IA rep registration requirements, or an applicable exemption or exclusion;
- B. The Internet Communication contains a mechanism, including and without limitation, technical “firewalls” or other implemented policies and procedures, designed ~~reasonably~~ to reasonably ensure that prior to any subsequent, direct communication with prospective customers or clients in this state, said broker-dealer, investment adviser, BD agent or IA rep is first registered in this state or qualifies for an exemption or exclusion from such requirement. Nothing in this Subsection (B) paragraph shall be construed to relieve a sState registered broker-dealer, investment adviser, BD agent, or IA rep from any applicable securities registration requirement in this state;
- C. The Internet Communication does not involve either effecting or attempting to effect transactions in securities, or the rendering of personalized investment advice for compensation, as may be, in this state over the Internet, but is limited to the dissemination of general information on products and services; and
- D. In the case of a BD agent or IA rep:
 1. The affiliation with the broker-dealer or investment adviser of the BD agent or IA rep is prominently disclosed within the Internet Communication;
 2. The broker-dealer or investment adviser with whom the BD agent or IA rep is associated retains responsibility for reviewing and approving the content of any Internet Communication by a BD agent or IA rep;

3. The broker-dealer or investment adviser with whom the BD agent or IA rep is associated first authorizes the distribution of information on the particular products and services through the Internet Communication; and
 4. In disseminating information through the Internet Communication, the BD agent or IA rep acts within the scope of the authority granted by the broker-dealer or investment adviser;
- E. The position expressed in this Rule extends to ~~s~~State broker-dealer, investment adviser, BD agent, and IA rep registration requirements only; and does not excuse compliance with applicable securities registration, ~~antifraud~~ anti-fraud, or related provisions;
- F. Nothing in this Rule shall be construed to affect the activities of any broker-dealer, investment adviser, BD agent, or IA rep engaged in business in this state that is not subject to the jurisdiction of the Mississippi Secretary of State as a result of the National Securities Markets Improvements Act of 1996, as amended.

Source: *Miss. Code Ann.* §§ 75-71-203; 401-404; 605(a)(1),(3); 605(b); 608(c); 610(e) (~~Rev. 2009~~ 2016).

Rule 7.21 Invest Mississippi Crowdfunding Intrastate Exemption. By authority delegated to the Secretary of State in Section 75-71-203 of the Act, the Division has adopted an exemption from the registration requirements of the Act for any offer or sale of securities offered or sold in compliance with Section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. Section 77c(a)(11), and SEC Rule 147, 17 C.F.R. Section 230.147 or such federal laws as are enacted or rules that are adopted by the SEC that govern intrastate Internet crowdfunding offerings and any amendments thereto, which also satisfy the further conditions and limitations set forth in this Rule below.

- A. ~~Definitions~~ Definitions. The following terms, as used in this Rule, shall have the meaning ascribed to them below unless the context requires otherwise:
1. **Accredited Investor** is defined in 17 C.F.R. Section 230.501(a), as currently enacted or as amended, and a non-accredited investor means an investor who does not meet the definition of an accredited investor.
 2. **Annual Income** means:
 - a. For individuals, income is determined as the sum of the individual's:
 - i. Wages, salaries, commissions, bonuses, and tips from all jobs before deductions for taxes, dues or other items;
 - ii. Self-employment net income (after business expenses);

- iii. Retirement pensions from companies and unions; ~~F~~S federal, ~~S~~s state, and local governments; and the U.S. military;
 - iv. Monthly income from annuities, IRAs, or KEOGH retirement plans;
 - v. Interest, dividends, and rental income; and
 - vi. Partner, shareholder, and beneficiary income as reported to the Internal Revenue Service on Schedule K-1 (Form 1065) (a reported loss on Schedule K-1 is counted against the sum of income).
- b. For entities: ~~If investor is an entity, then the~~ income is determined ~~in~~ as the revenue in excess of expenses, including depreciation, determined before taxes and as filed with the Mississippi Department of Revenue or the Internal Revenue Service on the entity's last tax return.
3. **Bank** means a depository institution that is organized or chartered under the laws of this state or of the United States, is authorized to do business in this state, and is located in this state. For the purposes of this Rule, a credit union is included in the definition of bank. ~~(1) organized or chartered under Section 81-3-1, et seq., of the Mississippi Code of 1972, as amended, and authorized to exercise trust powers according to the provisions of Section 81-5-33 of the Mississippi Code of 1972, as amended; (2) organized or chartered under 12 U.S.C. § 21, et seq., and authorized to exercise trust powers according to the provisions of 12 U.S.C. § 92a; or (3) authorized to conduct trust powers and organized or chartered under similar laws of another state and authorized to conduct business as a bank within this state in accordance with the provisions of Section 81-8-1, et. seq., of the Mississippi Code of 1972, as amended, 12 U.S.C. § 36, and similar laws of its home state, as applicable. Additionally, in order to meet the definition of a Bank for the purposes of these rules, all activities for such an organization must be conducted through its main office or a branch office of the institution as that term is defined by Section 81-7-1, et seq., of the Mississippi Code of 1972, as amended, or 12 U.S.C. §36(j).~~
4. **IMC Form** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Form."
5. **Intermediary** means a person that is registered with the Division pursuant to this Rule to be an intermediary who has been or will be retained by the issuer in conducting the offering and sales of securities through an Internet website. An intermediary can be a broker-dealer or agent that is registered with the Division or a bank or an intermediary funding portal.
6. **Intermediary Funding Portal** is a person ~~that is~~ operating an Internet website ~~and who that~~ is not a bank, ~~or is not~~ a broker-dealer, or agent registered under the Act.
7. **Intermediary Registration Form for Banks** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Intermediary Registration Form for Banks." A person registering as an Intermediary pursuant to this Rule

must select on the form whether registering as a Bank, Broker-Dealer, or Intermediary Funding Portal.

- ~~8. **Intermediary Registration Form for Broker-Dealers** means the document, as adopted by the Division, entitled “Intermediary Registration Form for Broker-Dealers.”~~
 9. **Intermediary Registration Form for Intermediary Funding Portals** means the document, as adopted by the Division, entitled “Intermediary Registration Form for Intermediary Funding Portals.”
 10. **Issuer** means a limited liability company or business corporation formed under the laws of this state ~~of the State of Mississippi~~ that seeks to conduct an offering of securities in reliance on the exemption provided in this Rule.
 11. **Minimum Target Offering Amount** ~~when used in this Rule shall~~ means fifty percent (50%) of the total offering amount of an offering made by the issuer in reliance on the exemption provided in this Rule which amount shall be set out on the IMC Form.
 12. **Net Worth** means the amount by which an investor’s assets exceed liabilities, excluding the investor’s primary residence, as defined in 17 C.F.R. Section 230.501(a)(5)(i).
 13. **Offering Deadline** ~~when used in this Rule shall~~ means the date stated in the IMC Form by which the sum of the offering proceeds held in escrow will equal the minimum target offering amount or investors may request a refund of their investment.
 14. **Qualified Purchaser** is defined in Section 2(a)(51) of the Investment Company Act of 1940, as currently enacted or as amended.
- B. In order to comply with this Rule, the following conditions and limitations are required in order to be exempt from the registration requirements of the Act:
1. The securities must be ~~offered to and~~ sold only to persons who are residents of this Sstate at the time of purchase.
 2. The issuer of the securities is a business corporation or limited liability company ~~formed under the laws of this S~~state, with a principal place of business in this Sstate and authorized to do business in this Sstate.
 3. The issuer is not, either before or as a result of the offering, an investment company, as defined in Section 3 of the Investment Company Act of 1940, 15 U.S.C. Section 8a-3, or subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. Sections 78m and 78o(d).

4. The aggregate amount sold to all investors by the issuer, including any amount sold in reliance on the exemption provided under this Rule during the twelve (12) month period preceding the date of such transaction, is not more than:
 - a. One Million Dollars (\$1,000,000.00), if the issuer has not undergone and made available to each prospective investor the documentation resulting from a financial audit of its most recently completed fiscal year; or
 - b. Two Million Dollars (\$2,000,000.00), if the issuer has undergone and made available to each prospective investor the documentation resulting from a financial audit of its most recently completed fiscal year.

The documentation in a financial audit to be made available to each prospective investor shall consist of a balance sheet and a statement of income and expense for the issuer's most recently completed fiscal year if the issuer has been in existence for twelve (12) months or more and shall be certified by an independent certified public accountant. The financial statements must be prepared in accordance with Generally Accepted Accounting Principles ("US GAAP"), complete with footnote disclosure. If the issuer has been in existence for ~~less~~ fewer than twelve (12) months, the issuer must provide to each prospective investor a balance sheet and statement of income and expense for the time period since its existence. If the issuer is not providing a financial audit, then the issuer must provide to each prospective investor an unaudited balance sheet and statement of income and expense of its most recently completed fiscal year. In addition, regardless of whether the annual financial statements are audited or unaudited, the documentation to be made available to each prospective investor shall also include interim unaudited quarterly financial statements if the issuer's fiscal year ended more than ninety (90) days prior to the date of the IMC Form; and shall include the issuer's financial projections of income and expense for two (2) years from the date of the IMC Form. The non-audited financial statements shall be signed by the principal executive officer of the issuer who shall certify under penalties of perjury that the statements therein are true, complete and correct in all material respects to the best of the signer's knowledge.

5. The aggregate amount sold to any single investor by multiple issuers in reliance on the exemption provided in this Rule during the twelve (12)-month period preceding the date of such transaction:
 - a. For accredited investors, the aggregate amount sold by multiple issuers to any single accredited investor does not exceed the greater of:
 - i. If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) together with ~~their~~ a spouse if married) and have the expectation to make the same amount in the current year, five percent (5%) of the

investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or

- ii. If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).

b. For non-accredited investors, the aggregate amount sold to a single non-accredited investor by multiple issuers does not exceed the greater of:

- i. Five Thousand Dollars (\$5,000.00);
- ii. If the investor has had an annual income of less than Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or less than Three Hundred Thousand Dollars (\$300,000.00) together with ~~their~~ a spouse if married), five percent (5%) of the investor's annual income; or
- iii. If the investor's net worth is less than One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth.

c. For investors that are qualified purchasers there shall be no aggregate limit on the amount the qualified purchaser investor can purchase from a single issuer or multiple issuers in offerings conducted pursuant to this Rule.

6. No remuneration shall be paid or given, directly or indirectly, for any person's participation in the offer or sale of the securities for the issuer unless the person is registered as an intermediary as such term is defined in ~~s~~Subsection (A)(5) of this Rule.

7. All funds received from investors shall be deposited into a bank and all the funds shall be used in accordance with the representations made to investors and in accordance with the terms of an escrow agreement which provides that:

- a. The investor funds will be deposited into an escrow account in a Bank, with the Bank acting as escrow agent;
- b. For each investment, the issuer will provide to the escrow agent a copy of the subscription agreement ~~with~~ setting forth the names, addresses, and respective amounts paid by each investor whose funds comprise each deposit;
- c. The issuer must raise the minimum target offering amount specified as necessary to implement the business plan by the offering deadline before the escrow agent may release the offering proceeds to the issuer upon joint written notice from the issuer and the intermediary;

- d. If the issuer does not raise the minimum target offering amount by the offering deadline, investors will have the option to obtain a refund of their investment by providing written notice to the intermediary, which shall provide written notice to the issuer and the escrow agent, at which time the escrow agent ~~upon written notice from the intermediary~~ shall return the investor's amount contributed. Written notice includes electronic mail.
- e. All offering proceeds not returned to the investor by the escrow agent after the offering deadline as provided above will be released to the issuer when the escrow agent has received written notice from the issuer or the intermediary to release the remaining proceeds to the issuer, or they may be returned to the investors at the issuer's option if the issuer or the intermediary provides written notice to the escrow agent authorizing and instructing the escrow agent to return the remaining investors amounts contributed; and
- f. All offering proceeds not returned to the investor or released to the issuer after twelve (12) months from the date of receipt may be returned to the investor by the escrow agent to the last known address of the investor, or if not, shall be submitted to the ~~S~~state ~~T~~reasurer in accordance with the unclaimed property laws.
- g. The ~~bank~~ as escrow agent may contract with the issuer to collect reasonable fees for its escrow services regardless of whether the minimum target offering amount is reached.
8. No offerings or sales of securities shall be made in reliance on this exemption until the issuer files ~~an~~ the IMC Form, in writing or in electronic form with the Division, completed with specificity as required by the instructions in the IMC Form, ~~and as required by the Division, in writing or in electronic form as specified by the Division,~~ and the issuer receives an Acknowledgment of a Completed Invest Mississippi Crowdfunding Form from the Division. The issuer must also include in such filing a copy of the escrow agreement as required by Ssubsection (B)(7) above, all other exhibits to the IMC Form except as otherwise specified by the Division, and any other documents or information the Division may require ~~to administer and enforce the requirements of this Rule~~. A copy of the IMC Form is available upon request.
9. The Division will issue a written Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form within five (5) business days after receiving the completed IMC Form and all other exhibits to the IMC Form except as otherwise specified by the Division. Incomplete IMC Forms, IMC Forms with responses that are not specific as required by this Rule and the instructions, or IMC Forms with missing exhibits will be returned to the issuer for completion and/or resubmission. No offerings or sales may be made in this Sstate until the written Acknowledgment has been issued.

10. The completed IMC Form, including exhibits, shall be provided to the relevant intermediary and shall be made available to potential investors after the Acknowledgment of Completed Invest Mississippi Crowdfunding Exemption Form has been issued by the Division.
11. The issuer shall inform all investors ~~under this Rule~~ that the securities have not been registered under federal or state securities law and the securities are subject to limitations on resale.
12. Prior to the consummation of a ~~purchase~~ sale, the issuer shall require the prospective investor to certify in writing or electronically as follows:
 - a. The investor's name, address, social security number, annual income, and net worth, that each investor is a resident of this sState and, if applicable, either an accredited investor or a qualified purchaser; and
 - b. The aggregate amount of securities sold to the investor in reliance on the exemption provided in this Rule during the twelve (12) month period preceding the date of the purchase, together with the securities to be sold by the issuer to the investor:
 - i. For accredited investors that are not qualified purchasers the investor has not invested more than the greater of:
 - (a) If the investor has had an annual income of at least Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or Three Hundred Thousand Dollars (\$300,000.00) together with ~~their~~ a spouse if married) and have the expectation to make the same amount in the current year, five percent (5%) of the investor's annual income, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00); or
 - (b) If the investor's net worth is at least One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth, not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00).
 - ii. For non-accredited investors, that the investor has not invested more than the greater of:
 - (a) Five Thousand Dollars (\$5,000.00);
 - (b) If the investor has had an annual income of less than Two Hundred Thousand Dollars (\$200,000.00) each year for the last two (2) years (or less than Three Hundred Thousand Dollars (\$300,000.00)

together with ~~their~~ a spouse if married), five percent (5%) of the investor's annual income; or

(c) If the investor's net worth is less than One Million Dollars (\$1,000,000.00), five percent (5%) of the investor's net worth.

c. The issuer must maintain the above certifications and provide ready access to the records to the Division, upon request. The Division may access, inspect, and review such records.

13. Offers and sales of securities pursuant to this Rule must be made in compliance with ~~Section 3(a)(11), and any rules adopted by the SEC that govern intrastate Internet crowdfunding offerings~~ SEC Rule 147, 17 C.F.R. Section 230.147 and any amendments thereto.

C. Offers and sales of securities pursuant to this Rule shall be made exclusively through an Internet website that is operated by an intermediary. Each issuer and intermediary shall comply with the following:

1. Before any offer or sale of securities, the issuer must provide evidence to the intermediary ~~evidence of the issuer's state of organization, is organized under the laws of Mississippi~~ evidence that the issuer has a principal place of business in this state, and evidence that the issuer is authorized to do business in this state ~~Mississippi.~~
2. An intermediary is not required to register as a broker-dealer under the Act if all the following apply with respect to the Internet website and its operator:
 - a. It does not offer investment advice or recommendations;
 - b. It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Internet website;
 - c. It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Internet website;
 - d. It is ~~not compensated based on the amount of securities sold, and it does not~~ hold, manage, possess, or otherwise handle investor funds or securities, unless it is a bank operating as an escrow agent for the offering;
 - e. ~~The fee it charges an issuer for an offering of securities on the Internet website is a fixed amount for each offering, a variable amount based on the length of time that the securities are offered on the Internet website, or a combination of the fixed and variable amounts;~~
 - f. It does not identify, promote, or otherwise refer to any individual security offered on the Internet website in any advertising for the Internet website; and

- g. Neither the intermediary, nor any director, executive officer, general partner, twenty percent (20 %) or greater beneficial owner, managing member, or other person with management authority over the intermediary has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify an issuer under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)- to 17 C.F.R. Section 230.506(c)).
3. ~~If any change occurs that affects the intermediary's registration, the intermediary must notify the Division within thirty (30) days after the change occurs. Within thirty (30) days of the delivery of the notice to the Division, the intermediary shall, unless otherwise permitted or directed by the Division, cease and desist from operating as an intermediary pursuant to this Rule and shall notify each issuer within five (5) business days that the intermediary is conducting offerings for that the intermediary's registration has been revoked.~~
4. Subject to Subsection subparagraph (3) above (13) below, persons desiring to be an intermediary must register as an Intermediary with the Division ~~to be an intermediary~~.
- a. Registered broker-dealers may register to be an intermediary by filing the Intermediary Registration Form ~~for Broker-Dealers~~ with the Division, a copy of which is available upon request. No filing fee shall be required for registered broker-dealers acting as intermediaries. The Form shall include the following information:
- i. ~~The identity and location of, and contact information~~ The identity, contact information, and location of, and for the broker-dealer, including the broker-dealer's CRD number;
 - ii. ~~That~~ the broker-dealer is authorized to do business in this state Mississippi; and
 - iii. ~~That~~ the broker-dealer is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule.
- b. A Bank may register to be an intermediary by filing the Intermediary Registration Form ~~for Banks~~ with the Division, a copy of which is available upon request. No filing fee shall be required for banks acting as intermediaries. The Form shall include the following information:
- i. The identity, contact information, and location ~~of, and contact information~~ for the bank;

- ii. That the bank is authorized to do business in this state ~~Mississippi~~;
 - iii. That the bank is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule; and
 - iv. That the bank meets the requirements set forth in Ssubsection (C)(2) of this Rule.
- c. An Internet website operator may register to be an intermediary by filing the Intermediary Registration Form ~~for Intermediary Funding Portals~~, a copy of which is available upon request, accompanied by a nonrefundable annual filing fee of Two Hundred Dollars (\$200.00), that includes the following information:
- i. ~~The identity and location of, and contact information for~~ The identity, contact information, and location of, and for the intermediary funding portal;
 - ii. That the intermediary funding portal is authorized to do business in this state ~~Mississippi~~;
 - iii. That the intermediary funding portal is using an Internet website to offer and sell securities pursuant to the exemption provided in this Rule; ~~and~~
 - iv. That the intermediary funding portal meets the requirements set forth in sSubsection (C)(2) of this Rule; ~~and~~
 - v. Any other information the Division considers necessary or appropriate in the public interest and for the protection of investors, including the financial responsibility, business repute, or qualifications of the Internet website operator and to determine whether the operator can carry out the requirements of this Rule and will comply with this Rule.
5. The intermediary funding portal is not required to register as a broker-dealer under Subsection subparagraph (4 3) above if the intermediary funding portal is a funding portal registered under the Securities Act of 1933 (15 U.S.C. 77d-1) and the SEC ~~has adopted~~ rules under authority of Section 3(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (h)) and P.L.112-106, Section 304, governing funding portals.
6. Registration as an intermediary expires at the close of the calendar year, but subsequent registration for the ~~succeeding~~ following year shall be issued upon filing of a renewal form, a copy of which is available upon request, and upon payment of the appropriate renewal fee.
7. The issuer must maintain records of all offers and sales of securities effected through the intermediary and must provide ~~ready access to the records~~ to the Division, upon request, ready access to the records.

8. The intermediary shall maintain and preserve for a period of five (5) years from either the date of the document or communication or the date of the closing or termination of the securities offering, whichever is later, the following records related to offers and sales made of issuer securities effected by the intermediary through the intermediary's Internet website and related to transactions in which the intermediary receives compensation from the issuer for such services, including but not limited to:
 - a. Records of compensation received for acting as an intermediary, including the name of the payor, the date of payment, and name of the issuer;
 - b. For each offering effected by the intermediary through the intermediary's Internet website, the Name of issuer and issuer's name and the name, address, and amount of purchase of for each investor in such offering;
 - c. Copies of information provided by the intermediary to issuers offering securities through the intermediary, prospective purchasers, and investors;
 - d. Any agreements and/or contracts between the intermediary and an issuer, to prospective purchaser, or investor;
 - e. Any information used to establish the issuer's state of organization, principal place of business, and its authorization to do business in this state ~~that an issuer is a Mississippi resident;~~
 - f. Any information used to establish that a prospective purchaser or investor is a ~~Mississippi~~ resident of this state;
 - g. Any information used to establish that a prospective purchaser or investor is an accredited investor or qualified purchaser;
 - h. Any correspondence or other communications with issuers, prospective purchasers, and/or investors;
 - i. Any information made available through the Internet website relating to an offering; and
 - j. Ledgers (or other records) that reflect all assets and liabilities, income and expense, and capital accounts.

9. The records and the Internet website portal of an intermediary or intermediary applicant under this Rule are subject to ~~the~~ reasonable periodic, special, or other audits or inspections, ~~access or review~~ by the Division, in or outside ~~of this state~~ Mississippi, as the Division considers necessary or appropriate in the public interest and for the protection of investors. An audit, ~~or inspection,~~ ~~access or review~~ may be made at any time and without prior notice. The Division may copy,

and remove for audit or inspection copies of; all records the Division reasonably considers necessary or appropriate to conduct the audit or inspection. The Division may assess a reasonable charge for conducting an audit or inspection under this Rule.

10. The intermediary:

- a. Shall limit website access to the offer or sale of securities conducted pursuant to this Rule to only ~~Mississippi~~ residents of this state;
- b. Shall not hold, manage, possess, or handle investor funds or securities, unless it is a bank operating as an escrow agent for the offering;
- c. Shall ensure that each investor answers questions demonstrating:
 - i. An understanding of the level of risk generally applicable to investments in startups and small issuers; and
 - ii. An understanding of the risk of illiquidity, including an acknowledgment that there is no ready market for the sale of the securities acquired from an offering under this Rule; ~~it~~ It may be difficult or impossible for the investor to sell or otherwise dispose of an investment under this Rule and the investor may be required to hold and bear the financial risks of this investment indefinitely.
- d. Shall perform a background and securities enforcement regulatory history check on each person holding a position listed in Subsection (J) of this Rule to determine if such person is subject to any disqualification as described in Subsection (J) of this Rule. ~~contained in SEC Rule 262 as promulgated under the Securities Act of 1933 (17 C.F.R. Section 230.262)~~
- e. Shall ensure that all offering proceeds are only provided to the issuer when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount and allow investors to cancel their commitments to invest and obtain a refund if the minimum target offering amount is not raised by the offering deadline.

11. The intermediary shall not purchase or receive more than fifteen percent (15%) of the securities in the offering and shall prohibit its directors, officers, or partners (or any person occupying a similar status or performing a similar function) from having any financial interest in an issuer using its services as an intermediary, unless the financial interest in the aggregate does not exceed fifteen percent (15%) of the ownership of the issuer.

12. All communications between the issuer, prospective purchasers, or investors ~~taking~~ that take place during the offer of securities pursuant to this Rule must occur through the intermediary's Internet website. Notwithstanding the foregoing,

the issuer or the intermediary may distribute a notice within this state ~~Mississippi~~ limited to the statement that the issuer is conducting an offering, the name of the intermediary through which the offering is being conducted and a link directing the potential investor to the intermediary's website. The notice must contain a disclaimer ~~that reflects~~ reflecting that the offering is limited to ~~Mississippi~~ residents of this state and ~~offers and that~~ sales of the securities appearing on the Internet website are limited to persons that are ~~Mississippi~~ residents of this state.

13. The website operated by the Intermediary must meet the following requirements:
 - a. The website must contain a disclaimer reflecting ~~that access to securities offerings on the website is limited to residents of this state and~~ sales of the securities appearing on the website are limited to persons that are residents of this state;
 - b. Evidence of residency within this state is required before a sale is made to a prospective purchaser. An affirmative representation made by a prospective purchaser that the prospective purchaser is a resident of this state and proof of a valid Mississippi driver license or official personal identification card issued by the State of Mississippi ~~would~~ will be considered sufficient evidence that the individual is a resident of this state.
 14. If any change occurs that affects the intermediary's registration, the intermediary must notify the Division within thirty (30) days after the change occurs. Within thirty (30) days of the delivery of the notice to the Division, the intermediary shall, unless otherwise permitted or directed by the Division, cease and desist from operating as an intermediary pursuant to this Rule and shall, within five (5) business days, notify each issuer for which is it conducting offerings ~~within five (5) business days~~ that the intermediary's registration has been revoked.
- D. *Report.* For so long as securities issued under the exemption provided in this Rule are outstanding, the issuer shall provide a quarterly report to the issuer's investors. The report required by this Rule shall be free of charge. An issuer may satisfy the reporting requirement of this Rule if the information is made available within forty-five (45) days of the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. An issuer must provide a written copy of the report to any investor upon request. The issuer shall make each such quarterly report available to the Division upon request. The report must contain each of the following:
1. Compensation received by each director and executive officer, including cash compensation earned since the previous report and on an annual basis and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer, or other compensation received; and

2. An analysis by management of the issuer of the business operations and financial condition of the issuer, such as a recent financial statement and profit and loss statement.
- E. Securities exempt under the provisions of this Rule may not be transferred for one (1) year after the date of purchase except in a transaction which is exempt from registration or in a transaction which complies with the registration requirements of the Act.
 - F. The Division and every investor or prospective purchaser shall be notified within thirty (30) days of any material change in the issuer's information submitted in accordance with this Rule.
 - G. For offerings that exceed one (1) year, notification that the offering is continuing must be filed with the Division annually.
 - H. The issuer must file a sales report with the Division within thirty (30) days of termination, expiration, abandonment, or completion of the offering in a form prescribed by the Division.
 - ~~A. A notice of termination or completion of the transactions exempted under this Rule must be filed with the Division within thirty (30) days of termination or completion stating (1) the name of the issuer, (2) a description of the securities, (3) the aggregate amount of securities offered in Mississippi, (4) the aggregate amount of securities sold in Mississippi, and (the date the offering was completed.~~
 - I. All sales that are part of the same offering and are made in reliance on this exemption; must meet all of the terms and conditions of this exemption, except; offers and sales to controlling persons shall not count toward the limitation in Ssubsection (B)(4) of this Rule. A controlling person is an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.
 - J. Disqualification. The exemption allowed by this Rule shall not apply if an issuer, any of its executive officers, directors, managing members, persons with twenty percent (20%) or greater beneficial ownership, persons with management authority over the issuer, promoters, selling agents, or any officer, director or partner of any selling agent has been subject to any conviction, order, judgment, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)(1)) that would disqualify the person under Rule 506(d) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(d)) from claiming an exemption specified in Rule 506(a) to Rule 506(c) adopted under the Securities Act of 1933 (17 C.F.R. § 230.506(a)-(c)). ~~contained in SEC Rule 262 as promulgated under the Securities Act of 1933 (17 C.F.R. Section 230.262).~~

- K. Nothing in this exemption shall be construed to alleviate any person from the ~~antifraud~~ anti-fraud provisions of the Act, nor shall such exemption be construed to provide relief from any other provisions of the Act other than as expressly stated.
- L. The Division may deny, refuse to renew, condition, limit, suspend, or revoke the intermediary's registration as an intermediary for any reason as determined by the ~~Administrator~~ Secretary of State in his sole discretion.
- M. The ~~Administrator~~ Secretary of State may by order waive any conditions of registration of intermediaries or other requirements set forth in this Rule.

Source: *Miss. Code Ann.* §75-71-203 (2016).