

Part 14 Chapter 2: NOTICE FILING AND REGISTRATION OF SECURITIES

Subchapter 1: REGISTRATION BY COORDINATION AND QUALIFICATION

Rule 2.01 Coordination Application and Contents. Application for registration of securities by coordination shall be submitted on NASAA Form U-1, the Uniform Application to Register Securities. The application shall include a registration statement submitted pursuant to Section 75-71-303 of the Act which shall contain all information and documents required by that Section, all information required by Section 75-71-303 of the Act, and the filing fee as set forth in Section 75-71-303(c) of the Act and Rule 4.03. However, upon written request, the twenty (20) day filing period requirement set out in Section 75-71-303(c)(2) of the Act may be waived.

A separate application and a separate registration fee must be filed for each type, kind, class, series, or portfolio of security offered. Any documents or exhibits previously on file may be incorporated by reference. Quarterly reports and semiannual reports shall not be filed unless requested by the Division. Advertising and sales material shall be filed with the Division.

Source: Miss. Code Ann. §§ 75-71-303, -305 (2020).

Rule 2.03 Qualification Application and Contents. Application for registration of securities by qualification shall be submitted on an Application for Registration by Qualification. The application shall include a registration statement submitted pursuant to Section 75-71-304 of the Act, which shall contain all information required by that Section; the information and documents required by Section 75-71-305 of the Act; and the filing fee as set forth in Section 75-71-310(c) of the Act and Rule 4.03.

Source: Miss. Code Ann. §§ 75-71-304, -305 (2020).

Rule 2.04 Invest Mississippi Crowdfunding Simplified Registration Statement. By authority delegated to the Secretary of State in Section 75-71-307 of the Act, and for the purposes of simplifying the registration statement for smaller offerings, the Division has adopted the Invest Mississippi Crowdfunding Simplified Registration Statement to be used as the registration statement for securities being registered under this Rule and sold in offerings in which the aggregate offering price does not exceed the maximum amount specified herein. This Rule offers an alternative method for state registration for issuers that are exempt from federal registration pursuant to Rule 504 of the SEC Regulation D, 17 C.F.R. Section 230.504, promulgated pursuant to the Securities Act of 1933, 15 U.S.C. Sections 77a, *et seq.*, and any amendments thereto.

- 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 purposes of this Rule, a credit union is included in the definition of bank.
 4. **IMC Statement** means the document, as adopted by the Division, entitled "Invest Mississippi Crowdfunding Simplified Registration Statement."
 5. **Intermediary** means a person that is registered with the Division pursuant to this Rule as 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 it is 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 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 this Rule which amount shall be set out on the IMC Statement.
 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 Statement 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.
 13. **Rule 504** means Rule 504 of the SEC Regulation D, 17 C.F.R. Section 230.504, promulgated pursuant to the Securities Act of 1933, 15 U.S.C. Sections 77a, *et seq.*, and any amendments thereto.
- B. *Short-form registration statement.* For any offer or sale of securities offered or sold in compliance with Rule 504, the IMC Statement shall be used as the registration statement required to be filed with the Division under this Rule. A copy of the IMC Statement is available upon request. Any offer or sale of securities offered or sold in compliance with this Rule must satisfy the following conditions and limitations:
1. The issuer of the securities is a business corporation or limited liability company formed under the laws of this state, with a principal place of business in this state, and authorized to do business in this state;
 2. 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);

3. The aggregate amount sold to all investors by the issuer, including any amount sold in reliance on the simplified registration provided under this Rule during twelve (12) month period preceding the date of such transaction, is not more than Five Million Dollars (\$5,000,000.00).
 - a. If the issuer has been in existence for twelve (12) months or more the issuer must provide to each prospective investor a balance sheet and statement of income and expense of its most recently completed fiscal year and interim quarterly financial statements if the issuer's fiscal year ended more than ninety (90) days prior to the date of the IMC Statement.
 - b. If the issuer has been in existence for less 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.
 - c. The issuer shall include the issuer's financial projections of income and expense for two (2) years from the date of the IMC Statement.
 - d. The financial statements, which may be unaudited, 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.

4. The aggregate amount sold to any single investor by multiple issuers in reliance on 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.
5. 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.
6. 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 amount 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, including electronic mail, to the intermediary, which shall provide written notice to the issuer and the

escrow agent at which time the escrow agent shall return the amount contributed by the investor;

- 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 when the intermediary provides written notice to the escrow agent authorizing and instructing the escrow agent to return the remaining amounts contributed by investors;
 - f. All offering proceeds not returned to the investor or released to the issuer after twelve (12) months from 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; and
 - 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.
7. No offerings or sales of securities shall be made in reliance on this Rule until the issuer files the IMC Statement in writing or in electronic form with the Division, completed with specificity as required by the instructions in the Statement, and as required by the Division, in writing or in electronic form as specified by the Division and the issuer is issued a Certification of Invest Mississippi Crowdfunding Registration from the Division. The issuer must also include with such filing a copy of the escrow agreement as required by Subsection (B)(6) above and all other exhibits to the IMC Statement as otherwise specified by the Division may require to administer and enforce the requirements of this Rule.
8. Registration by this Rule shall become effective on the issuance of a Certification of Invest Mississippi Crowdfunding Registration by the Division which shall be issued within five (5) business days of receiving the completed IMC Statement and all other exhibits to the IMC Statement, except as otherwise specified by the Division.
9. The completed IMC Statement, including exhibits, shall be provided to the relevant intermediary and shall be made available to potential investors after the Certification of Invest Mississippi Crowdfunding Registration has been issued by the Division.
10. The issuer shall inform all investors under this Rule that the securities have not been registered under federal securities law.

11. 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, net worth, state of residency, and, if applicable, that the investor is either an accredited investor or a qualified purchaser;
 - b. The aggregate amount of securities sold to the investor in reliance on 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, that 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 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.

12. Securities may only be registered pursuant to this Rule if they meet the requirements set forth in Rule 504.
- 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 that the issuer is organized under the laws of this state with a principal place of business in this state and 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. They do not offer investment advice or recommendations;
 - b. They do not solicit purchases, sales, or offers to buy the securities offered or displayed on the Internet website;
 - c. They do 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. They do 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. They do 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, judgement, decree, or other action specified in Rule 506(d)(1) adopted under the Securities Act of 1933 (17C.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 (12) 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. Confirmation that the broker-dealer is authorized to do business in this state; and
 - iii. Confirmation that the broker-dealer is using an Internet website to offer and sell securities pursuant to 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 identify, contact information, and location for the bank;
 - ii. The bank is authorized to do business in this state;
 - iii. The bank is using an Internet website to offer and sell securities pursuant to this Rule; and
 - iv. 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, that includes the following information:
 - i. The identity, contact information, and location for the intermediary funding portal;
 - ii. Confirmation that the intermediary funding portal is authorized to do business in this state;
 - iii. Confirmation that the intermediary funding portal is using an Internet website to offer and sell securities pursuant to this Rule;
 - iv. Confirmation 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 (15U.S.C. 78c(h)) and P.L. 112-106, § 304, governing funding portals.
5. Registration as an intermediary expires at the close of the calendar year, but subsequent registration for the succeeding year shall be issued upon filing of a renewal form, a copy of which is available upon request.
6. The issuer must maintain records of all offers and sales of securities effected through the intermediary and must provide 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 the issuer's 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 for an issuer, 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 investors, prospective purchasers, and issuers offering securities through the intermediary;
 - d. Any agreements and/or contracts between the intermediary and an issuer, prospective purchaser, or investor;
 - e. Any information used to establish that an issuer is a resident of the state;

- f. Any information used to establish the residency of a prospective purchaser or investor;
 - 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 expenses, and capital accounts of the intermediary.
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 conduction an audit or inspection under this Rule.
9. The intermediary:
- a. Shall not hold, manage, possess, or handle investor funds or securities unless it is a bank operating as an escrow agent for the offering;
 - b. Shall perform a background and securities enforcement regulatory history check on each person holding a position listed in Subsection (I) of this Rule to determine if such person is subject to any disqualification described in Subsection (I) of this Rule;
 - c. 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 shall 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;
 - d. 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; that 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.
 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 taking 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 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.
 12. 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 registered under 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. The 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. 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.
- F. A Certificate of Invest Mississippi Crowdfunding Registration is effective for one (1) year after its effective date. Applicants for registration under this Rule may re-register a security by submitting a report for sales of the securities sold in this state for the preceding twelve (12) month period.
- G. The issuer must file a sales report with the Division within thirty (30) days of termination, expiration, abandonment, withdrawal, or completion of the offering in a form prescribed by the Division.
- H. 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.
- I. *Disqualification.* The simplified registration allowed by this Rule shall not apply if the 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, or selling agents, or any officer, director, or partner of any selling agent has been subject to any conviction, order, judgement, 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)).
- J. Nothing in this Rule shall be construed to alleviate any person from the anti-fraud provisions of the Act, nor shall such simplified registration be construed to provide relief from any other provisions of the Act other than as expressly stated.
- K. The Division may deny, refuse to renew, condition, limit, suspend, or revoke the registration of an intermediary for any reason as determined by the Secretary of State in his sole discretion.
- L. The Secretary of State may by order waive any of the conditions of registration of the offering or the intermediary or other requirements set forth in this Rule.

Source: Miss. Code Ann. § 75-71-307 (2020).

Rule 2.05 Prospectus.

- A. An applicant for registration of securities by coordination or qualification must file a prospectus with the Division containing a full and complete disclosure of all material information relating to the issuer and the offering and sale of the securities being registered.
- B. The prospectus must be provided to a prospective purchaser prior to the consummation of the sale of any securities offered thereby.

Source: Miss. Code Ann. §§ 75-71-303(b)(1), -304(e), -605 (2020).

Rule 2.07 Legend Requirement.

- A. Every submitted prospectus must carry the following legend displayed in a prominent manner:

“THESE SECURITIES ARE OFFERED PURSUANT TO A CERTIFICATION OF REGISTRATION ISSUED BY THE SECRETARY OF STATE OF MISSISSIPPI. THE SECRETARY OF STATE DOES NOT RECOMMEND OR ENDORSE THE PURCHASE OF ANY SECURITIES, NOR DOES THE SECRETARY OF STATE PASS UPON THE TRUTH, MERITS, OR COMPLETENESS OF ANY PROSPECTUS OR ANY OTHER INFORMATION FILED WITH THE SECRETARY OF STATE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.”

- B. However, any prospectus, registration statement, or offering statement filed pursuant to the Securities Act of 1933 which depicts the SEC’s generic legend will be considered in conformity with the preceding requirement.

Source: Miss. Code Ann. § 75-71-605(a)(1) (2020).

Rule 2.09 Solicitation of Interest/Preliminary Prospectus.

- A. A preliminary prospectus may be distributed in this state pursuant to a registration by coordination or qualification by a broker-dealer or by an issuer provided an application to register the securities is pending before the SEC, if required, and an application to register the securities is pending before the Division.
- B. A preliminary prospectus may not be further distributed if the applicant has been notified by the Division that the application for registration is substantially deficient;

and that the circulation of a preliminary prospectus is not appropriate in light of the deficient application.

- C. The outside front cover page of such prospectus shall bear, in red ink, the caption “Preliminary Prospectus,” the date of its issuance, and the following statement printed in type as large as that generally in the body thereof:

“A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE SECRETARY OF STATE OF MISSISSIPPI BUT HAS NOT YET BECOME EFFECTIVE. INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. THESE SECURITIES MAY NOT BE SOLD NOR MAY OFFERS TO BUY BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION STATEMENT BECOMES EFFECTIVE.”

- D. However, any preliminary prospectus filed pursuant to the Securities Act of 1933 which depicts the SEC’s generic legend will be considered in conformity with the preceding requirement.

Source: Miss. Code Ann. §§ 75-71-202(17)(B), -605(a)(1) (2020).

Rule 2.11 Dilution.

- A. Where registered securities are being offered publicly and there is no established market for those securities, the prospectus or offering memorandum must contain a paragraph entitled “DILUTION” – showing the method used in arriving at the book value of all shares outstanding upon completion of the offering.
- B. To determine the book value of all shares outstanding upon completion of the offering, add the net proceeds of the public offering (the amount remaining after deducting commissions and expenses of the offering) to the net tangible book value of the company before the offering, and divide this resulting dollar amount by the total number of shares to be outstanding upon completion of the offering.
- C. Equity shares sold to the public shall not have dilution in excess of seventy-five percent (75%), or such offering may be subject to rejection by the Division.

Source: Miss. Code Ann. § 75-71-605(a)(1) (2020).

Rule 2.13 Expenses Limitations. The NASAA Statement of Policy regarding underwriting expenses, underwriter’s warrants, selling expenses, and selling security holders shall be the basis of review for offerings, excluding federal covered securities, filed with the Division.

Source: Miss. Code Ann. §§ 75-71-605(a); -608(b), -608(c)(9) (2020).

Rule 2.15 NASAA Statements of Policy. In cooperation with the securities administrators of other states, and with a view to effectuating a policy to achieve maximum uniformity of regulations regarding the registration of securities and investment advisory registrants and enforcement of anti-fraud laws, unless a specific rule promulgated herein or a state statute conflicts with the NASAA Policy, in which case the specific rule or statute will control, NASAA Statements of Policy, as published, will provide the basis for review for transactions or activities set forth in the Statements of Policy. Other NASAA Statements, as published, shall be applied as needed unless such Policy conflicts with a specific rule promulgated herein or a state statute.

Source: Miss. Code Ann. §§ 75-71-605(a), -608(b), -608(c)(9) (2020).

Rule 2.17 Certification of Registration/Re-registration of Securities

- A. Registration in this state by coordination of qualification shall become effective upon the earlier of the time prescribed in Section 75-71-303(c) or Section 75-71-304(c) of the Act or the date of the issuance of a Certification of Registration by the Division.
- B. A Certification of Registration is effective for one (1) year after its effective date. Applicants for registration by coordination or qualification may re-register a security by submitting a report for sales of the securities sold in this state for the preceding twelve (12) month period and paying the filing fee as set forth in Section 75-71-310(c) of the Act and Rule 4.03(B) of these Rules.

Source: Miss. Code Ann. §§ 75-71-304(c), -310 (2020).

Rule 2.19 Amended Certification of Registration

- A. To amend a registration, the following must be submitted:
 - 1. An amended NASAA Form U-1 which shows:
 - a. Any material changes in any papers, forms, or other exhibits previously filed with the Division; or
 - b. A sworn statement that no material changes have been made in any papers, forms, or other exhibits previously filed with the Division; and
 - 2. A sales report on the securities initially registered.
- B. To amend the name on the Certification of Registration, a complete NASAA Form U-1, NASAA Form U-2 (Uniform Consent to Service of Process), and NASAA Form U-

2A (Uniform Form of Corporate Resolution) must be filed with the Division. The exhibits to NASAA Form U-1 are not required for name changes.

- C. When the requirements of the Act and the Rules pertaining to an amended registration statement have been satisfied, an Amended Certification of Registration will be issued having the same effective date as the original Certification of Registration.

Source: Miss. Code Ann. § 75-71-305(j) (2020).

Rule 2.21 Notice of Withdrawal or Completion of Offering of Securities under Registration by Coordination or Qualification.

- A. Notices of withdrawal of an offering must be made in writing and filed with the Division along with the required fee set forth in Section 75-71-310(e) of the Act and Rule 4.03(C).
- B. Whenever an offering of securities under Sections 75-71-303 or 304 of the Act has been completed, notice of completion of the offering shall be filed within sixty (60) days of completion stating (1) the name of the issuer, (2) a description of the securities registered in this state, (3) the aggregate amount of securities registered in this state, (4) the aggregate amount of securities sold in this state, and (5) the date the offering was completed.

Source: Miss. Code Ann. §§ 75-71-305(i), -605 (2020).

Rule 2.23 Subscription Agreements. All Mississippi investors must personally sign their subscription agreements when purchasing securities. Any program which allows an agent, fiduciary, trustee, legal representative, consultant, etc. of the investor to sign a subscription agreement in lieu of the investor signing must be amended accordingly.

The Division will object to the use of subscription agreements which require purchasers of securities to acknowledge that:

- A. The purchaser has read the prospectus;
- B. The purchaser has relied only on the prospectus and not upon any representations made by any person; and
- C. The purchaser understands the risks of the investment.

Source: Miss. Code Ann. § 75-71-305(g) (2020).

Subchapter 2: FILING OF FEDERAL COVERED SECURITIES

Rule 2.25 Notice Filings for Offerings of Investment Company Securities.

- A. Prior to the offer or sale of a security which is a covered security under Section 18(b)(2) of the Securities Act of 1933, including securities issued by an open-end management investment company, a face-amount certificate company, or a unit investment trust, the issuer must submit to the Division or its designee the following:
 - 1. A completed NASAA Form NF, signed either manually or electronically;
 - 2. A completed NASAA Form U-2, signed either manually or electronically; and
 - 3. A fee as set forth in Section 75-71-310(a) of the Act and Rule 4.01(A)(1).
- B. Upon written request of the Division and within the time period set forth in the request, the issuer must submit to the Division a copy of any document identified in the request that is part of the federal registration statement filed with the SEC or is part of an amendment to such federal registration statement.
- C. The Division requires a separate notice filing for each portfolio, series, type, kind, or class of securities to be offered or sold in this state. Each portfolio, series, type, kind, or class of securities offered in this state in a single prospectus must pay a separate notice filing fee.
- D. An issuer who has filed a NASAA Form U-2 in connection with a previous notice filing need not file another.
- E. *Duration of Notice Filing.*
 - 1. Except as provided in Subsection (E)(2), a notice filing under Subsection (A) of this Rule is effective for the period of time as provided in Section 75-71-302(b) of the Act.
 - 2. To facilitate the coordination of expiration dates with other states, the issuer may request a specific term of effectiveness which does not exceed one (1) year.
- F. *Renewal.* On or before the expiration of the effective period, a notice filing may be renewed by submitting to the Division or its designee another notice and payment of the applicable fee in accordance with Section 75-71-310(d) of the Act and Rule 4.01(A)(2). Such notice must include: (1) the name of the issuer, (2) a description of the securities filed in this state, and (3) the aggregate amount of securities sold in this state over the preceding twelve (12) month period.

- G. *Termination.* Whenever an offering of securities under Section 75-71-302(a) of the Act has been completed or is terminated or withdrawn, notice of completion, termination, or withdrawal of the offering and a fee as set forth in Section 75-71-310(e) of the Act and Rule 4.01(A)(3) shall be filed within sixty (60) days of completion. The notice of completion shall state (1) the name of the issuer, (2) a description of the securities filed in this state, (3) the aggregate amount of securities sold in this state, and (4) the date the offering was completed.
- H. *Amendments.* The materials filed pursuant to Subsection (A) of this Rule may be amended by forwarding the corrected information to the Division or its designee on a revised Form NF and requesting that the file be amended accordingly. Amendments are effective upon receipt by the Division or its designee.
- I. *Recognized designee.*
1. The Division may authorize and recognize a designee to receive notice filings under this Rule on behalf of the Division. Such filings include but are not limited to notices, fees, and all documents that are part of a federal registration statement filed with the SEC under the Securities Act of 1933.
 2. The designation provided in this Rule is for the sole purpose of receiving notice filings, including but not limited to notices, fees, and all documents, on behalf of the Division and then transmitting those documents to the Division, or for any other purpose which the Division may prescribe by order or release.

Source: Miss. Code Ann. §§ 75-71-302(a)(b), -310(a) (2020).

Rule 2.27 Reserved.

Rule 2.29 Notice Filings for Rule 506 Offerings.

- A. *Electronic filing.* All filings or submissions under this Rule shall be made electronically through a state portal approved by the Division.
- B. *Initial.* An issuer offering a security that is a covered security under Section 18(b)(4)(E) of the Securities Act of 1933 must submit to the Division or its designee, no later than fifteen (15) days after the first sale of such federal covered security in this state unless the end of that period falls on a Saturday, Sunday, or state or federal holiday, in which case the due date would be the first business day following, a conformed copy of an electronically filed 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 230.506, the fee set forth in

Section 75-71-310(b) of the Act and Rule 4.01(B)(1); and any late fee (if applicable) as set forth in Section 75-71-310(b) of the Act and Rule 4.01(B)(2). If the offering includes multiple issuers filing on the same Form D, a separate fee shall be paid for each issuer issuing securities in this state.

- C. *Renewal.* When an offering is not completed within twelve (12) months of the date of initial notice filing, a sales report and nonrefundable renewal fee as set forth in Section 75-71-310(d) of the Act and Rule 4.01(B)(3) must be submitted to the Division. The sales report must include: (1) the name of the issuer, (2) a description of the securities filed in this state, and (3) the aggregate amount of securities sold in this state.
- D. *Termination.* Whenever an offering of securities under Section 75-71-302(c) of the Act has been completed or is terminated, notice of termination of the offering and the fee set forth in Section 75-71-310(e) of the Act shall be filed within sixty (60) days of completion. The notice of termination shall state: (1) the name of the issuer, (2) a description of the securities filed in Mississippi, (3) the aggregate amount of securities sold in this state, and (4) the date the offering was completed.

Source: Miss. Code Ann. §§ 75-71-302(c), -310(b), -310(d) (2020).

Rule 2.31 Notice Filings for Regulation A Tier 2 Offerings. The following provisions apply to offerings made under Tier 2 of Federal Regulation A and Section 18(b)(4) of the Securities Act of 1933:

- A. *Initial filing:*
 - 1. An issuer that has sold securities in this state in an offering exempt under Tier 2 of federal Regulation A shall submit to the Division no later than fifteen (15) days after the first sale of such security in this state the following:
 - a. A completed Regulation A-Tier 2 notice filing form or copies of all documents filed with the SEC;
 - b. A consent to service of process on Form U-2 if not filing on the Regulation A Tier 2 notice filing form;
 - c. The filing fee prescribed by Section 75-71-310(b) of the Act; and
 - d. Any late fee (if applicable) as set forth in Section 75-71-310(b) of the Act.
 - 2. The initial notice filing is effective for the twelve (12) months from the date of the filing with the Division.
- B. *Renewal.* For each additional twelve (12) month period in which the same offering is continued, an issuer conducting a Tier 2 offering under Federal Regulation A may

renew its notice filing by filing with the Division on or before the expiration of the notice filing the Regulation A Tier 2 notice filing form marked “renewal” and/or a cover letter requesting renewal along with the fee as set forth in Section 75-71-310(d) of the Act.

- C. *Amendment.* An issuer may increase the amount of securities offered in this state by submitting to the Division a Regulation A Tier 2 notice filing form marked “amendment” or other document describing the transaction.
- D. *Termination.* Whenever an offering of securities under Section 75-71-302(e) of the Act has been completed or is terminated, notice of termination of the offering and the fee set forth in Section 75-71-310(e) of the Act shall be filed within sixty (60) days of completion. The notice of termination shall state: (1) the name of the issuer, (2) a description of the securities filed in Mississippi, (3) the aggregate amount of securities sold in this state, and (4) the date the offering was completed.
- E. All filings or submissions under this Rule may be made electronically through a portal approved by the Division.

Source: Miss Code Ann. §§ 75-71-302(e), -310(b), -310(d), -605 (2020).

Rule 2.33 Notice Filings for Title III Federal Crowdfunding Offerings. The following provisions apply to offerings made under federal Regulation Crowdfunding and Section 18(b)(4) of the Securities Act of 1933:

- A. *Initial filing:*
 - 1. An issuer that offers and sells securities in this state in an offering exempt under federal Regulation Crowdfunding shall file the following with the Division:
 - a. A completed Uniform Notice of Federal Crowdfunding Offering form or copies of all documents filed with the SEC;
 - b. A consent to service of process on Form U-2 if not filing on the Uniform Notice of Federal Crowdfunding Offering form;
 - c. The filing fee prescribed by Section 75-71-310(b) of the Act; and
 - d. Any late fee (if applicable) as set forth in Section 74-71-310(b) of the Act.
 - 2. If the issuer has its principal place of business in this state, the filing required under Subsection (A) of this Rule shall be filed with the Division within fifteen days of when the issuer makes its initial Form C filing concerning the offering within the SEC. If the issuer does not have its principal place of business in this state but residents of this state have purchased fifty percent (50%) or greater of

the aggregate amount of the offering, the filing required under Subsection (A) of this Rule shall be filed with the Division when the issuer becomes aware that such purchases have met this threshold and in no event later than fifteen (15) days from the date of completion of the offering.

3. The initial notice filing is effective for twelve (12) months from the date of the filing with the Division.
- B. *Renewal.* For each additional twelve (12) month period in which the same offering is continued, an issuer conducting an offering under federal Regulation Crowdfunding may renew its notice filing by filing with the Division on or before the expiration of the notice filing a completed Uniform Notice of Federal Crowdfunding Offering form marked “renewal” and/or a cover letter requesting renewal along with the fee as set forth in Section 75-71-310(d) of the Act.
 - C. *Amendment.* An issuer may increase the amount of securities offered in this state by submitting to the Division a completed Uniform Notice of Federal Crowdfunding Offering form marked “amendment” or other document describing the transaction.
 - D. *Termination.* Whenever an offering of securities under Section 75-71-302(e) of the Act has been completed or is terminated, notice of termination of the offering and the fee set forth in Section 75-71-310(e) of the Act shall be filed within sixty (60) days of completion. The notice of termination shall state: (1) the name of the issuer, (2) a description of the securities filed in Mississippi, (3) the aggregate amount of securities sold in this state, and (4) the date the offering was completed.
 - E. All filings or submissions under this Rule may be made electronically through a portal approved by the Division.

Source: Miss Code Ann. §§ 75-71-302(e), -310(b), -310(d), -605 (2020).