

By: Representative Steverson

To: Ways and Means

HOUSE BILL NO. 849

1 AN ACT TO PROVIDE THAT A PERSON WHO DEVELOPS, SELLS OR
 2 FACILITATES THE EXCHANGE OF AN OPEN BLOCKCHAIN TOKEN IS NOT
 3 SUBJECT TO CERTAIN SECURITIES AND MONEY TRANSMISSION LAWS; TO
 4 AUTHORIZE CERTAIN VERIFICATION AUTHORITY TO THE SECRETARY OF
 5 STATE; TO AMEND SECTION 75-15-7, MISSISSIPPI CODE OF 1972, TO
 6 PROVIDE AN EXEMPTION FOR A PERSON WHO DEVELOPS, SELLS OR
 7 FACILITATES THE EXCHANGE OF AN OPEN BLOCKCHAIN TOKEN; TO AMEND
 8 SECTION 75-71-102, MISSISSIPPI CODE OF 1972, TO REVISE THE
 9 DEFINITIONS OF THE TERMS "BROKER-DEALER" AND "SECURITY" TO PROVIDE
 10 THAT THE TERMS DO NOT INCLUDE A PERSON WHO DEVELOPS, SELLS OR
 11 FACILITATES THE EXCHANGE OF AN OPEN BLOCKCHAIN TOKEN; TO AMEND
 12 SECTION 75-17-412, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF
 13 THE SECRETARY OF STATE HAS REASON TO BELIEVE A PERSON IS ENGAGED
 14 IN OR IS ABOUT TO ENGAGE CERTAIN ACTIVITIES RELATING TO BLOCKCHAIN
 15 TOKENS, WITHOUT MEETING CERTAIN EXEMPTION REQUIREMENTS, THE
 16 SECRETARY OF STATE MAY ISSUE AN ORDER TO SHOW CAUSE WHY AN ORDER
 17 TO CEASE AND DESIST THE ACTIVITY SHOULD NOT BE ISSUED; TO BRING
 18 FORWARD SECTIONS 75-71-201, 75-71-202, 75-71-203, AND 75-71-204,
 19 WHICH RELATE TO EXEMPTIONS FROM REGISTRATION REQUIREMENTS OF
 20 CERTAIN SECURITIES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING
 21 FORWARD SECTION 75-71-401, MISSISSIPPI CODE OF 1972, WHICH RELATES
 22 TO BROKER-DEALER REGISTRATION REQUIREMENT AND EXEMPTIONS, FOR
 23 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

25 **SECTION 1.** (1) Except as otherwise provided by subsection
 26 (3) of this section, a developer or seller of an open blockchain
 27 token shall not be deemed the issuer of a security and shall not



28 be subject to the provisions of Sections 75-71-401 through
29 75-71-713, if all of the following are met:

30 (a) The developer or seller of the token, or the
31 registered agent of the developer or seller, files a notice of
32 intent with the Secretary of State, as specified in subsection (4)
33 of this section;

34 (b) The purpose of the token is for a consumptive
35 purpose, which shall only be exchangeable for, or provided for the
36 receipt of, goods, services or content, including rights of access
37 to goods, services or content; and

38 (c) The developer or seller of the token did not sell
39 the token to the initial buyer as a financial investment. This
40 paragraph shall only be satisfied if:

41 (i) The developer or seller did not market the
42 token as a financial investment; and

43 (ii) At least one (1) of the following is true:

44 1. The developer or seller of the token
45 reasonably believed that it sold the token to the initial buyer
46 for a consumptive purpose;

47 2. The token has a consumptive purpose that
48 is available at the time of sale and can be used at or near the
49 time of sale for use for a consumptive purpose;

50 3. If the token does not have a consumptive
51 purpose available at the time of sale, the initial buyer of the



52 token is prevented from reselling the token until the token is
53 available for use for a consumptive purpose; or

54 4. The developer or seller takes other
55 reasonable precautions to prevent buyers from purchasing the token
56 as a financial investment.

57 (2) Except as otherwise provided by subsection (3) of this
58 section, a person who facilitates the exchange of an open
59 blockchain token shall not be deemed a broker-dealer or a person
60 who otherwise deals in securities under this chapter and shall not
61 be subject to the provisions of Sections 75-71-401 through
62 75-71-713 if all of the following are met:

63 (a) The person, or the registered agent of the person,
64 files a notice of intent with the Secretary of State, as specified
65 in subsection (4) of this section;

66 (b) The person has a reasonable and good faith belief
67 that a token subject to exchange conforms to the requirements of
68 subsection (1) (a), (b) and (c) of this section; and

69 (c) The person takes reasonably prompt action to
70 terminate the exchange of a token that does not conform to the
71 requirements of this subsection.

72 (3) The Secretary of State shall have the authority to
73 determine compliance with the provisions of this section,
74 including whether a person qualifies for the exemptions set forth
75 in this section.



76 (4) A developer, seller or a person who facilitates the
77 exchange of an open blockchain token, or the registered agent of
78 the applicable person, shall electronically file a notice of
79 intent with the Secretary of State before the person shall qualify
80 for an exemption under this section. The notice of intent shall
81 contain the name of the person acting as a developer, seller or
82 facilitator, the contact information of the person or the
83 registered agent of the person and specify whether the person will
84 be acting as a developer, seller or facilitator. A secure form
85 shall be made available by the office of the Secretary of State on
86 its internet website for this purpose.

87 (5) As used in this act, "open blockchain token" means a
88 digital unit which is:

89 (a) Created:

90 (i) In response to the verification or collection
91 of a specified number of transactions relating to a digital ledger
92 or database;

93 (ii) By deploying computer code to a blockchain
94 network that allows for the creation of digital tokens or other
95 units; or

96 (iii) Using any combination of the methods
97 specified in subparagraphs (i) and (ii) of this paragraph.

98 (b) Recorded in a digital ledger or database which is



99 chronological, consensus-based, decentralized and mathematically
100 verified in nature, especially relating to the supply of units and
101 their distribution; and

102 (c) Capable of being traded or transferred between
103 persons without an intermediary or custodian of value.

104 **SECTION 2.** Section 75-15-7, Mississippi Code of 1972, is
105 amended as follows:

106 75-15-7. Nothing in this chapter shall apply to the sale or
107 issuance or delivering of checks by:

108 (a) Any financial institution whose deposits are
109 insured by any agency of the United States government or any trust
110 company authorized to do business in this state;

111 (b) The government of the United States or any
112 department or agent thereof;

113 (c) The State of Mississippi or any municipal
114 corporation, county or other political subdivision of this state;

115 (d) Agents of a licensee, as provided for in Section
116 75-15-17, provided that this exemption shall apply only to the
117 agent's acts on behalf of the licensee and this exemption shall
118 not exempt the agent from the provisions of this chapter where he
119 conducts money transmissions for his own account;

120 (e) Attorneys-at-law, as to checks issued in the
121 regular course of the practice of law;

122 (f) Persons not carrying on the trade or business of
123 money transmission, this exemption is intended to include persons



124 who conduct money transmissions only as an incidental act to
125 another trade or business regularly carried on by them and persons
126 who only occasionally and infrequently conduct money transmissions
127 for another person; or

128 (g) The Nationwide Mortgage Licensing System and
129 Registry for mortgage brokers, mortgage lenders and mortgage loan
130 originators.

131 (h) A person who develops, sells or facilitates the
132 exchange of an open blockchain token, as defined in Section 1 of
133 this act.

134 **SECTION 3.** Section 75-71-102, Mississippi Code of 1972, is
135 amended as follows:

136 75-71-102. In this chapter, unless the context otherwise
137 requires:

138 (1) "Administrator" means the Secretary of State.

139 (2) "Agent" means an individual, other than a
140 broker-dealer, who represents a broker-dealer in effecting or
141 attempting to effect purchases or sales of securities or
142 represents an issuer in effecting or attempting to effect
143 purchases or sales of the issuer's securities. The term does not
144 include an individual excluded by rule adopted or order issued
145 under this chapter. The term does not include an associated
146 person of an issuer who is deemed not to be a broker under
147 Securities and Exchange Commission Rule 3a4-1.

148 (3) "Bank" means:



149 (A) A banking institution organized under the laws
150 of the United States;

151 (B) A member bank of the Federal Reserve System;

152 (C) Any other banking institution, whether
153 incorporated or not, doing business under the laws of a state or
154 of the United States, a substantial portion of the business of
155 which consists of receiving deposits or exercising fiduciary
156 powers similar to those permitted to be exercised by national
157 banks under the authority of the Comptroller of the Currency
158 pursuant to Section 1 of Public Law 87-722 (12 USC Section 92a),
159 and which is supervised and examined by a state or federal agency
160 having supervision over banks, and which is not operated for the
161 purpose of evading this chapter; and

162 (D) A receiver, conservator, or other liquidating
163 agent of any institution or firm included in subparagraph (A), (B)
164 or (C).

165 (4) "Broker-dealer" means a person engaged in the
166 business of effecting transactions in securities for the account
167 of others or for the person's own account. The term does not
168 include:

169 (A) An agent;

170 (B) An issuer;

171 (C) A bank or savings institution if its
172 activities as a broker-dealer are limited to those specified in
173 subsection 3(a)(4)(B)(i) through (vi), (viii) through (x), and



174 (xi) if limited to unsolicited transactions; 3(a)(5)(B); and
175 3(a)(5)(C) of the Securities Exchange Act of 1934 (15 USC Section
176 78c(a)(4) and (5)) or a bank that satisfies the conditions
177 described in subsection 3(a)(4)(E) of the Securities Exchange Act
178 of 1934 (15 USC Section 78c(a)(4));

179 (D) An international banking institution; * * *

180 (E) A person who facilitates the exchange of an
181 open blockchain token, as defined in Section 1 of this act; or.

182 (* * *F) A person excluded by rule adopted or
183 order issued under this chapter.

184 (5) "Depository institution" means:

185 (A) A bank; or

186 (B) A savings institution, trust company, credit
187 union, or similar institution that is organized or chartered under
188 the laws of a state or of the United States, authorized to receive
189 deposits, and supervised and examined by an official or agency of
190 a state or the United States if its deposits or share accounts are
191 insured to the maximum amount authorized by statute by the Federal
192 Deposit Insurance Corporation, the National Credit Union Share
193 Insurance Fund, or a successor authorized by federal law. The
194 term does not include:

195 (i) An insurance company or other
196 organization primarily engaged in the business of insurance;

197 (ii) A Morris Plan bank; or



198 (iii) An industrial loan company that is not
199 an "insured depository institution" as defined in Section 3(c)(2)
200 of the Federal Deposit Insurance Act, 12 USC 1813(c)(2), or any
201 successor federal statute.

202 (6) "Federal covered investment adviser" means a person
203 registered under the Investment Advisers Act of 1940.

204 (7) "Federal covered security" means a security that
205 is, or upon completion of a transaction will be, a covered
206 security under Section 18(b) of the Securities Act of 1933 (15 USC
207 Section 77r(b)) or rules or regulations adopted pursuant to that
208 provision.

209 (8) "Filing" means the receipt under this chapter of a
210 record by the administrator or a designee of the administrator.

211 (9) "Fraud," "deceit," and "defraud" are not limited to
212 common law deceit.

213 (10) "Guaranteed" means guaranteed as to payment of all
214 principal and all interest.

215 (11) "Institutional investor" means any of the
216 following, whether acting for itself or for others in a fiduciary
217 capacity:

218 (A) A depository institution or international
219 banking institution;

220 (B) An insurance company;

221 (C) A separate account of an insurance company;



222 (D) An investment company as defined in the
223 Investment Company Act of 1940;

224 (E) A broker-dealer registered under the
225 Securities Exchange Act of 1934;

226 (F) An employee pension, profit-sharing, or
227 benefit plan if the plan has total assets in excess of Ten Million
228 Dollars (\$10,000,000.00) or its investment decisions are made by a
229 named fiduciary, as defined in the Employee Retirement Income
230 Security Act of 1974, that is a broker-dealer registered under the
231 Securities Exchange Act of 1934, an investment adviser registered
232 or exempt from registration under the Investment Advisers Act of
233 1940, an investment adviser registered under this chapter, a
234 depository institution, or an insurance company;

235 (G) A plan established and maintained by a state,
236 a political subdivision of a state, or an agency or
237 instrumentality of a state or a political subdivision of a state
238 for the benefit of its employees, if the plan has total assets in
239 excess of Ten Million Dollars (\$10,000,000.00) or its investment
240 decisions are made by a duly designated public official or by a
241 named fiduciary, as defined in the Employee Retirement Income
242 Security Act of 1974, that is a broker-dealer registered under the
243 Securities Exchange Act of 1934, an investment adviser registered
244 or exempt from registration under the Investment Advisers Act of
245 1940, an investment adviser registered under this chapter, a
246 depository institution, or an insurance company;



247 (H) A trust, if it has total assets in excess of
248 Ten Million Dollars (\$10,000,000.00), its trustee is a depository
249 institution, and its participants are exclusively plans of the
250 types identified in subparagraph (F) or (G), regardless of the
251 size of their assets, except a trust that includes as participants
252 self-directed individual retirement accounts or similar
253 self-directed plans;

254 (I) An organization described in Section 501(c)(3)
255 of the Internal Revenue Code (26 USC Section 501(c)(3)),
256 corporation, Massachusetts trust or similar business trust,
257 limited liability company, or partnership, not formed for the
258 specific purpose of acquiring the securities offered, with total
259 assets in excess of Ten Million Dollars (\$10,000,000);

260 (J) A small business investment company licensed
261 by the Small Business Administration under Section 301(c) of the
262 Small Business Investment Act of 1958 (15 USC Section 681(c)) with
263 total assets in excess of Ten Million Dollars (\$10,000,000.00);

264 (K) A private business development company as
265 defined in Section 202(a)(22) of the Investment Advisers Act of
266 1940 (15 USC Section 80b-2(a)(22)) with total assets in excess of
267 Ten Million Dollars (\$10,000,000.00);

268 (L) A federal covered investment adviser acting
269 for its own account;



270 (M) A "qualified institutional buyer" as defined
271 in Rule 144A(a) (1), other than Rule 144A(a) (1) (i) (H), adopted
272 under the Securities Act of 1933 (17 CFR 230.144A);

273 (N) A "major U.S. institutional investor" as
274 defined in Rule 15a-6(b) (4) (i) adopted under the Securities
275 Exchange Act of 1934 (17 CFR 240.15a-6);

276 (O) Any other person, other than an individual, of
277 institutional character with total assets in excess of Ten Million
278 Dollars (\$10,000,000.00) not organized for the specific purpose of
279 evading this chapter; or

280 (P) Any other person specified by rule adopted or
281 order issued under this chapter.

282 (12) "Insurance company" means a company organized as
283 an insurance company whose primary business is writing insurance
284 or reinsuring risks underwritten by insurance companies and which
285 is subject to supervision by the insurance commissioner or a
286 similar official or agency of a state.

287 (13) "Insured" means insured as to payment of all
288 principal and all interest.

289 (14) "International banking institution" means an
290 international financial institution of which the United States is
291 a member and whose securities are exempt from registration under
292 the Securities Act of 1933.

293 (15) "Investment adviser" means a person that, for
294 compensation, engages in the business of advising others, either



295 directly or through publications or writings, as to the value of
296 securities or the advisability of investing in, purchasing, or
297 selling securities or that, for compensation and as a part of a
298 regular business, issues or promulgates analyses or reports
299 concerning securities. The term includes a financial planner or
300 other person that, as an integral component of other financially
301 related services, provides investment advice to others for
302 compensation as part of a business or that holds itself out as
303 providing investment advice to others for compensation. The term
304 does not include:

305 (A) An investment adviser representative;

306 (B) A lawyer, accountant, engineer, or teacher
307 whose performance of investment advice is solely incidental to the
308 practice of the person's profession;

309 (C) A broker-dealer or its agents whose
310 performance of investment advice is solely incidental to the
311 conduct of business as a broker-dealer and that does not receive
312 special compensation for the investment advice;

313 (D) A publisher of a bona fide newspaper, news
314 magazine, or business or financial publication of general and
315 regular circulation;

316 (E) A federal covered investment adviser;

317 (F) A bank or savings institution;



318 (G) Any other person that is excluded by the
319 Investment Advisers Act of 1940 from the definition of investment
320 adviser; or

321 (H) Any other person excluded by rule adopted or
322 order issued under this chapter.

323 (16) "Investment adviser representative" means an
324 individual employed by or associated with an investment adviser or
325 federal covered investment adviser and who makes any
326 recommendations or otherwise gives investment advice regarding
327 securities, manages accounts or portfolios of clients, determines
328 which recommendation or advice regarding securities should be
329 given, provides investment advice or holds herself or himself out
330 as providing investment advice, receives compensation to solicit,
331 offer, or negotiate for the sale of or for selling investment
332 advice, or supervises employees who perform any of the foregoing.
333 The term does not include an individual who:

334 (A) Performs only clerical or ministerial acts;

335 (B) Is an agent whose performance of investment
336 advice is solely incidental to the individual acting as an agent
337 and who does not receive special compensation for investment
338 advisory services;

339 (C) Is employed by or associated with a federal
340 covered investment adviser, unless the individual has a "place of
341 business" in this state as that term is defined by rule adopted



342 under Section 203A of the Investment Advisers Act of 1940 (15 USC
343 Section 80b-3a) and is:

344 (i) An "investment adviser representative" as
345 that term is defined by rule adopted under Section 203A of the
346 Investment Advisers Act of 1940 (15 USC Section 80b-3a); or

347 (ii) Not a "supervised person" as that term
348 is defined in Section 202(a)(25) of the Investment Advisers Act of
349 1940 (15 USC Section 80b-2(a)(25)); or

350 (D) Is excluded by rule adopted or order issued
351 under this chapter.

352 (17) "Issuer" means a person that issues or proposes to
353 issue a security, subject to the following:

354 (A) The issuer of a voting trust certificate,
355 collateral trust certificate, certificate of deposit for a
356 security, or share in an investment company without a board of
357 directors or individuals performing similar functions is the
358 person performing the acts and assuming the duties of depositor or
359 manager pursuant to the trust or other agreement or instrument
360 under which the security is issued.

361 (B) The issuer of an equipment trust certificate
362 or similar security serving the same purpose is the person by
363 which the property is or will be used or to which the property or
364 equipment is or will be leased or conditionally sold or that is
365 otherwise contractually responsible for assuring payment of the
366 certificate.



367 (C) The issuer of a fractional undivided interest
368 in an oil, gas, or other mineral lease or in payments out of
369 production under a lease, right, or royalty is the owner of an
370 interest in the lease or in payments out of production under a
371 lease, right, or royalty, whether whole or fractional, that
372 creates fractional interests for the purpose of sale.

373 (18) "Nonissuer transaction" or "nonissuer
374 distribution" means a transaction or distribution not directly or
375 indirectly for the benefit of the issuer.

376 (19) "Offer to purchase" includes an attempt or offer
377 to obtain, or solicitation of an offer to sell, a security or
378 interest in a security for value. The term does not include a
379 tender offer that is subject to Section 14(d) of the Securities
380 Exchange Act of 1934 (15 USC 78n(d)).

381 (20) "Person" means an individual; corporation;
382 business trust; estate; trust; partnership; limited liability
383 company; association or organization, whether incorporated or
384 unincorporated; joint venture; government; governmental
385 subdivision, agency, or instrumentality; or any other legal or
386 commercial entity.

387 (21) "Place of business" of a broker-dealer, an
388 investment adviser, or a federal covered investment adviser means:

389 (A) An office at which the broker-dealer,
390 investment adviser, or federal covered investment adviser
391 regularly provides brokerage or investment advice or solicits,



392 meets with, or otherwise communicates with customers or clients;
393 or

394 (B) Any other location that is held out to the
395 general public as a location at which the broker-dealer,
396 investment adviser, or federal covered investment adviser provides
397 brokerage or investment advice or solicits, meets with, or
398 otherwise communicates with customers or clients.

399 (22) "Predecessor act" means the act repealed by
400 Section 2, Chapter 528, Laws of 2009.

401 (23) "Price amendment" means the amendment to a
402 registration statement filed under the Securities Act of 1933 or,
403 if an amendment is not filed, the prospectus or prospectus
404 supplement filed under the Securities Act of 1933 that includes a
405 statement of the offering price, underwriting and selling
406 discounts or commissions, amount of proceeds, conversion rates,
407 call prices, and other matters dependent upon the offering price.

408 (24) "Principal place of business" of a broker-dealer
409 or an investment adviser means the executive office of the
410 broker-dealer or investment adviser from which the officers,
411 partners, or managers of the broker-dealer or investment adviser
412 direct, control, and coordinate the activities of the
413 broker-dealer or investment adviser.

414 (25) "Record," except in the phrases "of record,"
415 "official record," and "public record," means information that is



416 inscribed on a tangible medium or that is stored in an electronic
417 or other medium and is retrievable in perceivable form.

418 (26) "Sale" includes every contract of sale, contract
419 to sell, or disposition of, a security or interest in a security
420 for value, and "offer to sell" includes every attempt or offer to
421 dispose of, or solicitation of an offer to purchase, a security or
422 interest in a security for value. Both terms include:

423 (A) A security given or delivered with, or as a
424 bonus on account of, a purchase of securities or any other thing
425 constituting part of the subject of the purchase and having been
426 offered and sold for value;

427 (B) A gift of assessable stock involving an offer
428 and sale; and

429 (C) A sale or offer of a warrant or right to
430 purchase or subscribe to another security of the same or another
431 issuer and a sale or offer of a security that gives the holder a
432 present or future right or privilege to convert the security into
433 another security of the same or another issuer, including an offer
434 of the other security.

435 (27) "Securities and Exchange Commission" means the
436 United States Securities and Exchange Commission.

437 (28) "Security" means a note; stock; treasury stock;
438 security future; bond; debenture; evidence of indebtedness;
439 certificate of interest or participation in a profit-sharing
440 agreement; collateral trust certificate; preorganization



441 certificate or subscription; transferable share; investment
442 contract; voting trust certificate; certificate of deposit for a
443 security; fractional undivided interest in oil, gas, or other
444 mineral rights; put, call, straddle, option, or privilege on a
445 security, certificate of deposit, or group or index of securities,
446 including an interest therein or based on the value thereof; put,
447 call, straddle, option, or privilege entered into on a national
448 securities exchange relating to foreign currency; or, in general,
449 an interest or instrument commonly known as a "security"; or a
450 certificate of interest or participation in, temporary or interim
451 certificate for, receipt for, guarantee of, or warrant or right to
452 subscribe to or purchase, any of the foregoing. The term includes
453 both a certificated and an uncertificated security. The term does
454 not include an open blockchain token, as defined in Section 1 of
455 this act. The term also does not include an insurance or
456 endowment policy or annuity contract under which an insurance
457 company promises to pay a sum of money either in a lump sum or
458 periodically for life or other specified period; or an interest in
459 a contributory or noncontributory pension or welfare plan subject
460 to the Employee Retirement Income Security Act of 1974. An
461 "investment contract" includes, among other contracts, an
462 investment in a limited partnership, an interest in a limited
463 liability company, an investment in a viatical settlement or
464 similar agreement, and an investment in a common enterprise with
465 the expectation of profits to be derived primarily from the



466 efforts of a person other than the investor and a "common
467 enterprise" means an enterprise in which the fortunes of the
468 investor are interwoven with those of either the person offering
469 the investment, a third party, or other investors.

470 (29) "Self-regulatory organization" means a national
471 securities exchange registered under the Securities Exchange Act
472 of 1934, a national securities association of broker-dealers
473 registered under the Securities Exchange Act of 1934, a clearing
474 agency registered under the Securities Exchange Act of 1934, or
475 the Municipal Securities Rulemaking Board established under the
476 Securities Exchange Act of 1934.

477 (30) "Sign" means, with present intent to authenticate
478 or adopt a record:

479 (A) To execute or adopt a tangible symbol; or

480 (B) To attach or logically associate with the
481 record an electronic symbol, sound, or process.

482 (31) "State" means a state of the United States, the
483 District of Columbia, Puerto Rico, the United States Virgin
484 Islands, or any territory or insular possession subject to the
485 jurisdiction of the United States.

486 **SECTION 4.** Section 75-71-412, Mississippi Code of 1972, is
487 amended as follows:

488 75-71-412. (a) **Disciplinary conditions-applicants.** If the
489 administrator finds that the order is in the public interest and
490 subsection (d) authorizes the action, an order issued under this



491 chapter may deny an application, or may condition or limit
492 registration of an applicant to be a broker-dealer, agent,
493 investment adviser, or investment adviser representative, and, if
494 the applicant is a broker-dealer or investment adviser, of a
495 partner, officer, director, or person having a similar status or
496 performing similar functions, or a person directly or indirectly
497 in control, of the broker-dealer or investment adviser.

498 (b) **Disciplinary conditions-registrants.** If the
499 administrator finds that the order is in the public interest and
500 subsection (d) authorizes the action, an order issued under this
501 chapter may revoke, suspend, condition, or limit the registration
502 of a registrant and, if the registrant is a broker-dealer or
503 investment adviser, of a partner, officer, director, or person
504 having a similar status or performing similar functions, or a
505 person directly or indirectly in control, of the broker-dealer or
506 investment adviser. However, the administrator may not:

507 (1) Institute a revocation or suspension proceeding
508 under this subsection (b) based on an order issued under a law of
509 another state that is reported to the administrator or a designee
510 of the administrator more than one (1) year after the date of the
511 order on which it is based; or

512 (2) Under subsection (d) (5) (A) or (B), issue an order
513 on the basis of an order issued under the securities act of
514 another state unless the other order was based on conduct for



515 which subsection (d) would authorize the action had the conduct
516 occurred in this state.

517 (c) **Disciplinary penalties-registrants.** If the
518 administrator finds that the order is in the public interest and
519 subsection (d) (1) through (6), (8), (9), (10), (12) or (13)
520 authorizes the action, an order under this chapter may censure,
521 impose a bar, or impose a civil penalty in an amount not to exceed
522 a maximum of the amount specified in Section 75-71-613 for each
523 violation on a registrant, and, if the registrant is a
524 broker-dealer or investment adviser, a partner, officer, director,
525 or person having a similar status or performing similar functions,
526 or a person directly or indirectly in control of the broker-dealer
527 or investment adviser.

528 (d) **Grounds for discipline.** A person may be disciplined
529 under subsections (a) through (c) if the person:

530 (1) Has filed an application for registration in this
531 state under this chapter or the predecessor act within the
532 previous ten (10) years, which, as of the effective date of
533 registration or as of any date after filing in the case of an
534 order denying effectiveness, was incomplete in any material
535 respect or contained a statement that, in light of the
536 circumstances under which it was made, was false or misleading
537 with respect to a material fact;

538 (2) Willfully violated or willfully failed to comply
539 with this chapter or the predecessor act or a rule adopted or



540 order issued under this chapter or the predecessor act within the
541 previous fifteen (15) years; for purposes of an ongoing failure to
542 supervise, each twelve-month period or less of the conduct is a
543 separate violation of this subsection, and if the person has
544 failed to supervise more than one (1) individual at a time during
545 the twelve (12) consecutive months' time period, then it shall be
546 a separate violation of this subsection for each individual that
547 the person failed to supervise during the applicable time period;

548 (3) Has been convicted of a felony or within the
549 previous ten (10) years has been convicted of a misdemeanor
550 involving a security, a commodity future or option contract, or an
551 aspect of a business involving securities, commodities,
552 investments, franchises, insurance, banking, or finance;

553 (4) Is enjoined or restrained by a court of competent
554 jurisdiction in an action instituted by the administrator under
555 this chapter or the predecessor act, a state, the Securities and
556 Exchange Commission, or the United States from engaging in or
557 continuing an act, practice, or course of business involving an
558 aspect of a business involving securities, commodities,
559 investments, franchises, insurance, banking, or finance;

560 (5) Is the subject of an order, issued after notice and
561 opportunity for hearing by:

562 (A) The securities or other financial services
563 regulator of a state or the Securities and Exchange Commission or
564 other federal agency denying, revoking, barring, or suspending



565 registration as a broker-dealer, agent, investment adviser,
566 federal covered investment adviser, or investment adviser
567 representative;

568 (B) The securities regulator of a state or the
569 Securities and Exchange Commission against a broker-dealer, agent,
570 investment adviser, investment adviser representative, or federal
571 covered investment adviser;

572 (C) The Securities and Exchange Commission or a
573 self-regulatory organization suspending or expelling the
574 registrant from membership in the self-regulatory organization;

575 (D) A court adjudicating a United States Postal
576 Service fraud order;

577 (E) The insurance regulator of a state denying,
578 suspending, or revoking registration as an insurance agent; or

579 (F) A depository institution or financial services
580 regulator suspending or barring the person from the depository
581 institution or other financial services business;

582 (6) Is the subject of an adjudication or determination,
583 after notice and opportunity for hearing, by the Securities and
584 Exchange Commission, the Commodity Futures Trading Commission; the
585 Federal Trade Commission; a federal depository institution
586 regulator, or a depository institution, insurance, or other
587 financial services regulator of a state that the person willfully
588 violated the Securities Act of 1933, the Securities Exchange Act
589 of 1934, the Investment Advisers Act of 1940, the Investment



590 Company Act of 1940, or the Commodity Exchange Act, the securities
591 or commodities law of a state, or a federal or state law under
592 which a business involving investments, franchises, insurance,
593 banking, or finance is regulated;

594 (7) Is insolvent, either because the person's
595 liabilities exceed the person's assets or because the person
596 cannot meet the person's obligations as they mature, but the
597 administrator may not enter an order against an applicant or
598 registrant under this subsection (d) without a finding of
599 insolvency as to the applicant or registrant;

600 (8) Refuses to allow or otherwise impedes the
601 administrator from conducting an audit or inspection under Section
602 75-71-411(d) or refuses access to a registrant's office to conduct
603 an audit or inspection under Section 75-71-411(d);

604 (9) Has failed to reasonably supervise an agent,
605 investment adviser representative, or other individual, if the
606 agent, investment adviser representative, or other individual was
607 subject to the person's supervision and committed a violation of
608 this chapter or the predecessor act or a rule adopted or order
609 issued under this chapter or the predecessor act within the
610 previous fifteen (15) years;

611 (10) Has not paid the proper filing fee within thirty
612 (30) days after having been notified by the administrator of a
613 deficiency, but the administrator shall vacate an order under this
614 subsection (d) when the deficiency is corrected;



615 (11) After notice and opportunity for a hearing, has
616 been found within the previous ten (10) years:

617 (A) By a court of competent jurisdiction to have
618 willfully violated the laws of a foreign jurisdiction under which
619 the business of securities, commodities, investment, franchises,
620 insurance, banking, or finance is regulated;

621 (B) To have been the subject of an order of a
622 securities regulator of a foreign jurisdiction denying, revoking,
623 or suspending the right to engage in the business of securities as
624 a broker-dealer, agent, investment adviser, investment adviser
625 representative, or similar person; or

626 (C) To have been suspended or expelled from
627 membership by or participation in a securities exchange or
628 securities association operating under the securities laws of a
629 foreign jurisdiction;

630 (12) Is the subject of a cease and desist order issued
631 by the Securities and Exchange Commission or issued under the
632 securities, commodities, investment, franchise, banking, finance,
633 or insurance laws of a state;

634 (13) Has engaged in dishonest or unethical practices in
635 the securities, commodities, investment, franchise, banking,
636 finance, or insurance business within the previous ten (10) years;
637 or

638 (14) Is not qualified on the basis of factors such as
639 training, experience, and knowledge of the securities business.



640 However, in the case of an application by an agent for a
641 broker-dealer that is a member of a self-regulatory organization
642 or by an individual for registration as an investment adviser
643 representative, a denial order may not be based on this subsection
644 if the individual has successfully completed all examinations
645 required by subsection (e). The administrator may require an
646 applicant for registration under Section 75-71-402 or 75-71-404
647 who has not been registered in a state within the two (2) years
648 preceding the filing of an application in this state to
649 successfully complete an examination.

650 (e) **Examinations.** A rule adopted or order issued under this
651 chapter may require that an examination, including an examination
652 developed or approved by an organization of securities regulators,
653 be successfully completed by a class of individuals or all
654 individuals. An order issued under this chapter may waive, in
655 whole or in part, an examination as to an individual and a rule
656 adopted under this chapter may waive, in whole or in part, an
657 examination as to a class of individuals if the administrator
658 determines that the examination is not necessary or appropriate in
659 the public interest and for the protection of investors.

660 (f) **Summary process.** The administrator may suspend or deny
661 an application summarily; restrict, condition, limit, or suspend a
662 registration; or censure, bar, or impose a civil penalty on a
663 registrant before final determination of an administrative
664 proceeding. Upon the issuance of an order, the administrator



665 shall promptly notify each person subject to the order that the
666 order has been issued, the reasons for the action, and that within
667 fifteen (15) days after the receipt of a request in a record from
668 the person the matter will be scheduled for a hearing. If a
669 hearing is not requested and none is ordered by the administrator
670 within thirty (30) days after the date of service of the order,
671 the order becomes final by operation of law. If a hearing is
672 requested or ordered, the administrator, after notice of and
673 opportunity for hearing to each person subject to the order, may
674 modify or vacate the order or extend the order until final
675 determination.

676 (g) **Procedural requirements.** An order issued may not be
677 issued under this section, except under subsection (f), without:
678 (1) Appropriate notice to the applicant or registrant;
679 (2) Opportunity for hearing; and
680 (3) Findings of fact and conclusions of law in a record
681 in accordance with the administrative hearing procedures set forth
682 in the rules.

683 (h) **Control person liability.** A person that controls,
684 directly or indirectly, a person not in compliance with this
685 section may be disciplined by order of the administrator under
686 subsections (a) through (c) to the same extent as the noncomplying
687 person, unless the controlling person did not know, and in the
688 exercise of reasonable care could not have known, of the existence
689 of conduct that is a ground for discipline under this section.



690 (i) **Limit on investigation or proceeding.** The administrator
691 may not institute a proceeding under subsection (a), (b), or (c)
692 based solely on material facts actually known by the administrator
693 unless an investigation or the proceeding is instituted within one
694 (1) year after the administrator actually acquires knowledge of
695 the material facts.

696 (j) If the Secretary of State has reason to believe a person
697 is engaged in or is about to engage in any activity which would be
698 subject to the provisions of Section 1 of this act, but for an
699 exemption asserted under Section 75-15-7, and the Secretary of
700 State has reason to believe the requirements of Section 75-15-7
701 have not been met, the Secretary of State may issue an order to
702 show cause why an order to cease and desist the activity should
703 not be issued.

704 **SECTION 5.** Section 75-71-201, Mississippi Code of 1972, is
705 brought forward as follows:

706 75-71-201. **Exempt securities.** The following securities are
707 exempt from the requirements of Sections 75-71-301 through
708 75-71-306 and 75-71-504:

709 (1) A security, including a revenue obligation or a
710 separate security as defined in Rule 131 (17 CFR 230.131) adopted
711 under the Securities Act of 1933, issued, insured, or guaranteed
712 by the United States; a state; a political subdivision of a state;
713 a public authority, agency, or instrumentality of one or more
714 states; a political subdivision of one or more states; or a person



715 controlled or supervised by and acting as an instrumentality of
716 the United States under authority granted by the Congress; or a
717 certificate of deposit for any of the foregoing;

718 (2) A security issued, insured, or guaranteed by a
719 foreign government with which the United States maintains
720 diplomatic relations, or any of its political subdivisions, if the
721 security is recognized as a valid obligation by the issuer,
722 insurer, or guarantor;

723 (3) A security issued by and representing or that will
724 represent an interest in or a direct obligation of, or be
725 guaranteed by:

726 (A) An international banking institution;

727 (B) A banking institution organized under the laws
728 of the United States; a member bank of the Federal Reserve System;
729 or a depository institution a substantial portion of the business
730 of which consists or will consist of receiving deposits or share
731 accounts that are insured to the maximum amount authorized by
732 statute by the Federal Deposit Insurance Corporation, the National
733 Credit Union Share Insurance Fund, or a successor authorized by
734 federal law or exercising fiduciary powers that are similar to
735 those permitted for national banks under the authority of the
736 Comptroller of Currency pursuant to Section 1 of Public Law 87-722
737 (12 USC Section 92a); or

738 (C) Any other depository institution, unless by
739 rule or order the administrator proceeds under Section 75-71-204;



740 (4) A security issued by and representing an interest
741 in, or a debt of, or insured or guaranteed by, an insurance
742 company authorized to do business in this state;

743 (5) A security issued or guaranteed by a railroad,
744 other common carrier, public utility, or public utility holding
745 company that is:

746 (A) Regulated in respect to its rates and charges
747 by the United States or a state;

748 (B) Regulated in respect to the issuance or
749 guarantee of the security by the United States, a state, Canada,
750 or a Canadian province or territory; or

751 (C) A public utility holding company registered
752 under the Public Utility Holding Company Act of 1935 or a
753 subsidiary of such a registered holding company within the meaning
754 of that act;

755 (6) A federal covered security specified in Section
756 18(b)(1) of the Securities Act of 1933 (15 USC Section 77r(b)(1))
757 or by rule adopted under that provision or a security listed or
758 approved for listing on another securities market specified by
759 rule under this chapter; a put or a call option contract; a
760 warrant; a subscription right on or with respect to such
761 securities; or an option or similar derivative security on a
762 security or an index of securities or foreign currencies issued by
763 a clearing agency registered under the Securities Exchange Act of
764 1934 and listed or designated for trading on a national securities



765 exchange, a facility of a national securities exchange, or a
766 facility of a national securities association registered under the
767 Securities Exchange Act of 1934 or an offer or sale, of the
768 underlying security in connection with the offer, sale, or
769 exercise of an option or other security that was exempt when the
770 option or other security was written or issued; or an option or a
771 derivative security designated by the Securities and Exchange
772 Commission under Section 9(b) of the Securities Exchange Act of
773 1934 (15 USC Section 78i(b));

774 (7) A security issued by a person organized and
775 operated exclusively for religious, educational, benevolent,
776 fraternal, charitable, social, athletic, or reformatory purposes,
777 or as a chamber of commerce, and not for pecuniary profit, no part
778 of the net earnings of which inures to the benefit of a private
779 stockholder or other person, or a security of a company that is
780 excluded from the definition of an investment company under
781 Section 3(c)(10)(B) of the Investment Company Act of 1940 (15 USC
782 Section 80a-3(c)(10)(B)); except that with respect to the offer or
783 sale of a note, bond, debenture, or other evidence of indebtedness
784 issued by such a person, a rule may be adopted under this chapter
785 limiting the availability of this exemption by classifying
786 securities, persons, and transactions, imposing different
787 requirements for different classes, specifying with respect to (B)
788 the scope of the exemption and the grounds for denial or
789 suspension, and requiring an issuer:



790 (A) To file a notice specifying the material terms
791 of the proposed offer or sale and copies of any proposed sales and
792 advertising literature to be used and provide that the exemption
793 becomes effective if the administrator does not disallow the
794 exemption within the period established by the rule;

795 (B) To file a request for exemption authorization
796 for which a rule under this chapter may specify the scope of the
797 exemption, the requirement of an offering statement, the filing of
798 sales and advertising literature, the filing of consent to service
799 of process complying with Section 75-71-611, and grounds for
800 denial or suspension of the exemption; or

801 (C) To register under Section 75-71-304;

802 (8) A member's or owner's interest in, or a retention
803 certificate or like security given in lieu of a cash patronage
804 dividend issued by, a cooperative organized and operated as a
805 nonprofit membership cooperative under the cooperative laws of a
806 state, but not a member's or owner's interest, retention
807 certificate, or like security sold to persons other than bona fide
808 members of the cooperative;

809 (9) An equipment trust certificate with respect to
810 equipment leased or conditionally sold to a person, if any
811 security issued by the person would be exempt under this section
812 or would be a federal covered security under Section 18(b)(1) of
813 the Securities Act of 1933 (15 USC Section 77r(b)(1)); and



814 (10) Any oil, gas or mineral lease, working interest,
815 mineral interest or mineral estate, royalty interest or royalty
816 estate, overriding royalty, or an oil payment or net profit
817 interest, regardless of how said interests may be created,
818 provided any vested estate in any working interest shall not be
819 less than one-two-hundredth (1/200) of the whole working interest,
820 and any mineral lease and royalty sales made in exchange for
821 labor, material and machinery used in drilling an oil or gas well.

822 **SECTION 6.** Section 75-71-202, Mississippi Code of 1972, is
823 brought forward as follows:

824 75-71-202. **Exempt transactions.** The following transactions
825 are exempt from the requirements of Sections 75-71-301 through
826 75-71-306 and 75-71-504. The transactions listed below are
827 self-actuating, are not conditioned by rule and require no
828 pre-approval of the administrator, unless otherwise indicated
829 below:

830 (1) An isolated nonissuer transaction, whether effected
831 by or through a broker-dealer or not;

832 (2) A nonissuer transaction by or through a
833 broker-dealer registered, or exempt from registration under this
834 chapter, and a resale transaction by a sponsor of a unit
835 investment trust registered under the Investment Company Act of
836 1940, in a security of a class that has been outstanding in the
837 hands of the public for at least ninety (90) days, if, at the date
838 of the transaction:



839 (A) The issuer of the security is engaged in
840 business, the issuer is not in the organizational stage or in
841 bankruptcy or receivership, and the issuer is not a blank check,
842 blind pool, or shell company that has no specific business plan or
843 purpose or has indicated that its primary business plan is to
844 engage in a merger or combination of the business with, or an
845 acquisition of, an unidentified person;

846 (B) The security is sold at a price reasonably
847 related to its current market price;

848 (C) The security does not constitute the whole or
849 part of an unsold allotment to, or a subscription or participation
850 by, the broker-dealer as an underwriter of the security or a
851 redistribution;

852 (D) A nationally recognized securities manual or
853 its electronic equivalent designated by rule adopted or order
854 issued under this chapter or a record filed with the Securities
855 and Exchange Commission that is publicly available contains:

856 (i) A description of the business and
857 operations of the issuer;

858 (ii) The names of the issuer's executive
859 officers and the names of the issuer's directors, if any;

860 (iii) An audited balance sheet of the issuer
861 as of a date within eighteen (18) months before the date of the
862 transaction or, in the case of a reorganization or merger when the
863 parties to the reorganization or merger each had an audited



864 balance sheet, a pro forma balance sheet for the combined
865 organization; and

866 (iv) An audited income statement for each of
867 the issuer's two (2) immediately previous fiscal years or for the
868 period of existence of the issuer, whichever is shorter, or, in
869 the case of a reorganization or merger when each party to the
870 reorganization or merger had audited income statements, a pro
871 forma income statement; and

872 (E) Any one (1) of the following requirements is
873 met:

874 (i) The issuer of the security has a class of
875 equity securities listed on a national securities exchange
876 registered under Section 6 of the Securities Exchange Act of 1934
877 or designated for trading on the National Association of
878 Securities Dealers Automated Quotation System;

879 (ii) The issuer of the security is a unit
880 investment trust registered under the Investment Company Act of
881 1940;

882 (iii) The issuer of the security, including
883 its predecessors, has been engaged in continuous business for at
884 least three (3) years; or

885 (iv) The issuer of the security has total
886 assets of at least Two Million Dollars (\$2,000,000.00) based on an
887 audited balance sheet as of a date within eighteen (18) months
888 before the date of the transaction or, in the case of a



889 reorganization or merger when the parties to the reorganization or
890 merger each had such an audited balance sheet, a pro forma balance
891 sheet for the combined organization;

892 (3) A nonissuer transaction by or through a
893 broker-dealer registered or exempt from registration under this
894 chapter in a security of a foreign issuer that is a margin
895 security defined in regulations or rules adopted by the Board of
896 Governors of the Federal Reserve System;

897 (4) A nonissuer transaction by or through a
898 broker-dealer registered or exempt from registration under this
899 chapter in an outstanding security if the guarantor of the
900 security files reports with the Securities and Exchange Commission
901 under the reporting requirements of Section 13 or 15(d) of the
902 Securities Exchange Act of 1934 (15 USC 78m or 78o(d));

903 (5) A nonissuer transaction by or through a
904 broker-dealer registered or exempt from registration under this
905 chapter in a security that:

906 (A) Is rated at the time of the transaction by a
907 nationally recognized statistical rating organization in one (1)
908 of its four (4) highest rating categories; or

909 (B) Has a fixed maturity or a fixed interest or
910 dividend, if:

911 (i) A default has not occurred during the
912 current fiscal year or within the three (3) previous fiscal years
913 or during the existence of the issuer and any predecessor if less



914 than three (3) fiscal years, in the payment of principal,
915 interest, or dividends on the security; and

916 (ii) The issuer is engaged in business, is
917 not in the organizational stage or in bankruptcy or receivership,
918 and is not and has not been within the previous twelve (12) months
919 a blank check, blind pool, or shell company that has no specific
920 business plan or purpose or has indicated that its primary
921 business plan is to engage in a merger or combination of the
922 business with, or an acquisition of, an unidentified person;

923 (6) A nonissuer transaction by or through a
924 broker-dealer registered or exempt from registration under this
925 chapter effecting an unsolicited order or offer to purchase;

926 (7) A nonissuer transaction executed by a bona fide
927 pledgee without the purpose of evading this chapter;

928 (8) A nonissuer transaction by a federal covered
929 investment adviser with investments under management in excess of
930 One Hundred Million Dollars (\$100,000,000.00) acting in the
931 exercise of discretionary authority in a signed record for the
932 account of others;

933 (9) The following transaction requires approval of the
934 administrator: a transaction in a security, whether or not the
935 security or transaction is otherwise exempt, in exchange for one
936 or more bona fide outstanding securities, claims, or property
937 interests, or partly in such exchange and partly for cash, if the
938 terms and conditions of the issuance and exchange or the delivery



939 and exchange and the fairness of the terms and conditions have
940 been approved by the administrator after a hearing;

941 (10) A transaction between the issuer or other person
942 on whose behalf the offering is made and an underwriter, or among
943 underwriters;

944 (11) A transaction in a note, bond, debenture, or other
945 evidence of indebtedness secured by a mortgage or other security
946 agreement if:

947 (A) The note, bond, debenture, or other evidence
948 of indebtedness is offered and sold with the mortgage or other
949 security agreement as a unit;

950 (B) A general solicitation or general
951 advertisement of the transaction is not made; and

952 (C) A commission or other remuneration is not paid
953 or given, directly or indirectly, to a person not registered under
954 this chapter as a broker-dealer or as an agent;

955 (12) A transaction by an executor, administrator of an
956 estate, sheriff, marshal, receiver, trustee in bankruptcy,
957 guardian, or conservator;

958 (13) A sale or offer to sell to:

959 (A) An institutional investor;

960 (B) A federal covered investment adviser; or

961 (C) Any other person exempted by rule adopted or
962 order issued under this chapter;



963 (14) A sale or offer to sell securities by or on behalf
964 of an issuer, if the transaction is part of a single issue in
965 which:

966 (A) Not more than ten (10) purchasers are present
967 in this state during any twelve (12) consecutive months, other
968 than those designated in paragraph (13);

969 (B) A general solicitation or general advertising
970 is not made in connection with the offer to sell or sale of the
971 securities;

972 (C) A commission or other remuneration is not paid
973 or given, directly or indirectly, to a person other than a
974 broker-dealer registered under this chapter or an agent registered
975 under this chapter for soliciting a prospective purchaser in this
976 state; and

977 (D) The issuer reasonably believes that all the
978 purchasers in this state, other than those designated in paragraph
979 (13), are purchasing for investment;

980 (15) A transaction under an offer to existing security
981 holders of the issuer, including persons that at the date of the
982 transaction are holders of convertible securities, options, or
983 warrants, if a commission or other remuneration, other than a
984 standby commission, is not paid or given, directly or indirectly,
985 for soliciting a security holder in this state;

986 (16) An offer to sell, but not a sale, of a security
987 not exempt from registration under the Securities Act of 1933 if:



988 (A) A registration or offering statement or
989 similar record as required under the Securities Act of 1933 has
990 been filed, but is not effective, or the offer is made in
991 compliance with Rule 165 adopted under the Securities Act of 1933
992 (17 CFR 230.165); and

993 (B) A stop order of which the offeror is aware has
994 not been issued against the offeror by the administrator or the
995 Securities and Exchange Commission, and an audit, inspection, or
996 proceeding that is public and that may culminate in a stop order
997 is not known by the offeror to be pending;

998 (17) An offer to sell, but not a sale, of a security
999 exempt from registration under the Securities Act of 1933 if:

1000 (A) A registration statement has been filed under
1001 this chapter, but is not effective;

1002 (B) A solicitation of interest is provided in a
1003 record to offerees in compliance with a rule adopted by the
1004 administrator under this chapter; and

1005 (C) A stop order of which the offeror is aware has
1006 not been issued by the administrator under this chapter and an
1007 audit, inspection, or proceeding that may culminate in a stop
1008 order is not known by the offeror to be pending;

1009 (18) A transaction involving the distribution of the
1010 securities of an issuer to the security holders of another person
1011 in connection with a merger, consolidation, exchange of
1012 securities, sale of assets, or other reorganization to which the



1013 issuer, or its parent or subsidiary and the other person, or its
1014 parent or subsidiary, are parties;

1015 (19) A rescission offer, sale, or purchase under
1016 Section 75-71-510;

1017 (20) An offer or sale of a security to a person not a
1018 resident of this state and not present in this state if the offer
1019 or sale does not constitute a violation of the laws of the state
1020 or foreign jurisdiction in which the offeree or purchaser is
1021 present and is not part of an unlawful plan or scheme to evade
1022 this chapter;

1023 (21) Employees' stock purchase, savings, option,
1024 profit-sharing, pension, or similar employees' benefit plan,
1025 including any securities, plan interests, and guarantees issued
1026 under a compensatory benefit plan or compensation contract,
1027 contained in a record, established by the issuer, its parents, its
1028 majority-owned subsidiaries, or the majority-owned subsidiaries of
1029 the issuer's parent for the participation of their employees
1030 including offers or sales of such securities to:

1031 (A) Directors; general partners; trustees, if the
1032 issuer is a business trust; officers; consultants; and advisors;

1033 (B) Family members who acquire such securities
1034 from those persons through gifts or domestic relations orders;

1035 (C) Former employees, directors, general partners,
1036 trustees, if the issuer is a business trust, officers,
1037 consultants, and advisors if those individuals were employed by or



1038 providing services to the issuer when the securities were offered;
1039 and

1040 (D) Insurance agents who are exclusive insurance
1041 agents of the issuer, or the issuer's subsidiaries or parents, or
1042 who derive more than fifty percent (50%) of their annual income
1043 from those organizations;

1044 (22) A transaction involving:

1045 (A) A stock dividend or equivalent equity
1046 distribution, whether the corporation or other business
1047 organization distributing the dividend or equivalent equity
1048 distribution is the issuer or not, if nothing of value is given by
1049 stockholders or other equity holders for the dividend or
1050 equivalent equity distribution other than the surrender of a right
1051 to a cash or property dividend if each stockholder or other equity
1052 holder may elect to take the dividend or equivalent equity
1053 distribution in cash, property, or stock;

1054 (B) An act incident to a judicially approved
1055 reorganization in which a security is issued in exchange for one
1056 or more outstanding securities, claims, or property interests, or
1057 partly in such exchange and partly for cash; or

1058 (C) The solicitation of tenders of securities by
1059 an offeror in a tender offer in compliance with Rule 162 adopted
1060 under the Securities Act of 1933 (17 CFR 230.162); or

1061 (23) A nonissuer transaction in an outstanding security
1062 by or through a broker-dealer registered or exempt from



1063 registration under this chapter, if the issuer is a reporting
1064 issuer in a foreign jurisdiction designated by this paragraph or
1065 by rule adopted or order issued under this chapter; has been
1066 subject to continuous reporting requirements in the foreign
1067 jurisdiction for not less than one hundred eighty (180) days
1068 before the transaction; and the security is listed on the foreign
1069 jurisdiction's securities exchange that has been designated by
1070 this paragraph or by rule adopted or order issued under this
1071 chapter, or is a security of the same issuer that is of senior or
1072 substantially equal rank to the listed security or is a warrant or
1073 right to purchase or subscribe to any of the foregoing. For
1074 purposes of this paragraph, Canada, together with its provinces
1075 and territories, is a designated foreign jurisdiction and The
1076 Toronto Stock Exchange, Inc., is a designated securities exchange.
1077 After an administrative hearing in compliance with Section
1078 75-71-604, the administrator, by rule adopted or order issued
1079 under this chapter, may revoke the designation of a securities
1080 exchange under this paragraph, if the administrator finds that
1081 revocation is necessary or appropriate in the public interest and
1082 for the protection of investors.

1083 **SECTION 7.** Section 75-71-203, Mississippi Code of 1972, is
1084 brought forward as follows:

1085 75-71-203. **Additional exemptions and waivers.** A rule
1086 adopted or order issued under this chapter may exempt a security,
1087 transaction, or offer; a rule under this chapter may exempt a



1088 class of securities, transactions, or offers from any or all of
1089 the requirements of Sections 75-71-301 through 75-71-306 and
1090 75-71-504; and an order under this chapter may waive, in whole or
1091 in part, any or all of the conditions for an exemption or offer
1092 under Sections 75-71-201 and 75-71-202.

1093 **SECTION 8.** Section 75-71-204, Mississippi Code of 1972, is
1094 brought forward as follows:

1095 75-71-204. **Denial, suspension, revocation, condition, or**
1096 **limitation of exemptions. (a) Enforcement related powers.**

1097 Except with respect to a federal covered security or a transaction
1098 involving a federal covered security, an order under this chapter
1099 may deny, suspend application of, condition, limit, or revoke an
1100 exemption created under Section 75-71-201(3)(C), Section
1101 75-71-201(7) or Section 75-71-201 (8) or Section 75-71-202 or an
1102 exemption or waiver created under Section 75-71-203 with respect
1103 to a specific security, transaction, or offer. An order under
1104 this section may be issued only pursuant to the procedures in
1105 Section 75-71-306 or Section 75-71-604 and only prospectively.

1106 (b) **Knowledge of order required.** A person does not violate
1107 Section 75-71-301, Sections 75-71-303 through 75-71-306, Section
1108 75-71-504, or Section 75-71-510 by an offer to sell, offer to
1109 purchase, sale, or purchase effected after the entry of an order
1110 issued under this section if the person did not know, and in the
1111 exercise of reasonable care could not have known, of the order.



1112 **SECTION 9.** Section 75-71-401, Mississippi Code of 1972, is
1113 brought forward as follows:

1114 75-71-401. **Broker-dealer registration requirement and**
1115 **exemptions.** (a) **Registration requirement.** It is unlawful for a
1116 person to transact business in this state as a broker-dealer
1117 unless the person is registered under this chapter as a
1118 broker-dealer or is exempt from registration as a broker-dealer
1119 under subsection (b) or (d).

1120 (b) **Exemptions from registration.** The following persons are
1121 exempt from the registration requirement of subsection (a):

1122 (1) A broker-dealer without a place of business in this
1123 state if its only transactions effected in this state are with:

1124 (A) The issuer of the securities involved in the
1125 transactions;

1126 (B) A broker-dealer registered as a broker-dealer
1127 under this chapter or not required to be registered as a
1128 broker-dealer under this chapter;

1129 (C) An institutional investor;

1130 (D) A nonaffiliated federal covered investment
1131 adviser with investments under management in excess of One Hundred
1132 Million Dollars (\$100,000,000.00) acting for the account of others
1133 pursuant to discretionary authority in a signed record;

1134 (E) A bona fide preexisting customer whose
1135 principal place of residence is not in this state and the person
1136 is registered as a broker-dealer under the Securities Exchange Act



1137 of 1934 or not required to be registered under the Securities
1138 Exchange Act of 1934 and is registered under the securities act of
1139 the state in which the customer maintains a principal place of
1140 residence;

1141 (F) A bona fide preexisting customer whose
1142 principal place of residence is in this state but was not present
1143 in this state when the customer relationship was established, if:

1144 (i) The broker-dealer is registered under the
1145 Securities Exchange Act of 1934 or not required to be registered
1146 under the Securities Exchange Act of 1934 and is registered under
1147 the securities laws of the state in which the customer
1148 relationship was established and where the customer had maintained
1149 a principal place of residence; and

1150 (ii) Within forty-five (45) days after the
1151 customer's first transaction in this state, the person files an
1152 application for registration as a broker-dealer in this state and
1153 a further transaction is not effected more than seventy-five (75)
1154 days after the date on which the application is filed, or, if
1155 earlier, the date on which the administrator notifies the person
1156 that the administrator has denied the application for registration
1157 or has stayed the pendency of the application for good cause;

1158 (G) Not more than three (3) customers in this
1159 state during the previous twelve (12) months, in addition to those
1160 customers specified in subparagraphs (A) through (F) and under
1161 subparagraph (H), if the broker-dealer is registered under the



1162 Securities Exchange Act of 1934 or not required to be registered
1163 under the Securities Exchange Act of 1934 and is registered under
1164 the securities act of the state in which the broker-dealer has its
1165 principal place of business; and

1166 (H) Any other person exempted by rule adopted or
1167 order issued under this chapter;

1168 (2) A person that deals solely in United States
1169 government securities and is supervised as a dealer in government
1170 securities by the Board of Governors of the Federal Reserve
1171 System, the Comptroller of the Currency, the Federal Deposit
1172 Insurance Corporation, or the Office of Thrift Supervision.

1173 (c) **Limits on employment or association.** It is unlawful for
1174 a broker-dealer, or for an issuer engaged in offering, offering to
1175 purchase, purchasing, or selling securities in this state,
1176 directly or indirectly, to employ or associate with an individual
1177 to engage in an activity related to securities transactions in
1178 this state if the registration of the individual is suspended or
1179 revoked or the individual is barred from employment or association
1180 with a broker-dealer, an issuer, an investment adviser, or a
1181 federal covered investment adviser by an order of the
1182 administrator under this chapter, the Securities and Exchange
1183 Commission, or a self-regulatory organization. A broker-dealer or
1184 issuer does not violate this subsection if the broker-dealer or
1185 issuer did not know and in the exercise of reasonable care could
1186 not have known, of the suspension, revocation, or bar. Upon



1187 request from a broker-dealer or issuer and for good cause, an
1188 order under this chapter may modify or waive, in whole or in part,
1189 the application of the prohibitions of this subsection to the
1190 broker-dealer.

1191 (d) **Foreign transactions.** A rule adopted or order issued
1192 under this chapter may permit:

1193 (1) A broker-dealer that is registered in Canada or
1194 other foreign jurisdiction and that does not have a place of
1195 business in this state to effect transactions in securities with
1196 or for, or attempt to effect the purchase or sale of any
1197 securities by:

1198 (A) An individual from Canada or other foreign
1199 jurisdiction who is temporarily present in this state and with
1200 whom the broker-dealer had a bona fide customer relationship
1201 before the individual entered the United States;

1202 (B) An individual from Canada or other foreign
1203 jurisdiction who is present in this state and whose transactions
1204 are in a self-directed tax advantaged retirement plan of which the
1205 individual is the holder or contributor in that foreign
1206 jurisdiction; or

1207 (C) An individual who is present in this state,
1208 with whom the broker-dealer customer relationship arose while the
1209 individual was temporarily or permanently resident in Canada or
1210 the other foreign jurisdiction; and



1211 (2) An agent who represents a broker-dealer that is
1212 exempt under this subsection (d) to effect transactions in
1213 securities or attempt to effect the purchase or sale of securities
1214 in this state as permitted for a broker-dealer described in
1215 paragraph (1).

1216 **SECTION 10.** This act shall take effect and be in force from
1217 and after July 1, 2023.

