

By: Representative Steverson

To: Banking and Financial Services

HOUSE BILL NO. 1153

1 AN ACT TO AUTHORIZE SECURITY INTERESTS IN DIGITAL ASSETS; TO  
 2 DEFINE CERTAIN TERMS RELATING TO DIGITAL ASSETS; TO CLASSIFY  
 3 DIGITAL ASSETS AS PROPERTY; TO AUTHORIZE BANKS TO PROVIDE  
 4 CUSTODIAL SERVICES FOR DIGITAL ASSET PROPERTY; TO BRING FORWARD  
 5 SECTIONS 75-71-102, 75-71-103, 75-71-104, 75-71-105, 75-71-201,  
 6 75-71-202, 75-71-203, 75-71-204, 75-71-301, 75-71-302, 75-71-303,  
 7 75-71-304, 75-71-305, 75-71-306, 75-71-307, 75-71-310, 75-71-401,  
 8 75-71-402, 75-71-403, 75-71-404, 75-71-405, 75-71-406, 75-71-407,  
 9 75-71-408, 75-71-409, 75-71-410, 75-71-411, 75-71-412, 75-71-413,  
 10 75-71-501, 75-71-502, 75-71-503, 75-71-504, 75-71-505, 75-71-506,  
 11 75-71-507, 75-71-508, 75-71-509, 75-71-510, 75-71-601, 75-71-602,  
 12 75-71-603, 75-71-604, 75-71-605, 75-71-606, 75-71-607, 75-71-608,  
 13 75-71-609, 75-71-610, 75-71-611, 75-71-612, 75-71-613, 75-71-701,  
 14 75-15-3, 75-15-5, 75-15-7, 75-15-9, 75-15-11, 75-15-12, 75-15-13,  
 15 75-15-15, 75-15-17, 75-15-19, 75-15-21, 75-15-23, 75-15-25,  
 16 75-15-27, 75-15-29, 75-15-31, 75-15-32, 75-15-33 AND 75-15-35,  
 17 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI  
 18 SECURITIES ACT AND THE MISSISSIPPI MONEY TRANSMITTERS ACT; FOR  
 19 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** (1) For purposes of this act, the following  
 22 words and phrases shall have the following meanings, unless  
 23 context clearly indicates otherwise:

24 (a) "Digital asset" means a representation of economic,  
 25 proprietary or access rights that is stored in a computer readable



26 format, and includes digital consumer assets, digital securities  
27 and virtual currency;

28 (b) "Digital consumer asset" means a digital asset that  
29 is used or bought primarily for consumptive, personal or household  
30 purposes and includes:

31 (i) An open blockchain token constituting  
32 intangible personal property as otherwise provided by law;

33 (ii) Any other digital asset which does not fall  
34 within paragraphs (c) and (d) of this subsection.

35 (c) "Digital security" means a digital asset which  
36 constitutes a security, but shall exclude digital consumer assets  
37 and virtual currency;

38 (d) "Virtual currency" means a digital asset that is:

39 (i) Used as a medium of exchange, unit of account  
40 or store of value; and

41 (ii) Not recognized as legal tender by the United  
42 States government.

43 (2) The terms in paragraphs (a) (ii) through (iv) of this  
44 section are mutually exclusive.

45 **SECTION 2.** (1) Digital assets are classified in the  
46 following manner:

47 (a) Digital consumer assets are intangible personal  
48 property and shall be considered general intangibles, only for the  
49 purposes of the Uniform Commercial Code, Title 75, Mississippi  
50 Code of 1972;



51 (b) Digital securities are intangible personal property  
52 and shall be considered as securities and investment property,  
53 only for the purposes of the Uniform Commercial Code, Title 75,  
54 Mississippi Code of 1972;

55 (c) Virtual currency is intangible personal property  
56 and shall be considered money, notwithstanding any other provision  
57 of law to the contrary, only for the purposes of the Uniform  
58 Commercial Code, Title 75, Mississippi Code of 1972;

59 (2) A digital asset may be treated as a financial asset,  
60 pursuant to a written agreement with the owner of the digital  
61 asset. If treated as a financial asset, the digital asset shall  
62 remain intangible personal property.

63 (3) Classification of digital assets under this section  
64 shall be construed in a manner to give the greatest effect to this  
65 chapter, but shall not be construed to apply to any other asset.

66 **SECTION 3.** (1) Notwithstanding any other provision of law  
67 to the contrary, as otherwise applied to general intangibles or  
68 any other provision of law, perfection of a security interest in a  
69 digital asset may be achieved through control, as defined in  
70 subsection (5) (a) of this section.

71 A security interest held by a secured party having control of  
72 a digital asset has priority over a security interest held by a  
73 secured party that does not have control of the asset.

74 (2) Before a secured party may take control of a digital  
75 asset under this section, the secured party shall enter into a



76 control agreement with the debtor. A control agreement may also  
77 set forth the terms under which a secured party may pledge its  
78 security interest in the digital asset as collateral for another  
79 transaction.

80 (3) A secured party may file a financing statement with the  
81 Secretary of State, including to perfect a security interest in  
82 proceeds from a digital asset.

83 (4) Notwithstanding any other provision of law to the  
84 contrary, including the Uniform Commercial Code, Title 75,  
85 Mississippi Code of 1972, a transferee takes a digital asset free  
86 of any security interest two (2) years after the transferee takes  
87 the asset for value and does not have actual notice of an adverse  
88 claim. This subsection only applies to a security interest  
89 perfected by a method other than control.

90 (5) As used in this section:

91 (a) Consistent with subsection (6) of this section, the  
92 term "control" means the following:

93 (i) A secured party, or an agent, custodian,  
94 fiduciary or trustee of the party, has the exclusive legal  
95 authority to conduct a transaction relating to a digital asset,  
96 including by means of a private key or the use of a  
97 multi-signature arrangement authorized by the secured party;

98 (ii) A smart contract created by a secured party  
99 which has the exclusive legal authority to conduct a transaction  
100 relating to a digital asset. As used in this subparagraph, "smart



101 contract" means an automated transaction, or any substantially  
102 similar analogue, which is comprised of code, script or  
103 programming language that executes the terms of an agreement, and  
104 which may include taking custody of and transferring an asset, or  
105 issuing executable instructions for these actions, based on the  
106 occurrence or nonoccurrence of specified conditions.

107 (b) "Multi-signature arrangement" means a system of  
108 access control relating to a digital asset for the purposes of  
109 preventing unauthorized transactions relating to the asset, in  
110 which two (2) or more private keys are required to conduct a  
111 transaction, or any substantially similar analogue;

112 (c) "Private key" means a unique element of  
113 cryptographic data, or any substantially similar analogue, which  
114 is:

115 (i) Held by a person;

116 (ii) Paired with a unique, publicly available  
117 element of cryptographic data; and

118 (iii) Associated with an algorithm that is  
119 necessary to carry out an encryption or decryption required to  
120 execute a transaction.

121 (6) Perfection by control creates a possessory security  
122 interest and does not require physical possession. For purposes  
123 of this act, a digital asset is located in Mississippi if the  
124 asset is held by a Mississippi custodian, the debtor or secured



125 party is physically located in Mississippi or the debtor or  
126 secured party is incorporated or organized in Mississippi.

127 **SECTION 4.** (1) A bank may provide custodial services  
128 consistent with this section upon providing sixty (60) days  
129 written notice to the commissioner. The provisions of this  
130 section are cumulative and not exclusive as an optional framework  
131 for enhanced supervision of digital asset custody. If a bank  
132 elects to provide custodial services under this section, it shall  
133 comply with all provisions of this section.

134 (2) A bank may serve as a qualified custodian, as specified  
135 by the United States securities and exchange commission in 17 CFR  
136 Section 275.206(4)-2. In performing custodial services under this  
137 section, a bank shall:

138 (a) Implement all accounting, account statement,  
139 internal control, notice and other standards specified by  
140 applicable state or federal law and rules for custodial services;

141 (b) Maintain information technology best practices  
142 relating to digital assets held in custody. The commissioner may  
143 specify required best practices by rule;

144 (c) Fully comply with applicable federal anti-money  
145 laundering, customer identification and beneficial ownership  
146 requirements; and

147 (d) Take other actions necessary to carry out this  
148 section, which may include exercising fiduciary powers similar to



149 those permitted to national banks and ensuring compliance with  
150 federal law governing digital assets classified as commodities.

151 (3) A bank providing custodial services shall enter into an  
152 agreement with an independent public accountant to conduct an  
153 examination conforming to the requirements of 17 CFR Section  
154 275.206(4)-2(a)(4) and (6), at the cost of the bank.

155 The accountant shall transmit the results of the examination  
156 to the commissioner within one hundred twenty (120) days of the  
157 examination and may file the results with the United States  
158 securities and exchange commission as its rules may provide.

159 Material discrepancies in an examination shall be reported to  
160 the commissioner within one (1) day. The commissioner shall  
161 review examination results upon receipt within a reasonable time  
162 and during any regular examination.

163 (4) Digital assets held in custody under this section are  
164 not depository liabilities or assets of the bank. A bank, or a  
165 subsidiary, may register as an investment advisor, investment  
166 company or broker dealer as necessary. A bank shall maintain  
167 control over a digital asset while in custody. A customer shall  
168 elect, pursuant to a written agreement with the bank, one (1) of  
169 the following relationships for each digital asset held in  
170 custody:

171 (a) Custody under a bailment as a nonfungible or  
172 fungible asset. Assets held under this paragraph shall be  
173 strictly segregated from other assets; or



174 (b) Custody under a bailment pursuant to subsection (5)  
175 of this section.

176 (5) If a customer makes an election under subsection (4) (b)  
177 of this section, the bank may, based only on customer  
178 instructions, undertake transactions with the digital asset.

179 A bank maintains control pursuant to subsection (4) of this  
180 section by entering into an agreement with the counterparty to a  
181 transaction which contains a time for return of the asset.

182 The bank shall not be liable for any loss suffered with  
183 respect to a transaction under this subsection, except for  
184 liability consistent with fiduciary and trust powers as a  
185 custodian under this section.

186 (6) A bank and a customer shall agree in writing regarding  
187 the source code version the bank will use for each digital asset,  
188 and the treatment of each asset under the Uniform Commercial Code,  
189 Title 75, Mississippi Code of 1972, if necessary. Any ambiguity  
190 under this subsection shall be resolved in favor of the customer.

191 (7) A bank shall provide clear, written notice to each  
192 customer, and require written acknowledgement, of the following:

193 (a) Prior to the implementation of any updates,  
194 material source code updates relating to digital assets held in  
195 custody, except in emergencies which may include security  
196 vulnerabilities;

197 (b) The heightened risk of loss from transactions under  
198 subsection (5) of this section;





199 (c) That some risk of loss as a pro rata creditor  
200 exists as the result of custody as a fungible asset or custody  
201 under subsection (4) (b) of this section;

202 (d) That custody under subsection (4) (b) of this  
203 section may not result in the digital assets of the customer being  
204 strictly segregated from other customer assets; and

205 (e) That the bank is not liable for losses suffered  
206 under subsection (5) of this section, except for liability  
207 consistent with fiduciary and trust powers as a custodian under  
208 this section.

209 (8) A bank and a customer shall agree in writing to a time  
210 period within which the bank must return a digital asset held in  
211 custody under this section. If a customer makes an election under  
212 subsection (4) (b) of this section, the bank and the customer may  
213 also agree in writing to the form in which the digital asset shall  
214 be returned.

215 (9) All ancillary or subsidiary proceeds relating to digital  
216 assets held in custody under this section shall accrue to the  
217 benefit of the customer, except as specified by a written  
218 agreement with the customer. The bank may elect not to collect  
219 certain ancillary or subsidiary proceeds, as long as the election  
220 is disclosed in writing. A customer who makes an election under  
221 subsection (4) (a) of this section may withdraw the digital asset  
222 in a form that permits the collection of the ancillary or  
223 subsidiary proceeds.



224 (10) A bank shall not authorize or permit rehypothecation of  
225 digital assets under this section. The bank shall not engage in  
226 any activity to use or exercise discretionary authority relating  
227 to a digital asset except based on customer instructions.

228 (11) A bank shall not take any action under this section  
229 which would likely impair the solvency or the safety and soundness  
230 of the bank, as determined by the commissioner after considering  
231 the nature of custodial services customary in the banking  
232 industry.

233 (12) The commissioner may adopt rules to implement this  
234 section.

235 (13) As used in this section:

236 (a) "Bank" means any corporation, excluding national  
237 banks, having a place of business within this state which engages  
238 in banking business, and includes a special purpose depository  
239 institution;

240 (b) "Commissioner" means the Commissioner of Banking;

241 (c) "Custodial services" means the safekeeping and  
242 management of customer currency and digital assets through the  
243 exercise of fiduciary and trust powers under this section as a  
244 custodian, and includes fund administration and the execution of  
245 customer instructions.

246 **SECTION 5.** The courts of Mississippi shall have jurisdiction  
247 to hear claims in both law and equity relating to digital assets,



248 including those arising from this chapter and the Uniform  
249 Commercial Code, Title 75, Mississippi Code of 1972.

250 **SECTION 6.** Section 75-71-102, Mississippi Code of 1972, is  
251 brought forward as follows:

252 75-71-102. **Definitions.** In this chapter, unless the context  
253 otherwise requires:

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

255 (2) "Agent" means an individual, other than a  
256 broker-dealer, who represents a broker-dealer in effecting or  
257 attempting to effect purchases or sales of securities or  
258 represents an issuer in effecting or attempting to effect  
259 purchases or sales of the issuer's securities. The term does not  
260 include an individual excluded by rule adopted or order issued  
261 under this chapter. The term does not include an associated  
262 person of an issuer who is deemed not to be a broker under  
263 Securities and Exchange Commission Rule 3a4-1.

264 (3) "Bank" means:

265 (A) A banking institution organized under the laws  
266 of the United States;

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

268 (C) Any other banking institution, whether  
269 incorporated or not, doing business under the laws of a state or  
270 of the United States, a substantial portion of the business of  
271 which consists of receiving deposits or exercising fiduciary  
272 powers similar to those permitted to be exercised by national



273 banks under the authority of the Comptroller of the Currency  
274 pursuant to Section 1 of Public Law 87-722 (12 USC Section 92a),  
275 and which is supervised and examined by a state or federal agency  
276 having supervision over banks, and which is not operated for the  
277 purpose of evading this chapter; and

278 (D) A receiver, conservator, or other liquidating  
279 agent of any institution or firm included in subparagraph (A), (B)  
280 or (C).

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

285 (A) An agent;

286 (B) An issuer;

287 (C) A bank or savings institution if its  
288 activities as a broker-dealer are limited to those specified in  
289 subsection 3(a)(4)(B)(i) through (vi), (viii) through (x), and  
290 (xi) if limited to unsolicited transactions; 3(a)(5)(B); and  
291 3(a)(5)(C) of the Securities Exchange Act of 1934 (15 USC Section  
292 78c(a)(4) and (5)) or a bank that satisfies the conditions  
293 described in subsection 3(a)(4)(E) of the Securities Exchange Act  
294 of 1934 (15 USC Section 78c(a)(4));

295 (D) An international banking institution; or

296 (E) A person excluded by rule adopted or order  
297 issued under this chapter.



298 (5) "Depository institution" means:  
299 (A) A bank; or  
300 (B) A savings institution, trust company, credit  
301 union, or similar institution that is organized or chartered under  
302 the laws of a state or of the United States, authorized to receive  
303 deposits, and supervised and examined by an official or agency of  
304 a state or the United States if its deposits or share accounts are  
305 insured to the maximum amount authorized by statute by the Federal  
306 Deposit Insurance Corporation, the National Credit Union Share  
307 Insurance Fund, or a successor authorized by federal law. The  
308 term does not include:

309 (i) An insurance company or other  
310 organization primarily engaged in the business of insurance;  
311 (ii) A Morris Plan bank; or  
312 (iii) An industrial loan company that is not  
313 an "insured depository institution" as defined in Section 3(c)(2)  
314 of the Federal Deposit Insurance Act, 12 USC 1813(c)(2), or any  
315 successor federal statute.

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

318 (7) "Federal covered security" means a security that  
319 is, or upon completion of a transaction will be, a covered  
320 security under Section 18(b) of the Securities Act of 1933 (15 USC  
321 Section 77r(b)) or rules or regulations adopted pursuant to that  
322 provision.



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

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

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

329 (11) "Institutional investor" means any of the  
330 following, whether acting for itself or for others in a fiduciary  
331 capacity:

332 (A) A depository institution or international  
333 banking institution;

334 (B) An insurance company;

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

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

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

340 (F) An employee pension, profit-sharing, or  
341 benefit plan if the plan has total assets in excess of Ten Million  
342 Dollars (\$10,000,000.00) or its investment decisions are made by a  
343 named fiduciary, as defined in the Employee Retirement Income  
344 Security Act of 1974, that is a broker-dealer registered under the  
345 Securities Exchange Act of 1934, an investment adviser registered  
346 or exempt from registration under the Investment Advisers Act of



347 1940, an investment adviser registered under this chapter, a  
348 depository institution, or an insurance company;

349 (G) A plan established and maintained by a state,  
350 a political subdivision of a state, or an agency or  
351 instrumentality of a state or a political subdivision of a state  
352 for the benefit of its employees, if the plan has total assets in  
353 excess of Ten Million Dollars (\$10,000,000.00) or its investment  
354 decisions are made by a duly designated public official or by a  
355 named fiduciary, as defined in the Employee Retirement Income  
356 Security Act of 1974, that is a broker-dealer registered under the  
357 Securities Exchange Act of 1934, an investment adviser registered  
358 or exempt from registration under the Investment Advisers Act of  
359 1940, an investment adviser registered under this chapter, a  
360 depository institution, or an insurance company;

361 (H) A trust, if it has total assets in excess of  
362 Ten Million Dollars (\$10,000,000.00), its trustee is a depository  
363 institution, and its participants are exclusively plans of the  
364 types identified in subparagraph (F) or (G), regardless of the  
365 size of their assets, except a trust that includes as participants  
366 self-directed individual retirement accounts or similar  
367 self-directed plans;

368 (I) An organization described in Section 501(c)(3)  
369 of the Internal Revenue Code (26 USC Section 501(c)(3)),  
370 corporation, Massachusetts trust or similar business trust,  
371 limited liability company, or partnership, not formed for the



372 specific purpose of acquiring the securities offered, with total  
373 assets in excess of Ten Million Dollars (\$10,000,000);

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

378 (K) A private business development company as  
379 defined in Section 202(a)(22) of the Investment Advisers Act of  
380 1940 (15 USC Section 80b-2(a)(22)) with total assets in excess of  
381 Ten Million Dollars (\$10,000,000.00);

382 (L) A federal covered investment adviser acting  
383 for its own account;

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

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

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

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





396 (12) "Insurance company" means a company organized as  
397 an insurance company whose primary business is writing insurance  
398 or reinsuring risks underwritten by insurance companies and which  
399 is subject to supervision by the insurance commissioner or a  
400 similar official or agency of a state.

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

403 (14) "International banking institution" means an  
404 international financial institution of which the United States is  
405 a member and whose securities are exempt from registration under  
406 the Securities Act of 1933.

407 (15) "Investment adviser" means a person that, for  
408 compensation, engages in the business of advising others, either  
409 directly or through publications or writings, as to the value of  
410 securities or the advisability of investing in, purchasing, or  
411 selling securities or that, for compensation and as a part of a  
412 regular business, issues or promulgates analyses or reports  
413 concerning securities. The term includes a financial planner or  
414 other person that, as an integral component of other financially  
415 related services, provides investment advice to others for  
416 compensation as part of a business or that holds itself out as  
417 providing investment advice to others for compensation. The term  
418 does not include:

419 (A) An investment adviser representative;



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

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

427 (D) A publisher of a bona fide newspaper, news  
428 magazine, or business or financial publication of general and  
429 regular circulation;

430 (E) A federal covered investment adviser;

431 (F) A bank or savings institution;

432 (G) Any other person that is excluded by the  
433 Investment Advisers Act of 1940 from the definition of investment  
434 adviser; or

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

437 (16) "Investment adviser representative" means an  
438 individual employed by or associated with an investment adviser or  
439 federal covered investment adviser and who makes any  
440 recommendations or otherwise gives investment advice regarding  
441 securities, manages accounts or portfolios of clients, determines  
442 which recommendation or advice regarding securities should be  
443 given, provides investment advice or holds herself or himself out  
444 as providing investment advice, receives compensation to solicit,



445 offer, or negotiate for the sale of or for selling investment  
446 advice, or supervises employees who perform any of the foregoing.

447 The term does not include an individual who:

448 (A) Performs only clerical or ministerial acts;

449 (B) Is an agent whose performance of investment  
450 advice is solely incidental to the individual acting as an agent  
451 and who does not receive special compensation for investment  
452 advisory services;

453 (C) Is employed by or associated with a federal  
454 covered investment adviser, unless the individual has a "place of  
455 business" in this state as that term is defined by rule adopted  
456 under Section 203A of the Investment Advisers Act of 1940 (15 USC  
457 Section 80b-3a) and is:

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

461 (ii) Not a "supervised person" as that term  
462 is defined in Section 202(a)(25) of the Investment Advisers Act of  
463 1940 (15 USC Section 80b-2(a)(25)); or

464 (D) Is excluded by rule adopted or order issued  
465 under this chapter.

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

468 (A) The issuer of a voting trust certificate,  
469 collateral trust certificate, certificate of deposit for a



470 security, or share in an investment company without a board of  
471 directors or individuals performing similar functions is the  
472 person performing the acts and assuming the duties of depositor or  
473 manager pursuant to the trust or other agreement or instrument  
474 under which the security is issued.

475 (B) The issuer of an equipment trust certificate  
476 or similar security serving the same purpose is the person by  
477 which the property is or will be used or to which the property or  
478 equipment is or will be leased or conditionally sold or that is  
479 otherwise contractually responsible for assuring payment of the  
480 certificate.

481 (C) The issuer of a fractional undivided interest  
482 in an oil, gas, or other mineral lease or in payments out of  
483 production under a lease, right, or royalty is the owner of an  
484 interest in the lease or in payments out of production under a  
485 lease, right, or royalty, whether whole or fractional, that  
486 creates fractional interests for the purpose of sale.

487 (18) "Nonissuer transaction" or "nonissuer  
488 distribution" means a transaction or distribution not directly or  
489 indirectly for the benefit of the issuer.

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



495           (20) "Person" means an individual; corporation;  
496 business trust; estate; trust; partnership; limited liability  
497 company; association or organization, whether incorporated or  
498 unincorporated; joint venture; government; governmental  
499 subdivision, agency, or instrumentality; or any other legal or  
500 commercial entity.

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

503                   (A) An office at which the broker-dealer,  
504 investment adviser, or federal covered investment adviser  
505 regularly provides brokerage or investment advice or solicits,  
506 meets with, or otherwise communicates with customers or clients;  
507 or

508                   (B) Any other location that is held out to the  
509 general public as a location at which the broker-dealer,  
510 investment adviser, or federal covered investment adviser provides  
511 brokerage or investment advice or solicits, meets with, or  
512 otherwise communicates with customers or clients.

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

515           (23) "Price amendment" means the amendment to a  
516 registration statement filed under the Securities Act of 1933 or,  
517 if an amendment is not filed, the prospectus or prospectus  
518 supplement filed under the Securities Act of 1933 that includes a  
519 statement of the offering price, underwriting and selling



520 discounts or commissions, amount of proceeds, conversion rates,  
521 call prices, and other matters dependent upon the offering price.

522 (24) "Principal place of business" of a broker-dealer  
523 or an investment adviser means the executive office of the  
524 broker-dealer or investment adviser from which the officers,  
525 partners, or managers of the broker-dealer or investment adviser  
526 direct, control, and coordinate the activities of the  
527 broker-dealer or investment adviser.

528 (25) "Record," except in the phrases "of record,"  
529 "official record," and "public record," means information that is  
530 inscribed on a tangible medium or that is stored in an electronic  
531 or other medium and is retrievable in perceivable form.

532 (26) "Sale" includes every contract of sale, contract  
533 to sell, or disposition of, a security or interest in a security  
534 for value, and "offer to sell" includes every attempt or offer to  
535 dispose of, or solicitation of an offer to purchase, a security or  
536 interest in a security for value. Both terms include:

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

541 (B) A gift of assessable stock involving an offer  
542 and sale; and

543 (C) A sale or offer of a warrant or right to  
544 purchase or subscribe to another security of the same or another



545 issuer and a sale or offer of a security that gives the holder a  
546 present or future right or privilege to convert the security into  
547 another security of the same or another issuer, including an offer  
548 of the other security.

549 (27) "Securities and Exchange Commission" means the  
550 United States Securities and Exchange Commission.

551 (28) "Security" means a note; stock; treasury stock;  
552 security future; bond; debenture; evidence of indebtedness;  
553 certificate of interest or participation in a profit-sharing  
554 agreement; collateral trust certificate; preorganization  
555 certificate or subscription; transferable share; investment  
556 contract; voting trust certificate; certificate of deposit for a  
557 security; fractional undivided interest in oil, gas, or other  
558 mineral rights; put, call, straddle, option, or privilege on a  
559 security, certificate of deposit, or group or index of securities,  
560 including an interest therein or based on the value thereof; put,  
561 call, straddle, option, or privilege entered into on a national  
562 securities exchange relating to foreign currency; or, in general,  
563 an interest or instrument commonly known as a "security"; or a  
564 certificate of interest or participation in, temporary or interim  
565 certificate for, receipt for, guarantee of, or warrant or right to  
566 subscribe to or purchase, any of the foregoing. The term includes  
567 both a certificated and an uncertificated security. The term does  
568 not include an insurance or endowment policy or annuity contract  
569 under which an insurance company promises to pay a sum of money



570 either in a lump sum or periodically for life or other specified  
571 period; or an interest in a contributory or noncontributory  
572 pension or welfare plan subject to the Employee Retirement Income  
573 Security Act of 1974. An "investment contract" includes, among  
574 other contracts, an investment in a limited partnership, an  
575 interest in a limited liability company, an investment in a  
576 viatical settlement or similar agreement, and an investment in a  
577 common enterprise with the expectation of profits to be derived  
578 primarily from the efforts of a person other than the investor and  
579 a "common enterprise" means an enterprise in which the fortunes of  
580 the investor are interwoven with those of either the person  
581 offering the investment, a third party, or other investors.

582 (29) "Self-regulatory organization" means a national  
583 securities exchange registered under the Securities Exchange Act  
584 of 1934, a national securities association of broker-dealers  
585 registered under the Securities Exchange Act of 1934, a clearing  
586 agency registered under the Securities Exchange Act of 1934, or  
587 the Municipal Securities Rulemaking Board established under the  
588 Securities Exchange Act of 1934.

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

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

592 (B) To attach or logically associate with the

593 record an electronic symbol, sound, or process.





594 (31) "State" means a state of the United States, the  
595 District of Columbia, Puerto Rico, the United States Virgin  
596 Islands, or any territory or insular possession subject to the  
597 jurisdiction of the United States.

598 **SECTION 7.** Section 75-71-103, Mississippi Code of 1972, is  
599 brought forward as follows:

600 75-71-103. **References to federal statutes.** "Securities Act  
601 of 1933" (15 USC Section 77a et seq.), "Securities Exchange Act of  
602 1934" (15 USC Section 78a et seq.), "Public Utility Holding  
603 Company Act of 1935" (15 USC Section 79 et seq.), "Investment  
604 Company Act of 1940" (15 USC Section 80a-1 et seq.), "Investment  
605 Advisers Act of 1940" (15 USC Section 80b-1 et seq.), "Employee  
606 Retirement Income Security Act of 1974" (29 USC Section 1001 et  
607 seq.), "National Housing Act" (12 USC Section 1701 et seq.),  
608 "Commodity Exchange Act" (7 USC Section 1 et seq.), "Internal  
609 Revenue Code" (26 USC Section 1 et seq.), "Securities Investor  
610 Protection Act of 1970" (15 USC Section 78aaa et seq.),  
611 "Securities Litigation Uniform Standards Act of 1998" (112 Stat.  
612 3227), "Small Business Investment Act of 1958" (15 USC Section 661  
613 et seq.), and "Electronic Signatures in Global and National  
614 Commerce Act" (15 USC Section 7001 et seq.) mean those statutes  
615 and the rules and regulations adopted under those statutes, as in  
616 effect on January 1, 2000, or as later amended.

617 **SECTION 8.** Section 75-71-104, Mississippi Code of 1972, is  
618 brought forward as follows:



619 75-71-104. **References to federal agencies.** A reference in  
620 this chapter to an agency or department of the United States is  
621 also a reference to a successor agency or department.

622 **SECTION 9.** Section 75-71-105, Mississippi Code of 1972, is  
623 brought forward as follows:

624 75-71-105. **Electronic records and signatures.** This chapter  
625 modifies, limits, and supersedes the federal Electronic Signatures  
626 in Global and National Commerce Act, but does not modify, limit,  
627 or supersede Section 101(c) of that act (15 USC Section 7001(c))  
628 or authorize electronic delivery of any of the notices described  
629 in Section 103(b) of that act (15 USC Section 7003(b)). This  
630 chapter authorizes the filing of records and signatures, when  
631 specified by provisions of this chapter or by a rule adopted or  
632 order issued under this chapter, in a manner consistent with  
633 Section 104(a) of that act (15 USC Section 7004(a)).

634 **SECTION 10.** Section 75-71-201, Mississippi Code of 1972, is  
635 brought forward as follows:

636 75-71-201. **Exempt securities.** The following securities are  
637 exempt from the requirements of Sections 75-71-301 through  
638 75-71-306 and 75-71-504:

639 (1) A security, including a revenue obligation or a  
640 separate security as defined in Rule 131 (17 CFR 230.131) adopted  
641 under the Securities Act of 1933, issued, insured, or guaranteed  
642 by the United States; a state; a political subdivision of a state;  
643 a public authority, agency, or instrumentality of one or more



644 states; a political subdivision of one or more states; or a person  
645 controlled or supervised by and acting as an instrumentality of  
646 the United States under authority granted by the Congress; or a  
647 certificate of deposit for any of the foregoing;

648 (2) A security issued, insured, or guaranteed by a  
649 foreign government with which the United States maintains  
650 diplomatic relations, or any of its political subdivisions, if the  
651 security is recognized as a valid obligation by the issuer,  
652 insurer, or guarantor;

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

656 (A) An international banking institution;

657 (B) A banking institution organized under the laws  
658 of the United States; a member bank of the Federal Reserve System;  
659 or a depository institution a substantial portion of the business  
660 of which consists or will consist of receiving deposits or share  
661 accounts that are insured to the maximum amount authorized by  
662 statute by the Federal Deposit Insurance Corporation, the National  
663 Credit Union Share Insurance Fund, or a successor authorized by  
664 federal law or exercising fiduciary powers that are similar to  
665 those permitted for national banks under the authority of the  
666 Comptroller of Currency pursuant to Section 1 of Public Law 87-722  
667 (12 USC Section 92a); or



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

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

673 (5) A security issued or guaranteed by a railroad,  
674 other common carrier, public utility, or public utility holding  
675 company that is:

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

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

681 (C) A public utility holding company registered  
682 under the Public Utility Holding Company Act of 1935 or a  
683 subsidiary of such a registered holding company within the meaning  
684 of that act;

685 (6) A federal covered security specified in Section  
686 18(b)(1) of the Securities Act of 1933 (15 USC Section 77r(b)(1))  
687 or by rule adopted under that provision or a security listed or  
688 approved for listing on another securities market specified by  
689 rule under this chapter; a put or a call option contract; a  
690 warrant; a subscription right on or with respect to such  
691 securities; or an option or similar derivative security on a  
692 security or an index of securities or foreign currencies issued by



693 a clearing agency registered under the Securities Exchange Act of  
694 1934 and listed or designated for trading on a national securities  
695 exchange, a facility of a national securities exchange, or a  
696 facility of a national securities association registered under the  
697 Securities Exchange Act of 1934 or an offer or sale, of the  
698 underlying security in connection with the offer, sale, or  
699 exercise of an option or other security that was exempt when the  
700 option or other security was written or issued; or an option or a  
701 derivative security designated by the Securities and Exchange  
702 Commission under Section 9(b) of the Securities Exchange Act of  
703 1934 (15 USC Section 78i(b));

704 (7) A security issued by a person organized and  
705 operated exclusively for religious, educational, benevolent,  
706 fraternal, charitable, social, athletic, or reformatory purposes,  
707 or as a chamber of commerce, and not for pecuniary profit, no part  
708 of the net earnings of which inures to the benefit of a private  
709 stockholder or other person, or a security of a company that is  
710 excluded from the definition of an investment company under  
711 Section 3(c)(10)(B) of the Investment Company Act of 1940 (15 USC  
712 Section 80a-3(c)(10)(B)); except that with respect to the offer or  
713 sale of a note, bond, debenture, or other evidence of indebtedness  
714 issued by such a person, a rule may be adopted under this chapter  
715 limiting the availability of this exemption by classifying  
716 securities, persons, and transactions, imposing different  
717 requirements for different classes, specifying with respect to (B)



718 the scope of the exemption and the grounds for denial or  
719 suspension, and requiring an issuer:

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

725 (B) To file a request for exemption authorization  
726 for which a rule under this chapter may specify the scope of the  
727 exemption, the requirement of an offering statement, the filing of  
728 sales and advertising literature, the filing of consent to service  
729 of process complying with Section 75-71-611, and grounds for  
730 denial or suspension of the exemption; or

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

732 (8) A member's or owner's interest in, or a retention  
733 certificate or like security given in lieu of a cash patronage  
734 dividend issued by, a cooperative organized and operated as a  
735 nonprofit membership cooperative under the cooperative laws of a  
736 state, but not a member's or owner's interest, retention  
737 certificate, or like security sold to persons other than bona fide  
738 members of the cooperative;

739 (9) An equipment trust certificate with respect to  
740 equipment leased or conditionally sold to a person, if any  
741 security issued by the person would be exempt under this section



742 or would be a federal covered security under Section 18(b)(1) of  
743 the Securities Act of 1933 (15 USC Section 77r(b)(1)); and

744 (10) Any oil, gas or mineral lease, working interest,  
745 mineral interest or mineral estate, royalty interest or royalty  
746 estate, overriding royalty, or an oil payment or net profit  
747 interest, regardless of how said interests may be created,  
748 provided any vested estate in any working interest shall not be  
749 less than one-two-hundredth (1/200) of the whole working interest,  
750 and any mineral lease and royalty sales made in exchange for  
751 labor, material and machinery used in drilling an oil or gas well.

752 **SECTION 11.** Section 75-71-202, Mississippi Code of 1972, is  
753 brought forward as follows:

754 75-71-202. **Exempt transactions.** The following transactions  
755 are exempt from the requirements of Sections 75-71-301 through  
756 75-71-306 and 75-71-504. The transactions listed below are  
757 self-actuating, are not conditioned by rule and require no  
758 pre-approval of the administrator, unless otherwise indicated  
759 below:

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

762 (2) A nonissuer transaction by or through a  
763 broker-dealer registered, or exempt from registration under this  
764 chapter, and a resale transaction by a sponsor of a unit  
765 investment trust registered under the Investment Company Act of  
766 1940, in a security of a class that has been outstanding in the



767 hands of the public for at least ninety (90) days, if, at the date  
768 of the transaction:

769 (A) The issuer of the security is engaged in  
770 business, the issuer is not in the organizational stage or in  
771 bankruptcy or receivership, and the issuer is not a blank check,  
772 blind pool, or shell company that has no specific business plan or  
773 purpose or has indicated that its primary business plan is to  
774 engage in a merger or combination of the business with, or an  
775 acquisition of, an unidentified person;

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

778 (C) The security does not constitute the whole or  
779 part of an unsold allotment to, or a subscription or participation  
780 by, the broker-dealer as an underwriter of the security or a  
781 redistribution;

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

786 (i) A description of the business and  
787 operations of the issuer;

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

790 (iii) An audited balance sheet of the issuer  
791 as of a date within eighteen (18) months before the date of the





792 transaction or, in the case of a reorganization or merger when the  
793 parties to the reorganization or merger each had an audited  
794 balance sheet, a pro forma balance sheet for the combined  
795 organization; and

796 (iv) An audited income statement for each of  
797 the issuer's two (2) immediately previous fiscal years or for the  
798 period of existence of the issuer, whichever is shorter, or, in  
799 the case of a reorganization or merger when each party to the  
800 reorganization or merger had audited income statements, a pro  
801 forma income statement; and

802 (E) Any one (1) of the following requirements is  
803 met:

804 (i) The issuer of the security has a class of  
805 equity securities listed on a national securities exchange  
806 registered under Section 6 of the Securities Exchange Act of 1934  
807 or designated for trading on the National Association of  
808 Securities Dealers Automated Quotation System;

809 (ii) The issuer of the security is a unit  
810 investment trust registered under the Investment Company Act of  
811 1940;

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

815 (iv) The issuer of the security has total  
816 assets of at least Two Million Dollars (\$2,000,000.00) based on an



817 audited balance sheet as of a date within eighteen (18) months  
818 before the date of the transaction or, in the case of a  
819 reorganization or merger when the parties to the reorganization or  
820 merger each had such an audited balance sheet, a pro forma balance  
821 sheet for the combined organization;

822 (3) A nonissuer transaction by or through a  
823 broker-dealer registered or exempt from registration under this  
824 chapter in a security of a foreign issuer that is a margin  
825 security defined in regulations or rules adopted by the Board of  
826 Governors of the Federal Reserve System;

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

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

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

839 (B) Has a fixed maturity or a fixed interest or  
840 dividend, if:



841 (i) A default has not occurred during the  
842 current fiscal year or within the three (3) previous fiscal years  
843 or during the existence of the issuer and any predecessor if less  
844 than three (3) fiscal years, in the payment of principal,  
845 interest, or dividends on the security; and

846 (ii) The issuer is engaged in business, is  
847 not in the organizational stage or in bankruptcy or receivership,  
848 and is not and has not been within the previous twelve (12) months  
849 a blank check, blind pool, or shell company that has no specific  
850 business plan or purpose or has indicated that its primary  
851 business plan is to engage in a merger or combination of the  
852 business with, or an acquisition of, an unidentified person;

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

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

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

863 (9) The following transaction requires approval of the  
864 administrator: a transaction in a security, whether or not the  
865 security or transaction is otherwise exempt, in exchange for one



866 or more bona fide outstanding securities, claims, or property  
867 interests, or partly in such exchange and partly for cash, if the  
868 terms and conditions of the issuance and exchange or the delivery  
869 and exchange and the fairness of the terms and conditions have  
870 been approved by the administrator after a hearing;

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

874 (11) A transaction in a note, bond, debenture, or other  
875 evidence of indebtedness secured by a mortgage or other security  
876 agreement if:

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

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

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

885 (12) A transaction by an executor, administrator of an  
886 estate, sheriff, marshal, receiver, trustee in bankruptcy,  
887 guardian, or conservator;

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

889 (A) An institutional investor;

890 (B) A federal covered investment adviser; or



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

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

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

899 (B) A general solicitation or general advertising  
900 is not made in connection with the offer to sell or sale of the  
901 securities;

902 (C) A commission or other remuneration is not paid  
903 or given, directly or indirectly, to a person other than a  
904 broker-dealer registered under this chapter or an agent registered  
905 under this chapter for soliciting a prospective purchaser in this  
906 state; and

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

910 (15) A transaction under an offer to existing security  
911 holders of the issuer, including persons that at the date of the  
912 transaction are holders of convertible securities, options, or  
913 warrants, if a commission or other remuneration, other than a  
914 standby commission, is not paid or given, directly or indirectly,  
915 for soliciting a security holder in this state;



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

918 (A) A registration or offering statement or  
919 similar record as required under the Securities Act of 1933 has  
920 been filed, but is not effective, or the offer is made in  
921 compliance with Rule 165 adopted under the Securities Act of 1933  
922 (17 CFR 230.165); and

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

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

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

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

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

939 (18) A transaction involving the distribution of the  
940 securities of an issuer to the security holders of another person



941 in connection with a merger, consolidation, exchange of  
942 securities, sale of assets, or other reorganization to which the  
943 issuer, or its parent or subsidiary and the other person, or its  
944 parent or subsidiary, are parties;

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

947 (20) An offer or sale of a security to a person not a  
948 resident of this state and not present in this state if the offer  
949 or sale does not constitute a violation of the laws of the state  
950 or foreign jurisdiction in which the offeree or purchaser is  
951 present and is not part of an unlawful plan or scheme to evade  
952 this chapter;

953 (21) Employees' stock purchase, savings, option,  
954 profit-sharing, pension, or similar employees' benefit plan,  
955 including any securities, plan interests, and guarantees issued  
956 under a compensatory benefit plan or compensation contract,  
957 contained in a record, established by the issuer, its parents, its  
958 majority-owned subsidiaries, or the majority-owned subsidiaries of  
959 the issuer's parent for the participation of their employees  
960 including offers or sales of such securities to:

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

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



965 (C) Former employees, directors, general partners,  
966 trustees, if the issuer is a business trust, officers,  
967 consultants, and advisors if those individuals were employed by or  
968 providing services to the issuer when the securities were offered;  
969 and

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

974 (22) A transaction involving:

975 (A) A stock dividend or equivalent equity  
976 distribution, whether the corporation or other business  
977 organization distributing the dividend or equivalent equity  
978 distribution is the issuer or not, if nothing of value is given by  
979 stockholders or other equity holders for the dividend or  
980 equivalent equity distribution other than the surrender of a right  
981 to a cash or property dividend if each stockholder or other equity  
982 holder may elect to take the dividend or equivalent equity  
983 distribution in cash, property, or stock;

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





988 (C) The solicitation of tenders of securities by  
989 an offeror in a tender offer in compliance with Rule 162 adopted  
990 under the Securities Act of 1933 (17 CFR 230.162); or  
991 (23) A nonissuer transaction in an outstanding security  
992 by or through a broker-dealer registered or exempt from  
993 registration under this chapter, if the issuer is a reporting  
994 issuer in a foreign jurisdiction designated by this paragraph or  
995 by rule adopted or order issued under this chapter; has been  
996 subject to continuous reporting requirements in the foreign  
997 jurisdiction for not less than one hundred eighty (180) days  
998 before the transaction; and the security is listed on the foreign  
999 jurisdiction's securities exchange that has been designated by  
1000 this paragraph or by rule adopted or order issued under this  
1001 chapter, or is a security of the same issuer that is of senior or  
1002 substantially equal rank to the listed security or is a warrant or  
1003 right to purchase or subscribe to any of the foregoing. For  
1004 purposes of this paragraph, Canada, together with its provinces  
1005 and territories, is a designated foreign jurisdiction and The  
1006 Toronto Stock Exchange, Inc., is a designated securities exchange.  
1007 After an administrative hearing in compliance with Section  
1008 75-71-604, the administrator, by rule adopted or order issued  
1009 under this chapter, may revoke the designation of a securities  
1010 exchange under this paragraph, if the administrator finds that  
1011 revocation is necessary or appropriate in the public interest and  
1012 for the protection of investors.



1013           **SECTION 12.** Section 75-71-203, Mississippi Code of 1972, is  
1014 brought forward as follows:

1015           75-71-203. **Additional exemptions and waivers.** A rule  
1016 adopted or order issued under this chapter may exempt a security,  
1017 transaction, or offer; a rule under this chapter may exempt a  
1018 class of securities, transactions, or offers from any or all of  
1019 the requirements of Sections 75-71-301 through 75-71-306 and  
1020 75-71-504; and an order under this chapter may waive, in whole or  
1021 in part, any or all of the conditions for an exemption or offer  
1022 under Sections 75-71-201 and 75-71-202.

1023           **SECTION 13.** Section 75-71-204, Mississippi Code of 1972, is  
1024 brought forward as follows:

1025           75-71-204. **Denial, suspension, revocation, condition, or**  
1026 **limitation of exemptions.** (a) **Enforcement related powers.**

1027 Except with respect to a federal covered security or a transaction  
1028 involving a federal covered security, an order under this chapter  
1029 may deny, suspend application of, condition, limit, or revoke an  
1030 exemption created under Section 75-71-201(3)(C), Section  
1031 75-71-201(7) or Section 75-71-201 (8) or Section 75-71-202 or an  
1032 exemption or waiver created under Section 75-71-203 with respect  
1033 to a specific security, transaction, or offer. An order under  
1034 this section may be issued only pursuant to the procedures in  
1035 Section 75-71-306 or Section 75-71-604 and only prospectively.

1036           (b) **Knowledge of order required.** A person does not violate  
1037 Section 75-71-301, Sections 75-71-303 through 75-71-306, Section



1038 75-71-504, or Section 75-71-510 by an offer to sell, offer to  
1039 purchase, sale, or purchase effected after the entry of an order  
1040 issued under this section if the person did not know, and in the  
1041 exercise of reasonable care could not have known, of the order.

1042 **SECTION 14.** Section 75-71-301, Mississippi Code of 1972, is  
1043 brought forward as follows:

1044 75-71-301. **Securities registration requirement.** It is  
1045 unlawful for a person to offer or sell a security in this state  
1046 unless:

- 1047 (1) The security is a federal covered security;  
1048 (2) The security, transaction, or offer is exempted  
1049 from registration under Sections 75-71-201 through 75-71-203; or  
1050 (3) The security is registered under this chapter.

1051 **SECTION 15.** Section 75-71-302, Mississippi Code of 1972, is  
1052 brought forward as follows:

1053 75-71-302. (a) **Required filing of records.** With respect to  
1054 a federal covered security, as defined in Section 18(b)(2) of the  
1055 Securities Act of 1933 (15 USC Section 77r(b)(2)), that is not  
1056 otherwise exempt under Sections 75-71-201 through 75-71-203, a  
1057 rule adopted or order issued under this chapter may require the  
1058 filing of any or all of the following records:

- 1059 (1) Before the initial offer of a federal covered  
1060 security in this state, all records that are part of a federal  
1061 registration statement filed with the Securities and Exchange  
1062 Commission under the Securities Act of 1933 and a consent to



1063 service of process complying with Section 75-71-611 signed by the  
1064 issuer and the payment of a fee as set forth in Section 75-71-310;  
1065 and

1066 (2) After the initial offer of the federal covered  
1067 security in this state, all records that are part of an amendment  
1068 to a federal registration statement filed with the Securities and  
1069 Exchange Commission under the Securities Act of 1933.

1070 (b) **Notice filing effectiveness and renewal.** A notice  
1071 filing under subsection (a) is effective for one (1) year  
1072 commencing on the later of the notice filing or the effectiveness  
1073 of the offering filed with the Securities and Exchange Commission.  
1074 On or before expiration, the issuer may renew a notice filing by  
1075 filing a copy of those records filed by the issuer with the  
1076 Securities and Exchange Commission that are required by rule or  
1077 order under this chapter to be filed and by paying a renewal fee  
1078 of the amount set forth at Section 75-71-310. A previously filed  
1079 consent to service of process complying with Section 75-71-611 may  
1080 be incorporated by reference in a renewal. A renewed notice  
1081 filing becomes effective upon the expiration of the filing being  
1082 renewed.

1083 (c) **Notice filings for federal covered securities under**  
1084 **Section 18(b)(4)(E).** With respect to a security that is a federal  
1085 covered security under Section 18(b)(4)(E) of the Securities Act  
1086 of 1933 (15 USC Section 77r(b)(4)(E)), a rule under this chapter  
1087 may require a notice filing by or on behalf of an issuer to



1088 include a copy of Form D, including the Appendix, as promulgated  
1089 by the Securities and Exchange Commission, and a consent to  
1090 service of process complying with Section 75-71-611 signed by the  
1091 issuer not later than fifteen (15) days after the first sale of  
1092 the federal covered security in this state and the payment of a  
1093 fee as set forth in Section 75-71-310; and the payment of an  
1094 additional fee the amount set forth in Section 75-71-310 for any  
1095 late filing.

1096       (d) **Stop orders.** Except with respect to a federal security  
1097 under Section 18(b)(1) of the Securities Act of 1933 (15 USC  
1098 Section 77r(b)(1)), if the administrator finds that there is a  
1099 failure to comply with a notice or fee requirement of this  
1100 section, the administrator may issue a stop order suspending the  
1101 offer and sale of a federal covered security in this state. If  
1102 the deficiency is corrected, the stop order is void as of the time  
1103 of its issuance and no penalty may be imposed by the  
1104 administrator.

1105       (e) **Notice filings for other federal covered securities.**  
1106 Unless the administrator provides otherwise by rule, any other  
1107 federal covered security may be offered and sold in this state in  
1108 reliance on its being a federal covered security without the  
1109 filing of a notice or the payment of a fee. A rule under this  
1110 chapter may require a notice filing with respect to other federal  
1111 covered securities by or on behalf of an issuer and the payment of  
1112 a fee set forth in Section 75-71-310; and the payment of an



1113 additional late fee in the amount set forth in Section 75-71-310  
1114 for any late filing.

1115 **SECTION 16.** Section 75-71-303, Mississippi Code of 1972, is  
1116 brought forward as follows:

1117 75-71-303. **Securities registration by coordination.** (a)  
1118 **Registration permitted.** A security for which a registration  
1119 statement has been filed under the Securities Act of 1933 in  
1120 connection with the same offering may be registered by  
1121 coordination under this section.

1122 (b) **Required records.** A registration statement and  
1123 accompanying records under this section must contain or be  
1124 accompanied by the following records in addition to the  
1125 information specified in Section 75-71-305 and a consent to  
1126 service of process complying with Section 75-71-611:

1127 (1) A copy of the latest form of prospectus filed under  
1128 the Securities Act of 1933;

1129 (2) A copy of the articles of incorporation and bylaws  
1130 or their substantial equivalents currently in effect; a copy of  
1131 any agreement with or among underwriters; a copy of any indenture  
1132 or other instrument governing the issuance of the security to be  
1133 registered; and a specimen, copy, or description of the security  
1134 that is required by rule adopted or order issued under this  
1135 chapter;



1136 (3) Copies of any other information or any other  
1137 records filed by the issuer under the Securities Act of 1933  
1138 requested by the administrator; and

1139 (4) An undertaking to forward each amendment to the  
1140 federal prospectus, other than an amendment that delays the  
1141 effective date of the registration statement, promptly after it is  
1142 filed with the Securities and Exchange Commission.

1143 (c) **Conditions for effectiveness of registration statement.**

1144 A registration statement under this section becomes effective  
1145 simultaneously with or subsequent to the federal registration  
1146 statement when all the following conditions are satisfied:

1147 (1) A stop order under subsection (d) or Section  
1148 75-71-306 or issued by the Securities and Exchange Commission is  
1149 not in effect and a proceeding is not pending against the issuer  
1150 under Section 75-71-306; and

1151 (2) The registration statement has been on file for at  
1152 least twenty (20) days or a shorter period provided by rule  
1153 adopted or order issued under this chapter.

1154 (d) **Notice of federal registration statement effectiveness.**

1155 The registrant shall promptly notify the administrator in a record  
1156 of the date when the federal registration statement becomes  
1157 effective and the content of any price amendment and shall  
1158 promptly file a record containing the price amendment. If the  
1159 notice is not timely received, the administrator may issue a stop  
1160 order, without prior notice or hearing, retroactively denying



1161 effectiveness to the registration statement or suspending its  
1162 effectiveness until compliance with this section. The  
1163 administrator shall promptly notify the registrant of an order by  
1164 telephone, facsimile or electronic means and promptly confirm this  
1165 notice by a record. If the registrant subsequently complies with  
1166 the notice requirements of this section, the stop order is void as  
1167 of the date of its issuance.

1168       (e) **Effectiveness of registration statement.** If the federal  
1169 registration statement becomes effective before each of the  
1170 conditions in this section is satisfied or is waived by the  
1171 administrator, the registration statement is automatically  
1172 effective under this chapter when all the conditions are satisfied  
1173 or waived. If the registrant notifies the administrator of the  
1174 date when the federal registration statement is expected to become  
1175 effective, the administrator shall promptly notify the registrant  
1176 by telephone, facsimile or electronic means and promptly confirm  
1177 this notice by a record, indicating whether all the conditions are  
1178 satisfied or waived and whether the administrator intends the  
1179 institution of a proceeding under Section 75-71-306. The notice  
1180 by the administrator does not preclude the institution of such a  
1181 proceeding.

1182       **SECTION 17.** Section 75-71-304, Mississippi Code of 1972, is  
1183 brought forward as follows:





1184 75-71-304. **Securities registration by qualification.** (a)  
1185 **Registration permitted.** A security may be registered by  
1186 qualification under this section.

1187 (b) **Required records.** A registration statement under this  
1188 section must contain the information or records specified in  
1189 Section 75-71-305, a consent to service of process complying with  
1190 Section 75-71-611, and, if required by rule adopted under this  
1191 chapter, the following information or records:

1192 (1) With respect to the issuer and any significant  
1193 subsidiary, its name, address, and form of organization; the state  
1194 or foreign jurisdiction and date of its organization; the general  
1195 character and location of its business; a description of its  
1196 physical properties and equipment; and a statement of the general  
1197 competitive conditions in the industry or business in which it is  
1198 or will be engaged;

1199 (2) With respect to each director and officer of the  
1200 issuer, and other person having a similar status or performing  
1201 similar functions, the person's name, address, and principal  
1202 occupation for the previous five (5) years; the amount of  
1203 securities of the issuer held by the person as of the thirtieth  
1204 day before the filing of the registration statement; the amount of  
1205 the securities covered by the registration statement to which the  
1206 person has indicated an intention to subscribe; and a description  
1207 of any material interest of the person in any material transaction



1208 with the issuer or a significant subsidiary effected within the  
1209 previous three (3) years or proposed to be effected;

1210 (3) With respect to persons covered by paragraph (2),  
1211 the aggregate sum of the remuneration paid to those persons during  
1212 the previous twelve (12) months and estimated to be paid during  
1213 the next twelve (12) months, directly or indirectly, by the  
1214 issuer, and all predecessors, parents, subsidiaries, and  
1215 affiliates of the issuer;

1216 (4) With respect to a person owning of record or owning  
1217 beneficially, if known, ten percent (10%) or more of the  
1218 outstanding shares of any class of equity security of the issuer,  
1219 the information specified in paragraph (2) other than the person's  
1220 occupation;

1221 (5) With respect to a promoter, if the issuer was  
1222 organized within the previous three (3) years, the information or  
1223 records specified in paragraph (2), any amount paid to the  
1224 promoter within that period or intended to be paid to the  
1225 promoter, and the consideration for the payment;

1226 (6) With respect to a person on whose behalf any part  
1227 of the offering is to be made in a nonissuer distribution, the  
1228 person's name and address; the amount of securities of the issuer  
1229 held by the person as of the date of the filing of the  
1230 registration statement; a description of any material interest of  
1231 the person in any material transaction with the issuer or any  
1232 significant subsidiary effected within the previous three (3)



1233 years or proposed to be effected; and a statement of the reasons  
1234 for making the offering;

1235 (7) The capitalization and long-term debt, on both a  
1236 current and pro forma basis, of the issuer and any significant  
1237 subsidiary, including a description of each security outstanding  
1238 or being registered or otherwise offered, and a statement of the  
1239 amount and kind of consideration, whether in the form of cash,  
1240 physical assets, services, patents, goodwill, or anything else of  
1241 value, for which the issuer or any subsidiary has issued its  
1242 securities within the previous two (2) years or is obligated to  
1243 issue its securities;

1244 (8) The kind and amount of securities to be offered;  
1245 the proposed offering price or the method by which it is to be  
1246 computed; any variation at which a proportion of the offering is  
1247 to be made to a person or class of persons other than the  
1248 underwriters, with a specification of the person or class; the  
1249 basis on which the offering is to be made if otherwise than for  
1250 cash; the estimated aggregate underwriting and selling discounts  
1251 or commissions and finders' fees, including separately cash,  
1252 securities, contracts, or anything else of value to accrue to the  
1253 underwriters or finders in connection with the offering or, if the  
1254 selling discounts or commissions are variable, the basis of  
1255 determining them and their maximum and minimum amounts; the  
1256 estimated amounts of other selling expenses, including legal,  
1257 engineering, and accounting charges; the name and address of each



1258 underwriter and each recipient of a finder's fee; a copy of any  
1259 underwriting or selling group agreement under which the  
1260 distribution is to be made or the proposed form of any such  
1261 agreement whose terms have not yet been determined; and a  
1262 description of the plan of distribution of any securities that are  
1263 to be offered otherwise than through an underwriter;

1264 (9) The estimated monetary proceeds to be received by  
1265 the issuer from the offering; the purposes for which the proceeds  
1266 are to be used by the issuer; the estimated amount to be used for  
1267 each purpose; the order or priority in which the proceeds will be  
1268 used for the purposes stated; the amounts of any funds to be  
1269 raised from other sources to achieve the purposes stated; the  
1270 sources of the funds; and, if a part of the proceeds is to be used  
1271 to acquire property, including goodwill, otherwise than in the  
1272 ordinary course of business, the names and addresses of the  
1273 vendors, the purchase price, the names of any persons that have  
1274 received commissions in connection with the acquisition, and the  
1275 amounts of the commissions and other expenses in connection with  
1276 the acquisition, including the cost of borrowing money to finance  
1277 the acquisition;

1278 (10) A description of any stock options or other  
1279 security options outstanding, or to be created in connection with  
1280 the offering, and the amount of those options held or to be held  
1281 by each person required to be named in paragraph (2), (4), (5),



1282 (6), or (8) and by any person that holds or will hold ten percent  
1283 (10%) or more in the aggregate of those options;

1284 (11) The dates of, parties to, and general effect  
1285 concisely stated of each managerial or other material contract  
1286 made or to be made otherwise than in the ordinary course of  
1287 business to be performed in whole or in part at or after the  
1288 filing of the registration statement or that was made within the  
1289 previous two (2) years, and a copy of the contract;

1290 (12) A description of any pending litigation, action,  
1291 or proceeding to which the issuer is a party and that materially  
1292 affects its business or assets, and any litigation, action, or  
1293 proceeding known to be contemplated by governmental authorities;

1294 (13) A copy of any prospectus, pamphlet, circular, form  
1295 letter, advertisement, or other sales literature intended as of  
1296 the effective date to be used in connection with the offering and  
1297 any solicitation of interest used in compliance with Section  
1298 75-71-202(17)(B);

1299 (14) A specimen or copy of the security being  
1300 registered, unless the security is uncertificated; a copy of the  
1301 issuer's articles of incorporation and bylaws or their substantial  
1302 equivalents, in effect; and a copy of any indenture or other  
1303 instrument covering the security to be registered;

1304 (15) A signed or conformed copy of an opinion of  
1305 counsel concerning the legality of the security being registered,  
1306 with an English translation if it is in a language other than



1307 English, which states whether the security when sold will be  
1308 validly issued, fully paid, and nonassessable and, if a debt  
1309 security, a binding obligation of the issuer;

1310 (16) A signed or conformed copy of a consent of any  
1311 accountant, engineer, appraiser, or other person whose profession  
1312 gives authority for a statement made by the person, if the person  
1313 is named as having prepared or certified a report or valuation,  
1314 other than an official record, that is public, which is used in  
1315 connection with the registration statement;

1316 (17) A balance sheet of the issuer as of a date within  
1317 four (4) months before the filing of the registration statement; a  
1318 statement of income and a statement of cash flows for each of the  
1319 three (3) fiscal years preceding the date of the balance sheet and  
1320 for any period between the close of the immediately previous  
1321 fiscal year and the date of the balance sheet, or for the period  
1322 of the issuer's and any predecessor's existence if less than three  
1323 (3) years; and, if any part of the proceeds of the offering is to  
1324 be applied to the purchase of a business, the financial statements  
1325 that would be required if that business were the registrant; and

1326 (18) Any additional information or records required by  
1327 rule adopted or order issued under this chapter.

1328 (c) **Conditions for effectiveness of registration statement.**

1329 A registration statement under this section becomes effective  
1330 thirty (30) days, or any shorter period provided by rule adopted  
1331 or order issued under this chapter, after the date the



1332 registration statement or the last amendment other than a price  
1333 amendment is filed, if:

1334 (1) A stop order is not in effect and a proceeding is  
1335 not pending under Section 75-71-306;

1336 (2) The administrator has not issued an order under  
1337 Section 75-71-306 delaying effectiveness; or

1338 (3) The applicant or registrant has not requested that  
1339 effectiveness be delayed.

1340 (d) **Delay of effectiveness of registration statement.** The  
1341 administrator may delay effectiveness once for not more than  
1342 ninety (90) days if the administrator determines the registration  
1343 statement is not complete in all material respects and promptly  
1344 notifies the applicant or registrant of that determination by  
1345 telephone, facsimile, or electronic means and promptly confirms  
1346 this notice by a record. The administrator may also delay  
1347 effectiveness for a further period of not more than thirty (30)  
1348 days if the administrator determines that the delay is necessary  
1349 or appropriate and promptly notifies the applicant or registrant  
1350 of that determination by telephone, facsimile, or electronic means  
1351 and promptly confirms this notice by a record.

1352 (e) **Prospectus distribution may be required.** A rule adopted  
1353 or order issued under this chapter may require as a condition of  
1354 registration under this section that a prospectus containing a  
1355 specified part of the information or record specified in



1356 subsection (b) be sent or given to each person to which an offer  
1357 is made, before or concurrently, with the earliest of:

1358 (1) The first offer made in a record to the person  
1359 otherwise than by means of a public advertisement, by or for the  
1360 account of the issuer or another person on whose behalf the  
1361 offering is being made or by an underwriter or broker-dealer that  
1362 is offering part of an unsold allotment or subscription taken by  
1363 the person as a participant in the distribution;

1364 (2) The confirmation of a sale made by or for the  
1365 account of the person;

1366 (3) Payment pursuant to such a sale; or

1367 (4) Delivery of the security pursuant to such a sale.

1368 **SECTION 18.** Section 75-71-305, Mississippi Code of 1972, is  
1369 brought forward as follows:

1370 75-71-305. **Securities registration filings.** (a) **Who may**  
1371 **file.** A registration statement may be filed by the issuer, a  
1372 person on whose behalf the offering is to be made, or a  
1373 broker-dealer registered under this chapter.

1374 (b) **Filing fee.** A person filing a registration statement  
1375 shall pay a filing fee as set forth in Section 75-71-310. This  
1376 fee shall be nonrefundable.

1377 (c) **Status of offering.** A registration statement filed  
1378 under Section 75-71-303 or 75-71-304 must specify:

1379 (1) The amount of securities to be offered in this  
1380 state;





1381           (2) The states in which a registration statement or  
1382 similar record in connection with the offering has been or is to  
1383 be filed; and

1384           (3) Any adverse order, judgment, or decree issued in  
1385 connection with the offering by a state securities regulator, the  
1386 Securities and Exchange Commission, or a court.

1387           (d) **Incorporation by reference.** A record filed under this  
1388 chapter or the predecessor act within five (5) years preceding the  
1389 filing of a registration statement may be incorporated by  
1390 reference in the registration statement to the extent that the  
1391 record is currently accurate.

1392           (e) **Nonissuer distribution.** In the case of a nonissuer  
1393 distribution, information or a record may not be required under  
1394 subsection (i) or Section 75-71-304, unless it is known to the  
1395 person filing the registration statement or to the person on whose  
1396 behalf the distribution is to be made or unless it can be  
1397 furnished by those persons without unreasonable effort or expense.

1398           (f) **Escrow and impoundment.** A rule adopted or order issued  
1399 under this chapter may require as a condition of registration that  
1400 a security issued within the previous five (5) years or to be  
1401 issued to a promoter for a consideration substantially less than  
1402 the public offering price or to a person for a consideration other  
1403 than cash be deposited in escrow; and that the proceeds from the  
1404 sale of the registered security in this state be impounded until  
1405 the issuer receives a specified amount from the sale of the



1406 security either in this state or elsewhere. The conditions of any  
1407 escrow or impoundment required under this subsection may be  
1408 established by rule adopted or order issued under this chapter,  
1409 but the administrator may not reject a depository institution  
1410 solely because of its location in another state.

1411 (g) **Form of subscription.** A rule adopted or order issued  
1412 under this chapter may require as a condition of registration that  
1413 a security registered under this chapter be sold only on a  
1414 specified form of subscription or sale contract and that a signed  
1415 or conformed copy of each contract be filed under this chapter or  
1416 preserved for a period specified by the rule or order, which may  
1417 not be longer than five (5) years.

1418 (h) **Effective period.** Except while a stop order is in  
1419 effect under Section 75-71-306, a registration statement is  
1420 effective for one (1) year after its effective date, or for any  
1421 longer period designated in an order under this chapter during  
1422 which the security is being offered or distributed in a  
1423 nonexempted transaction by or for the account of the issuer or  
1424 other person on whose behalf the offering is being made or by an  
1425 underwriter or broker-dealer that is still offering part of an  
1426 unsold allotment or subscription taken as a participant in the  
1427 distribution. For the purposes of a nonissuer transaction, all  
1428 outstanding securities of the same class identified in the  
1429 registration statement as a security registered under this chapter  
1430 are considered to be registered while the registration statement



1431 is effective. If any securities of the same class are  
1432 outstanding, a registration statement may not be withdrawn until  
1433 one (1) year after its effective date. A registration statement  
1434 may be withdrawn only with the approval of the administrator.

1435 (i) **Periodic reports.** While a registration statement is  
1436 effective, a rule adopted or order issued under this chapter may  
1437 require the person that filed the registration statement to file  
1438 reports, not more often than quarterly, to keep the information or  
1439 other record in the registration statement reasonably current and  
1440 to disclose the progress of the offering.

1441 (j) **Posteffective amendments.** A registration statement may  
1442 be amended after its effective date. The posteffective amendment  
1443 becomes effective when the administrator so orders. A  
1444 posteffective amendment relates back to the date of the offering  
1445 of the additional securities being registered if, within one (1)  
1446 year after the date of the sale, the amendment is filed and the  
1447 additional registration fee is paid.

1448 **SECTION 19.** Section 75-71-306, Mississippi Code of 1972, is  
1449 brought forward as follows:

1450 75-71-306. **Denial, suspension, and revocation of securities**  
1451 **registration.** (a) **Stop orders.** The administrator may issue a  
1452 stop order denying effectiveness to, or suspending or revoking the  
1453 effectiveness of, a registration statement if the administrator  
1454 finds that the order is in the public interest and that:



1455           (1) The registration statement as of its effective date  
1456 or before the effective date in the case of an order denying  
1457 effectiveness, an amendment under Section 75-71-305(j) as of its  
1458 effective date, or a report under Section 75-71-305(i), is  
1459 incomplete in a material respect or contains a statement that, in  
1460 the light of the circumstances under which it was made, was false  
1461 or misleading with respect to a material fact;

1462           (2) This chapter or a rule adopted or order issued  
1463 under this chapter or a condition imposed under this chapter has  
1464 been willfully violated, in connection with the offering, by the  
1465 person filing the registration statement; by the issuer, a  
1466 partner, officer, or director of the issuer or a person having a  
1467 similar status or performing a similar function; a promoter of the  
1468 issuer; or a person directly or indirectly controlling or  
1469 controlled by the issuer; but only if the person filing the  
1470 registration statement is directly or indirectly controlled by or  
1471 acting for the issuer; or by an underwriter;

1472           (3) The security registered or sought to be registered  
1473 is the subject of a permanent or temporary injunction of a court  
1474 of competent jurisdiction or an administrative stop order or  
1475 similar order issued under any federal, foreign, or state law  
1476 other than this chapter applicable to the offering, but the  
1477 administrator may not institute a proceeding against an effective  
1478 registration statement under this subsection (a) more than one (1)  
1479 year after the date of the order or injunction on which it is



1480 based, and the administrator may not issue an order under this  
1481 subsection (a) on the basis of an order or injunction issued under  
1482 the securities act of another state unless the order or injunction  
1483 was based on conduct that would constitute, as of the date of the  
1484 order, a ground for a stop order under this section;

1485 (4) The issuer's enterprise or method of business  
1486 includes or would include activities that are unlawful where  
1487 performed;

1488 (5) With respect to a security sought to be registered  
1489 under Section 75-71-303, there has been a failure to comply with  
1490 the undertaking required by Section 75-71-303(b) (4);

1491 (6) The applicant or registrant has not paid the filing  
1492 fee, but the administrator shall void the order if the deficiency  
1493 is corrected; or

1494 (7) The offering:

1495 (A) Will work or tend to work a fraud upon  
1496 purchasers or would so operate;

1497 (B) Has been or would be made with unreasonable  
1498 amounts of underwriters' and sellers' discounts, commissions, or  
1499 other compensation, or promoters' profits or participations, or  
1500 unreasonable amounts or kinds of options; or

1501 (C) Is being made on terms that are unfair,  
1502 unjust, or inequitable.

1503 (b) **Enforcement of subsection (a) (7).** To the extent  
1504 practicable, the administrator by rule adopted or order issued



1505 under this chapter shall publish standards that provide notice of  
1506 conduct that violates subsection (a)(7).

1507 (c) **Institution of stop order.** The administrator may not  
1508 institute a stop order proceeding against an effective  
1509 registration statement on the basis of conduct or a transaction  
1510 known to the administrator when the registration statement became  
1511 effective unless the proceeding is instituted within thirty (30)  
1512 days after the registration statement became effective.

1513 (d) **Summary process.** The administrator may summarily  
1514 revoke, deny, postpone, or suspend the effectiveness of a  
1515 registration statement pending final determination of an  
1516 administrative proceeding. Upon the issuance of the order, the  
1517 administrator, in accordance with Section 75-71-611, shall  
1518 promptly notify each person specified in subsection (e) that the  
1519 order has been issued, the reasons for the revocation, denial,  
1520 postponement, or suspension, and that within fifteen (15) days  
1521 after the receipt of a request in a record from the person the  
1522 matter will be scheduled for a hearing. If a hearing is not  
1523 requested and none is ordered by the administrator, within thirty  
1524 (30) days after the date of service of the order, the order  
1525 becomes final. If a hearing is requested or ordered, the  
1526 administrator, after notice of and opportunity for hearing for  
1527 each person subject to the order, may modify or vacate the order  
1528 or extend the order until final determination.



1529 (e) **Procedural requirements for stop order.** A stop order  
1530 may not be issued under this section without:

1531 (1) Appropriate notice, in accordance with Section  
1532 75-71-611, to the applicant or registrant, the issuer, and the  
1533 person on whose behalf the securities are to be or have been  
1534 offered;

1535 (2) An opportunity for hearing; and

1536 (3) Findings of fact and conclusions of law in a record  
1537 in accordance with the administrative hearing procedures set forth  
1538 in the rules.

1539 (f) **Modification or vacation of stop order.** The  
1540 administrator may modify or vacate a stop order issued under this  
1541 section if the administrator finds that the conditions that caused  
1542 its issuance have changed or that it is necessary or appropriate  
1543 in the public interest or for the protection of investors.

1544 **SECTION 20.** Section 75-71-307, Mississippi Code of 1972, is  
1545 brought forward as follows:

1546 75-71-307. **Waiver and modification.** The administrator may  
1547 waive or modify, in whole or in part, any or all of the  
1548 requirements of Sections 75-71-302, 75-71-303, and 75-71-304(b) or  
1549 the requirement of any information or record in a registration  
1550 statement or in a periodic report filed pursuant to Section  
1551 75-71-305(i).

1552 **SECTION 21.** Section 75-71-310, Mississippi Code of 1972, is  
1553 brought forward as follows:



1554 75-71-310. (a) **Required fees for notice filing for federal**  
1555 **covered securities under Section 18(b)(2).** The initial filing fee  
1556 for a notice filing with respect to a federal covered security  
1557 described in subsection (a) of Section 75-71-302 is One Thousand  
1558 Dollars (\$1,000.00).

1559 (b) **Required fees for notice filings for federal covered**  
1560 **securities.** The filing fee for a notice filing with respect to a  
1561 security that is a federal covered security described in Section  
1562 75-71-302(c) and (e) is Three Hundred Dollars (\$300.00). The fee  
1563 for a late filing, which is an additional fee, is one percent (1%)  
1564 of the dollar amount of the offering sold in the state up to a  
1565 maximum of Five Thousand Dollars (\$5,000.00).

1566 (c) **Required fees for securities registration filings under**  
1567 **Section 75-71-305.** The filing fee for a registration statement  
1568 under Section 75-71-305 is One Thousand Dollars (\$1,000.00).

1569 (d) **Renewals.** The fee for any renewal required under this  
1570 chapter or rule of the administrator is Three Hundred Dollars  
1571 (\$300.00).

1572 (e) **Termination or Withdrawal.** The fee for filing a  
1573 notification of completion, termination, or withdrawal of an  
1574 offering required under this chapter or rule of the administrator  
1575 if Fifty Dollars (\$50.00).

1576 **SECTION 22.** Section 75-71-401, Mississippi Code of 1972, is  
1577 brought forward as follows:





1578           75-71-401. **Broker-dealer registration requirement and**  
1579 **exemptions.** (a) **Registration requirement.** It is unlawful for a  
1580 person to transact business in this state as a broker-dealer  
1581 unless the person is registered under this chapter as a  
1582 broker-dealer or is exempt from registration as a broker-dealer  
1583 under subsection (b) or (d).

1584           (b) **Exemptions from registration.** The following persons are  
1585 exempt from the registration requirement of subsection (a):

1586                   (1) A broker-dealer without a place of business in this  
1587 state if its only transactions effected in this state are with:

1588                           (A) The issuer of the securities involved in the  
1589 transactions;

1590                           (B) A broker-dealer registered as a broker-dealer  
1591 under this chapter or not required to be registered as a  
1592 broker-dealer under this chapter;

1593                           (C) An institutional investor;

1594                           (D) A nonaffiliated federal covered investment  
1595 adviser with investments under management in excess of One Hundred  
1596 Million Dollars (\$100,000,000.00) acting for the account of others  
1597 pursuant to discretionary authority in a signed record;

1598                           (E) A bona fide preexisting customer whose  
1599 principal place of residence is not in this state and the person  
1600 is registered as a broker-dealer under the Securities Exchange Act  
1601 of 1934 or not required to be registered under the Securities  
1602 Exchange Act of 1934 and is registered under the securities act of



1603 the state in which the customer maintains a principal place of  
1604 residence;

1605 (F) A bona fide preexisting customer whose  
1606 principal place of residence is in this state but was not present  
1607 in this state when the customer relationship was established, if:

1608 (i) The broker-dealer is registered under the  
1609 Securities Exchange Act of 1934 or not required to be registered  
1610 under the Securities Exchange Act of 1934 and is registered under  
1611 the securities laws of the state in which the customer  
1612 relationship was established and where the customer had maintained  
1613 a principal place of residence; and

1614 (ii) Within forty-five (45) days after the  
1615 customer's first transaction in this state, the person files an  
1616 application for registration as a broker-dealer in this state and  
1617 a further transaction is not effected more than seventy-five (75)  
1618 days after the date on which the application is filed, or, if  
1619 earlier, the date on which the administrator notifies the person  
1620 that the administrator has denied the application for registration  
1621 or has stayed the pendency of the application for good cause;

1622 (G) Not more than three (3) customers in this  
1623 state during the previous twelve (12) months, in addition to those  
1624 customers specified in subparagraphs (A) through (F) and under  
1625 subparagraph (H), if the broker-dealer is registered under the  
1626 Securities Exchange Act of 1934 or not required to be registered  
1627 under the Securities Exchange Act of 1934 and is registered under



1628 the securities act of the state in which the broker-dealer has its  
1629 principal place of business; and

1630 (H) Any other person exempted by rule adopted or  
1631 order issued under this chapter;

1632 (2) A person that deals solely in United States  
1633 government securities and is supervised as a dealer in government  
1634 securities by the Board of Governors of the Federal Reserve  
1635 System, the Comptroller of the Currency, the Federal Deposit  
1636 Insurance Corporation, or the Office of Thrift Supervision.

1637 (c) **Limits on employment or association.** It is unlawful for  
1638 a broker-dealer, or for an issuer engaged in offering, offering to  
1639 purchase, purchasing, or selling securities in this state,  
1640 directly or indirectly, to employ or associate with an individual  
1641 to engage in an activity related to securities transactions in  
1642 this state if the registration of the individual is suspended or  
1643 revoked or the individual is barred from employment or association  
1644 with a broker-dealer, an issuer, an investment adviser, or a  
1645 federal covered investment adviser by an order of the  
1646 administrator under this chapter, the Securities and Exchange  
1647 Commission, or a self-regulatory organization. A broker-dealer or  
1648 issuer does not violate this subsection if the broker-dealer or  
1649 issuer did not know and in the exercise of reasonable care could  
1650 not have known, of the suspension, revocation, or bar. Upon  
1651 request from a broker-dealer or issuer and for good cause, an  
1652 order under this chapter may modify or waive, in whole or in part,



1653 the application of the prohibitions of this subsection to the  
1654 broker-dealer.

1655 (d) **Foreign transactions.** A rule adopted or order issued  
1656 under this chapter may permit:

1657 (1) A broker-dealer that is registered in Canada or  
1658 other foreign jurisdiction and that does not have a place of  
1659 business in this state to effect transactions in securities with  
1660 or for, or attempt to effect the purchase or sale of any  
1661 securities by:

1662 (A) An individual from Canada or other foreign  
1663 jurisdiction who is temporarily present in this state and with  
1664 whom the broker-dealer had a bona fide customer relationship  
1665 before the individual entered the United States;

1666 (B) An individual from Canada or other foreign  
1667 jurisdiction who is present in this state and whose transactions  
1668 are in a self-directed tax advantaged retirement plan of which the  
1669 individual is the holder or contributor in that foreign  
1670 jurisdiction; or

1671 (C) An individual who is present in this state,  
1672 with whom the broker-dealer customer relationship arose while the  
1673 individual was temporarily or permanently resident in Canada or  
1674 the other foreign jurisdiction; and

1675 (2) An agent who represents a broker-dealer that is  
1676 exempt under this subsection (d) to effect transactions in  
1677 securities or attempt to effect the purchase or sale of securities



1678 in this state as permitted for a broker-dealer described in  
1679 paragraph (1).

1680 **SECTION 23.** Section 75-71-402, Mississippi Code of 1972, is  
1681 brought forward as follows:

1682 75-71-402. **Agent registration requirement and exemptions.**

1683 (a) **Registration requirement.** It is unlawful for an individual  
1684 to transact business in this state as an agent unless the  
1685 individual is registered under this chapter as an agent or is  
1686 exempt from registration as an agent under subsection (b).

1687 (b) **Exemptions from registration.** The following individuals  
1688 are exempt from the registration requirement of subsection (a):

1689 (1) An individual who represents a broker-dealer in  
1690 effecting transactions in this state limited to those described in  
1691 Section 15(h)(2) of the Securities Exchange Act of 1934 (15 USC  
1692 Section 78o(h)(2));

1693 (2) An individual who represents a broker-dealer that  
1694 is exempt under Section 75-71-401(b) or 75-71-401(d);

1695 (3) An individual who represents an issuer with respect  
1696 to an offer or sale of the issuer's own securities or those of the  
1697 issuer's parent or any of the issuer's subsidiaries, and who is  
1698 not compensated in connection with the individual's participation  
1699 by the payment of commissions or other remuneration based,  
1700 directly or indirectly, on transactions in those securities;



1701 (4) An individual who represents an issuer and who  
1702 effects transactions in the issuer's securities exempted by  
1703 Section 75-71-202, other than Section 75-71-202(11) and (14);

1704 (5) An individual who represents an issuer that effects  
1705 transactions solely in federal covered securities of the issuer,  
1706 but an individual who effects transactions in a federal covered  
1707 security under Section 18(b)(3) or 18(b)(4)(D) of the Securities  
1708 Act of 1933 (15 USC Section 77r(b)(3) or 77r(b)(4)(D)) is not  
1709 exempt if the individual is compensated in connection with the  
1710 agent's participation by the payment of commissions or other  
1711 remuneration based, directly or indirectly, on transactions in  
1712 those securities;

1713 (6) An individual who represents a broker-dealer  
1714 registered in this state under Section 75-71-401(a) or exempt from  
1715 registration under Section 75-71-401(b) in the offer and sale of  
1716 securities for an account of a nonaffiliated federal covered  
1717 investment adviser with investments under management in excess of  
1718 One Hundred Million Dollars (\$100,000,000.00) acting for the  
1719 account of others pursuant to discretionary authority in a signed  
1720 record;

1721 (7) An individual who represents an issuer in  
1722 connection with the purchase of the issuer's own securities;

1723 (8) An individual who represents an issuer and who  
1724 restricts participation to performing clerical or ministerial  
1725 acts; or



1726 (9) Any other individual exempted by rule adopted or  
1727 order issued under this chapter.

1728 (c) **Registration effective only while employed or**  
1729 **associated.** The registration of an agent is effective only while  
1730 the agent is employed by or associated with a broker-dealer  
1731 registered under this chapter or an issuer that is offering,  
1732 selling, or purchasing its securities in this state.

1733 (d) **Limit on employment or association.** It is unlawful for  
1734 a broker-dealer, or an issuer engaged in offering, selling, or  
1735 purchasing securities in this state, to employ or associate with  
1736 an agent who transacts business in this state on behalf of  
1737 broker-dealers or issuers unless the agent is registered under  
1738 subsection (a) or exempt from registration under subsection (b).

1739 (e) **Limit on affiliations.** An individual may not act as an  
1740 agent for more than one (1) broker-dealer or one (1) issuer at a  
1741 time, unless the broker-dealer or the issuer for which the agent  
1742 acts are affiliated by direct or indirect common control or are  
1743 authorized by rule or order under this chapter.

1744 **SECTION 24.** Section 75-71-403, Mississippi Code of 1972, is  
1745 brought forward as follows:

1746 75-71-403. **Investment adviser registration requirement and**  
1747 **exemptions.** (a) **Registration requirement.** It is unlawful for a  
1748 person to transact business in this state as an investment adviser  
1749 unless the person is registered under this chapter as an



1750 investment adviser or is exempt from registration as an investment  
1751 adviser under subsection (b).

1752 (b) **Exemptions from registration.** The following persons are  
1753 exempt from the registration requirement of subsection (a):

1754 (1) A person without a place of business in this state  
1755 that is registered under the securities act of the state in which  
1756 the person has its principal place of business if its only clients  
1757 in this state are:

1758 (A) Federal covered investment advisers,  
1759 investment advisers registered under this chapter, or  
1760 broker-dealers registered under this chapter;

1761 (B) Institutional investors;

1762 (C) Bona fide preexisting clients whose principal  
1763 places of residence are not in this state if the investment  
1764 adviser is registered under the securities act of the state in  
1765 which the clients maintain principal places of residence; or

1766 (D) Any other client exempted by rule adopted or  
1767 order issued under this chapter;

1768 (2) A person without a place of business in this state  
1769 if the person has had, during the preceding twelve (12) months,  
1770 not more than five (5) clients that are resident in this state in  
1771 addition to those specified under paragraph (1); or

1772 (3) Any other person exempted by rule adopted or order  
1773 issued under this chapter.





1774 (c) **Limits on employment or association.** It is unlawful for  
1775 an investment adviser, directly or indirectly, to employ or  
1776 associate with an individual to engage in an activity related to  
1777 investment advice in this state if the registration of the  
1778 individual is suspended or revoked or the individual is barred  
1779 from employment or association with an investment adviser, federal  
1780 covered investment adviser, or broker-dealer by an order under  
1781 this chapter, the Securities and Exchange Commission, or a  
1782 self-regulatory organization, unless the investment adviser did  
1783 not know, and in the exercise of reasonable care could not have  
1784 known, of the suspension, revocation, or bar. Upon request from  
1785 the investment adviser and for good cause, the administrator, by  
1786 order, may waive, in whole or in part, the application of the  
1787 prohibitions of this subsection to the investment adviser.

1788 (d) **Investment adviser representative registration required.**  
1789 It is unlawful for an investment adviser to employ or associate  
1790 with an individual required to be registered under this chapter as  
1791 an investment adviser representative who transacts business in  
1792 this state on behalf of the investment adviser unless the  
1793 individual is registered under Section 75-71-404(a) or is exempt  
1794 from registration under Section 75-71-404(b).

1795 **SECTION 25.** Section 75-71-404, Mississippi Code of 1972, is  
1796 brought forward as follows:

1797 75-71-404. **Investment adviser representative registration**  
1798 **requirement and exemptions.** (a) **Registration requirement.** It is



1799 unlawful for an individual to transact business in this state as  
1800 an investment adviser representative unless the individual is  
1801 registered under this chapter as an investment adviser  
1802 representative or is exempt from registration as an investment  
1803 adviser representative under subsection (b).

1804 (b) **Exemptions from registration.** The following individuals  
1805 are exempt from the registration requirement of subsection (a):

1806 (1) An individual who is employed by or associated with  
1807 an investment adviser that is exempt from registration under  
1808 Section 75-71-403(b) or a federal covered investment adviser that  
1809 is excluded from the notice filing requirements of Section  
1810 75-71-405; and

1811 (2) Any other individual exempted by rule adopted or  
1812 order issued under this chapter.

1813 (c) **Registration effective only while employed or**  
1814 **associated.** The registration of an investment adviser  
1815 representative is not effective while the investment adviser  
1816 representative is not employed by or associated with an investment  
1817 adviser registered under this chapter or a federal covered  
1818 investment adviser that has made or is required to make a notice  
1819 filing under Section 75-71-405.

1820 (d) **Limit on affiliations.** An individual may transact  
1821 business as an investment adviser representative for more than one  
1822 (1) investment adviser or federal covered investment adviser  
1823 unless a rule adopted or order issued under this chapter prohibits



1824 or limits an individual from acting as an investment adviser  
1825 representative for more than one (1) investment adviser or federal  
1826 covered investment adviser.

1827 (e) **Limits on employment or association.** It is unlawful for  
1828 an individual acting as an investment adviser representative,  
1829 directly or indirectly, to conduct business in this state on  
1830 behalf of an investment adviser or a federal covered investment  
1831 adviser if the registration of the individual as an investment  
1832 adviser representative is suspended or revoked or the individual  
1833 is barred from employment or association with an investment  
1834 adviser or a federal covered investment adviser by an order under  
1835 this chapter, the Securities and Exchange Commission, or a  
1836 self-regulatory organization. Upon request from a federal covered  
1837 investment adviser and for good cause, the administrator, by order  
1838 issued, may waive, in whole or in part, the application of the  
1839 requirements of this subsection to the federal covered investment  
1840 adviser.

1841 (f) **Referral fees.** An investment adviser registered under  
1842 this chapter, a federal covered investment adviser that has filed  
1843 a notice under Section 75-71-405, or a broker-dealer registered  
1844 under this chapter is not required to employ or associate with an  
1845 individual as an investment adviser representative if the only  
1846 compensation paid to the individual for a referral of investment  
1847 advisory clients is paid to an investment adviser registered under  
1848 this chapter, a federal covered investment adviser who has filed a



1849 notice under Section 75-71-405, or a broker-dealer registered  
1850 under this chapter with which the individual is employed or  
1851 associated as an investment adviser representative.

1852           **SECTION 26.** Section 75-71-405, Mississippi Code of 1972, is  
1853 brought forward as follows:

1854           75-71-405. (a) **Notice filing requirement.** Except with  
1855 respect to a federal covered investment adviser described in  
1856 subsection (b), it is unlawful for a federal covered investment  
1857 adviser to transact business in this state as a federal covered  
1858 investment adviser unless the federal covered investment adviser  
1859 complies with subsection (c).

1860           (b) **Notice filing requirement not required.** The following  
1861 federal covered investment advisers are not required to comply  
1862 with subsection (c):

1863           (1) A federal covered investment adviser without a  
1864 place of business in this state if its only clients in this state  
1865 are:

1866                   (A) Federal covered investment advisers,  
1867 investment advisers registered under this chapter, and  
1868 broker-dealers registered under this chapter;

1869                   (B) Institutional investors;

1870                   (C) Bona fide preexisting clients whose principal  
1871 places of residence are not in this state; or

1872                   (D) Other clients specified by rule adopted or  
1873 order issued under this chapter;



1874 (2) A federal covered investment adviser without a  
1875 place of business in this state if the person has had, during the  
1876 preceding twelve (12) months, not more than five (5) clients that  
1877 are resident in this state in addition to those specified under  
1878 paragraph (1); and

1879 (3) Any other person excluded by rule adopted or order  
1880 issued under this chapter.

1881 (c) **Notice filing procedure.** A person acting as a federal  
1882 covered investment adviser, not excluded under subsection (b),  
1883 shall file a notice, a consent to service of process complying  
1884 with Section 75-71-611, and such records as have been filed with  
1885 the Securities and Exchange Commission under the Investment  
1886 Advisers Act of 1940 required by rule adopted or order issued  
1887 under this chapter and pay the fees specified in Section  
1888 75-71-410.

1889 (d) **Effectiveness of filing.** The notice under subsection  
1890 (c) becomes effective upon its filing.

1891 **SECTION 27.** Section 75-71-406, Mississippi Code of 1972, is  
1892 brought forward as follows:

1893 75-71-406. **Registration by broker-dealer, agent, investment**  
1894 **adviser, and investment adviser representative.** (a) **Application**  
1895 **for initial registration.** A person shall register as a  
1896 broker-dealer, agent, investment adviser, or investment adviser  
1897 representative by filing an application and a consent to service  
1898 of process complying with Section 75-71-611, and paying the fee



1899 specified in Section 75-71-410 and any reasonable fees charged by  
1900 the designee of the administrator for processing the filing. The  
1901 application must contain:

1902 (1) The information or record required for the filing  
1903 of a uniform application; and

1904 (2) Upon request by the administrator, any other  
1905 financial or other information or record that the administrator  
1906 determines is appropriate.

1907 (b) **Amendment.** If the information or record contained in an  
1908 application filed under subsection (a) is or becomes inaccurate or  
1909 incomplete in a material respect, the registrant shall promptly  
1910 file a correcting amendment.

1911 (c) **Effectiveness of registration.** If an order is not in  
1912 effect and a proceeding is not pending under Section 75-71-412,  
1913 registration becomes effective at noon on the forty-fifth day  
1914 after a completed application is filed, unless the registration is  
1915 denied. A rule adopted or order issued under this chapter may set  
1916 an earlier effective date or may defer the effective date until  
1917 noon on the forty-fifth day after the filing of any amendment  
1918 completing the application.

1919 (d) **Registration renewal.** A registration is effective until  
1920 midnight on December 31 of the year for which the application for  
1921 registration is filed. Unless an order is in effect under Section  
1922 75-71-412, a registration may be automatically renewed each year  
1923 by filing such records as are required by rule adopted or order



1924 issued under this chapter, by paying the fee specified in Section  
1925 75-71-410, and by paying costs charged by the designee of the  
1926 administrator for processing the filings.

1927 (e) **Additional conditions or waivers.** A rule adopted or  
1928 order issued under this chapter may impose such other conditions,  
1929 not inconsistent with the National Securities Markets Improvement  
1930 Act of 1996. An order issued under this chapter may waive, in  
1931 whole or in part, specific requirements in connection with  
1932 registration as are in the public interest and for the protection  
1933 of investors.

1934 **SECTION 28.** Section 75-71-407, Mississippi Code of 1972, is  
1935 brought forward as follows:

1936 75-71-407. **Succession and change in registration of**  
1937 **broker-dealer or investment adviser.** (a) **Succession.** A  
1938 broker-dealer or investment adviser may succeed to the current  
1939 registration of another broker-dealer or investment adviser or a  
1940 notice filing of a federal covered investment adviser, and a  
1941 federal covered investment adviser may succeed to the current  
1942 registration of an investment adviser or notice filing of another  
1943 federal covered investment adviser, by filing as a successor an  
1944 application for registration pursuant to Section 75-71-401 or  
1945 75-71-403 or a notice pursuant to Section 75-71-405 for the  
1946 unexpired portion of the current registration or notice filing.

1947 (b) **Organizational change.** A broker-dealer or investment  
1948 adviser that changes its form of organization or state of



1949 incorporation or organization may continue its registration by  
1950 filing an amendment to its registration if the change does not  
1951 involve a material change in its financial condition or  
1952 management. The amendment becomes effective when filed or on a  
1953 date designated by the registrant in its filing. The new  
1954 organization is a successor to the original registrant for the  
1955 purposes of this chapter. If there is a material change in  
1956 financial condition or management, the broker-dealer or investment  
1957 adviser shall file a new application for registration. A  
1958 predecessor registered under this chapter shall stop conducting  
1959 its securities business other than winding down transactions and  
1960 shall file for withdrawal of broker-dealer or investment adviser  
1961 registration within forty-five (45) days after filing its  
1962 amendment to effect succession.

1963 (c) **Name change.** A broker-dealer or investment adviser that  
1964 changes its name may continue its registration by filing an  
1965 amendment to its registration. The amendment becomes effective  
1966 when filed or on a date designated by the registrant.

1967 (d) **Change of control.** A change of control of a  
1968 broker-dealer or investment adviser may be made in accordance with  
1969 a rule adopted or order issued under this chapter.

1970 **SECTION 29.** Section 75-71-408, Mississippi Code of 1972, is  
1971 brought forward as follows:

1972 75-71-408. **Termination of employment or association of agent**  
1973 **and investment adviser representative and transfer of employment**





1974 **or association. (a) Notice of termination.** If an agent  
1975 registered under this chapter terminates employment by or  
1976 association with a broker-dealer or issuer, or if an investment  
1977 adviser representative registered under this chapter terminates  
1978 employment by or association with an investment adviser or federal  
1979 covered investment adviser, or if either registrant terminates  
1980 activities that require registration as an agent or investment  
1981 adviser representative, the broker-dealer, issuer, investment  
1982 adviser, or federal covered investment adviser shall promptly file  
1983 a notice of termination. If the registrant learns that the  
1984 broker-dealer, issuer, investment adviser, or federal covered  
1985 investment adviser has not filed the notice, the registrant may do  
1986 so.

1987 (b) **Transfer of employment or association.** If an agent  
1988 registered under this chapter terminates employment by or  
1989 association with a broker-dealer registered under this chapter and  
1990 begins employment by or association with another broker-dealer  
1991 registered under this chapter; or if an investment adviser  
1992 representative registered under this chapter terminates employment  
1993 by or association with an investment adviser registered under this  
1994 chapter; or a federal covered investment adviser that has filed a  
1995 notice under Section 75-71-405 and begins employment by or  
1996 association with another investment adviser registered under this  
1997 chapter or a federal covered investment adviser that has filed a  
1998 notice under Section 75-71-405; then upon the filing by or on



1999 behalf of the registrant, within thirty (30) days after the  
2000 termination, of an application for registration that complies with  
2001 the requirement of Section 75-71-406(a) and payment of the filing  
2002 fee required under Section 75-71-410, the registration of the  
2003 agent or investment adviser representative is:

2004 (1) Immediately effective as of the date of the  
2005 completed filing, if the agent's Central Registration Depository  
2006 record or successor record or the investment adviser  
2007 representative's Investment Adviser Registration Depository record  
2008 or successor record does not contain a new or amended disciplinary  
2009 disclosure within the previous twelve (12) months; or

2010 (2) Temporarily effective as of the date of the  
2011 completed filing, if the agent's Central Registration Depository  
2012 record or successor record or the investment adviser  
2013 representative's Investment Adviser Registration Depository record  
2014 or successor record contains a new or amended disciplinary  
2015 disclosure within the preceding twelve (12) months.

2016 (c) **Withdrawal of temporary registration.** The administrator  
2017 may withdraw a temporary registration if there are or were grounds  
2018 for discipline as specified in Section 75-71-412 and the  
2019 administrator does so within thirty (30) days after the filing of  
2020 the application. If the administrator does not withdraw the  
2021 temporary registration within the thirty-day period, registration  
2022 becomes automatically effective on the thirty-first day after  
2023 filing.



2024 (d) **Power to prevent registration.** The administrator may  
2025 prevent the effectiveness of a transfer of an agent or investment  
2026 adviser representative under subsection (b)(1) or (2) based on the  
2027 public interest and the protection of investors.

2028 (e) **Termination of registration or application for**  
2029 **registration.** If the administrator determines that a registrant  
2030 or applicant for registration is no longer in existence or has  
2031 ceased to act as a broker-dealer, agent, investment adviser, or  
2032 investment adviser representative, or is the subject of an  
2033 adjudication of incapacity or is subject to the control of a  
2034 committee, conservator, or guardian, or cannot reasonably be  
2035 located, a rule adopted or order issued under this chapter may  
2036 require the registration be canceled or terminated or the  
2037 application denied. The administrator may reinstate a canceled or  
2038 terminated registration, with or without hearing, and may make the  
2039 registration retroactive.

2040 **SECTION 30.** Section 75-71-409, Mississippi Code of 1972, is  
2041 brought forward as follows:

2042 75-71-409. **Withdrawal of registration of broker-dealer,**  
2043 **agent, investment adviser, and investment adviser representative.**  
2044 Withdrawal of registration by a broker-dealer, agent, investment  
2045 adviser, or investment adviser representative becomes effective  
2046 sixty (60) days after the filing of the application to withdraw or  
2047 within any shorter period as provided by rule adopted or order  
2048 issued under this chapter unless a revocation or suspension



2049 proceeding is pending when the application is filed. If a  
2050 proceeding is pending, withdrawal becomes effective when and upon  
2051 such conditions as required by rule adopted or order issued under  
2052 this chapter. The administrator may institute a revocation or  
2053 suspension proceeding under Section 75-71-412 within one (1) year  
2054 after the withdrawal became effective automatically and issue a  
2055 revocation or suspension order as of the last date on which  
2056 registration was effective if a proceeding is not pending.

2057 **SECTION 31.** Section 75-71-410, Mississippi Code of 1972, is  
2058 brought forward as follows:

2059 75-71-410. **Filing fees.** (a) **Fee established by**  
2060 **administrator.** The administrator shall establish fees by rule  
2061 pursuant to the Mississippi Administrative Procedures Law for:

2062 (1) An initial filing of an application as a  
2063 broker-dealer and renewal of an application by a broker-dealer for  
2064 registration;

2065 (2) An application for registration as an agent and  
2066 renewal of registration as an agent;

2067 (3) An application for registration as an investment  
2068 adviser and renewal of registration as an investment adviser.

2069 (4) An application for registration as an investment  
2070 adviser representative, a renewal of registration as an investment  
2071 adviser representative, and a change of registration as an  
2072 investment adviser representative; and



2073 (5) An initial fee and annual notice fee for a federal  
2074 covered investment adviser required to file a notice under Section  
2075 75-71-405.

2076 (b) **Payment.** A person required to pay a filing or notice  
2077 fee under this section may transmit the fee through or to a  
2078 designee as a rule or order provides under this chapter.

2079 **SECTION 32.** Section 75-71-411, Mississippi Code of 1972, is  
2080 brought forward as follows:

2081 75-71-411. **Postregistration requirements.** (a) **Financial**  
2082 **requirements.** Subject to Section 15(h) of the Securities Exchange  
2083 Act of 1934 (15 USC Section 78o(h)) or Section 222 of the  
2084 Investment Advisers Act of 1940 (15 USC Section 80b-22), a rule  
2085 adopted or order issued under this chapter may establish minimum  
2086 financial requirements for broker-dealers registered or required  
2087 to be registered under this chapter and investment advisers  
2088 registered or required to be registered under this chapter.

2089 (b) **Financial reports.** Subject to Section 15(h) of the  
2090 Securities Exchange Act of 1934 (15 USC Section 78o(h)) or Section  
2091 222(b) of the Investment Advisers Act of 1940 (15 USC Section  
2092 80b-22), a broker-dealer registered or required to be registered  
2093 under this chapter and an investment adviser registered or  
2094 required to be registered under this chapter shall file such  
2095 financial reports as are required by a rule adopted or order  
2096 issued under this chapter. If the information contained in a  
2097 record filed under this subsection is or becomes inaccurate or



2098 incomplete in a material respect, the registrant shall promptly  
2099 file a correcting amendment.

2100 (c) **Recordkeeping.** Subject to Section 15(h) of the  
2101 Securities Exchange Act of 1934 (15 USC Section 78o(h)) or Section  
2102 222 of the Investment Advisers Act of 1940 (15 USC Section  
2103 80b-22):

2104 (1) A broker-dealer registered or required to be  
2105 registered under this chapter and an investment adviser registered  
2106 or required to be registered under this chapter shall make and  
2107 maintain the accounts, correspondence, memoranda, papers, books,  
2108 and other records required by rule adopted or order issued under  
2109 this chapter;

2110 (2) Broker-dealer records required to be maintained  
2111 under paragraph (1) may be maintained in any form of data storage  
2112 acceptable under Section 17(a) of the Securities Exchange Act of  
2113 1934 (15 USC Section 78q(a)) if they are readily accessible to the  
2114 administrator; and

2115 (3) Investment adviser records required to be  
2116 maintained under paragraph (1) may be maintained in any form of  
2117 data storage required by rule adopted or order issued under this  
2118 chapter.

2119 (d) **Audits or inspections.** The records of a broker-dealer  
2120 registered or required to be registered under this chapter and of  
2121 an investment adviser registered or required to be registered  
2122 under this chapter are subject to such reasonable periodic,



2123 special, or other audits or inspections by a representative of the  
2124 administrator, within or without this state, as the administrator  
2125 considers necessary or appropriate in the public interest and for  
2126 the protection of investors. An audit or inspection may be made  
2127 at any time and without prior notice. The administrator may copy,  
2128 and remove for audit or inspection copies of, all records the  
2129 administrator reasonably considers necessary or appropriate to  
2130 conduct the audit or inspection. The administrator may assess a  
2131 reasonable charge for conducting an audit or inspection under this  
2132 subsection.

2133 (e) **Custody and discretionary authority bond or insurance.**

2134 Subject to the limitations of Section 15(h) of the Securities  
2135 Exchange Act of 1934 (15 USC Section 78o(h)) and Section 222 of  
2136 the Investment Advisers Act of 1940 (15 USC Section 80b-22), the  
2137 administrator may by rule require a broker-dealer or investment  
2138 adviser that has custody of or discretionary authority over funds  
2139 or securities of a customer or client to obtain insurance or post  
2140 a bond or other satisfactory form of security in an amount as  
2141 prescribed by rule. The administrator may determine the  
2142 requirements of the insurance, bond, or other satisfactory form of  
2143 security. Insurance or a bond or other satisfactory form of  
2144 security may not be required of a broker-dealer registered under  
2145 this chapter whose net capital exceeds, or of an investment  
2146 adviser registered under this chapter whose minimum financial  
2147 requirements exceed, the amounts required by rule or order under



2148 this chapter. The insurance, bond, or other satisfactory form of  
2149 security must permit an action by a person to enforce any  
2150 liability on the insurance, bond, or other satisfactory form of  
2151 security if instituted within the time limitations in Section  
2152 75-71-509(j) (2).

2153 (f) **Requirements for custody.** Subject to Section 15(h) of  
2154 the Securities Exchange Act of 1934 (15 USC Section 78o(h)) or  
2155 Section 222 of the Investment Advisers Act of 1940 (15 USC Section  
2156 80b-22), an agent may not have custody of funds or securities of a  
2157 customer except under the supervision of a broker-dealer and an  
2158 investment adviser representative may not have custody of funds or  
2159 securities of a client except under the supervision of an  
2160 investment adviser or a federal covered investment adviser. A  
2161 rule adopted or order issued under this chapter may prohibit,  
2162 limit, or impose conditions on a broker-dealer regarding custody  
2163 of funds or securities of a customer and on an investment adviser  
2164 regarding custody of securities or funds of a client.

2165 (g) **Investment adviser brochure rule.** With respect to an  
2166 investment adviser registered or required to be registered under  
2167 this chapter, a rule adopted or order issued under this chapter  
2168 may require that information or other record be furnished or  
2169 disseminated to clients or prospective clients in this state as  
2170 necessary or appropriate in the public interest and for the  
2171 protection of investors and advisory clients.





2172 (h) **Continuing education.** A rule adopted or order issued  
2173 under this chapter may require an individual registered under  
2174 Section 75-71-402 or Section 75-71-404 to participate in a  
2175 continuing education program approved by the Securities and  
2176 Exchange Commission and administered by a self-regulatory  
2177 organization or, in the absence of such a program, a rule adopted  
2178 or order issued under this chapter may require continuing  
2179 education for an individual registered under Section 75-71-404.

2180 **SECTION 33.** Section 75-71-412, Mississippi Code of 1972, is  
2181 brought forward as follows:

2182 75-71-412. (a) **Disciplinary conditions-applicants.** If the  
2183 administrator finds that the order is in the public interest and  
2184 subsection (d) authorizes the action, an order issued under this  
2185 chapter may deny an application, or may condition or limit  
2186 registration of an applicant to be a broker-dealer, agent,  
2187 investment adviser, or investment adviser representative, and, if  
2188 the applicant is a broker-dealer or investment adviser, of a  
2189 partner, officer, director, or person having a similar status or  
2190 performing similar functions, or a person directly or indirectly  
2191 in control, of the broker-dealer or investment adviser.

2192 (b) **Disciplinary conditions-registrants.** If the  
2193 administrator finds that the order is in the public interest and  
2194 subsection (d) authorizes the action, an order issued under this  
2195 chapter may revoke, suspend, condition, or limit the registration  
2196 of a registrant and, if the registrant is a broker-dealer or



2197 investment adviser, of a partner, officer, director, or person  
2198 having a similar status or performing similar functions, or a  
2199 person directly or indirectly in control, of the broker-dealer or  
2200 investment adviser. However, the administrator may not:

2201 (1) Institute a revocation or suspension proceeding  
2202 under this subsection (b) based on an order issued under a law of  
2203 another state that is reported to the administrator or a designee  
2204 of the administrator more than one (1) year after the date of the  
2205 order on which it is based; or

2206 (2) Under subsection (d) (5) (A) or (B), issue an order  
2207 on the basis of an order issued under the securities act of  
2208 another state unless the other order was based on conduct for  
2209 which subsection (d) would authorize the action had the conduct  
2210 occurred in this state.

2211 (c) **Disciplinary penalties-registrants.** If the  
2212 administrator finds that the order is in the public interest and  
2213 subsection (d) (1) through (6), (8), (9), (10), (12) or (13)  
2214 authorizes the action, an order under this chapter may censure,  
2215 impose a bar, or impose a civil penalty in an amount not to exceed  
2216 a maximum of the amount specified in Section 75-71-613 for each  
2217 violation on a registrant, and, if the registrant is a  
2218 broker-dealer or investment adviser, a partner, officer, director,  
2219 or person having a similar status or performing similar functions,  
2220 or a person directly or indirectly in control of the broker-dealer  
2221 or investment adviser.



2222 (d) **Grounds for discipline.** A person may be disciplined  
2223 under subsections (a) through (c) if the person:

2224 (1) Has filed an application for registration in this  
2225 state under this chapter or the predecessor act within the  
2226 previous ten (10) years, which, as of the effective date of  
2227 registration or as of any date after filing in the case of an  
2228 order denying effectiveness, was incomplete in any material  
2229 respect or contained a statement that, in light of the  
2230 circumstances under which it was made, was false or misleading  
2231 with respect to a material fact;

2232 (2) Willfully violated or willfully failed to comply  
2233 with this chapter or the predecessor act or a rule adopted or  
2234 order issued under this chapter or the predecessor act within the  
2235 previous fifteen (15) years; for purposes of an ongoing failure to  
2236 supervise, each twelve-month period or less of the conduct is a  
2237 separate violation of this subsection, and if the person has  
2238 failed to supervise more than one (1) individual at a time during  
2239 the twelve (12) consecutive months' time period, then it shall be  
2240 a separate violation of this subsection for each individual that  
2241 the person failed to supervise during the applicable time period;

2242 (3) Has been convicted of a felony or within the  
2243 previous ten (10) years has been convicted of a misdemeanor  
2244 involving a security, a commodity future or option contract, or an  
2245 aspect of a business involving securities, commodities,  
2246 investments, franchises, insurance, banking, or finance;



2247           (4) Is enjoined or restrained by a court of competent  
2248 jurisdiction in an action instituted by the administrator under  
2249 this chapter or the predecessor act, a state, the Securities and  
2250 Exchange Commission, or the United States from engaging in or  
2251 continuing an act, practice, or course of business involving an  
2252 aspect of a business involving securities, commodities,  
2253 investments, franchises, insurance, banking, or finance;

2254           (5) Is the subject of an order, issued after notice and  
2255 opportunity for hearing by:

2256                   (A) The securities or other financial services  
2257 regulator of a state or the Securities and Exchange Commission or  
2258 other federal agency denying, revoking, barring, or suspending  
2259 registration as a broker-dealer, agent, investment adviser,  
2260 federal covered investment adviser, or investment adviser  
2261 representative;

2262                   (B) The securities regulator of a state or the  
2263 Securities and Exchange Commission against a broker-dealer, agent,  
2264 investment adviser, investment adviser representative, or federal  
2265 covered investment adviser;

2266                   (C) The Securities and Exchange Commission or a  
2267 self-regulatory organization suspending or expelling the  
2268 registrant from membership in the self-regulatory organization;

2269                   (D) A court adjudicating a United States Postal  
2270 Service fraud order;



2271 (E) The insurance regulator of a state denying,  
2272 suspending, or revoking registration as an insurance agent; or  
2273 (F) A depository institution or financial services  
2274 regulator suspending or barring the person from the depository  
2275 institution or other financial services business;  
2276 (6) Is the subject of an adjudication or determination,  
2277 after notice and opportunity for hearing, by the Securities and  
2278 Exchange Commission, the Commodity Futures Trading Commission; the  
2279 Federal Trade Commission; a federal depository institution  
2280 regulator, or a depository institution, insurance, or other  
2281 financial services regulator of a state that the person willfully  
2282 violated the Securities Act of 1933, the Securities Exchange Act  
2283 of 1934, the Investment Advisers Act of 1940, the Investment  
2284 Company Act of 1940, or the Commodity Exchange Act, the securities  
2285 or commodities law of a state, or a federal or state law under  
2286 which a business involving investments, franchises, insurance,  
2287 banking, or finance is regulated;  
2288 (7) Is insolvent, either because the person's  
2289 liabilities exceed the person's assets or because the person  
2290 cannot meet the person's obligations as they mature, but the  
2291 administrator may not enter an order against an applicant or  
2292 registrant under this subsection (d) without a finding of  
2293 insolvency as to the applicant or registrant;  
2294 (8) Refuses to allow or otherwise impedes the  
2295 administrator from conducting an audit or inspection under Section



2296 75-71-411(d) or refuses access to a registrant's office to conduct  
2297 an audit or inspection under Section 75-71-411(d);

2298 (9) Has failed to reasonably supervise an agent,  
2299 investment adviser representative, or other individual, if the  
2300 agent, investment adviser representative, or other individual was  
2301 subject to the person's supervision and committed a violation of  
2302 this chapter or the predecessor act or a rule adopted or order  
2303 issued under this chapter or the predecessor act within the  
2304 previous fifteen (15) years;

2305 (10) Has not paid the proper filing fee within thirty  
2306 (30) days after having been notified by the administrator of a  
2307 deficiency, but the administrator shall vacate an order under this  
2308 subsection (d) when the deficiency is corrected;

2309 (11) After notice and opportunity for a hearing, has  
2310 been found within the previous ten (10) years:

2311 (A) By a court of competent jurisdiction to have  
2312 willfully violated the laws of a foreign jurisdiction under which  
2313 the business of securities, commodities, investment, franchises,  
2314 insurance, banking, or finance is regulated;

2315 (B) To have been the subject of an order of a  
2316 securities regulator of a foreign jurisdiction denying, revoking,  
2317 or suspending the right to engage in the business of securities as  
2318 a broker-dealer, agent, investment adviser, investment adviser  
2319 representative, or similar person; or



2320 (C) To have been suspended or expelled from  
2321 membership by or participation in a securities exchange or  
2322 securities association operating under the securities laws of a  
2323 foreign jurisdiction;

2324 (12) Is the subject of a cease and desist order issued  
2325 by the Securities and Exchange Commission or issued under the  
2326 securities, commodities, investment, franchise, banking, finance,  
2327 or insurance laws of a state;

2328 (13) Has engaged in dishonest or unethical practices in  
2329 the securities, commodities, investment, franchise, banking,  
2330 finance, or insurance business within the previous ten (10) years;  
2331 or

2332 (14) Is not qualified on the basis of factors such as  
2333 training, experience, and knowledge of the securities business.  
2334 However, in the case of an application by an agent for a  
2335 broker-dealer that is a member of a self-regulatory organization  
2336 or by an individual for registration as an investment adviser  
2337 representative, a denial order may not be based on this subsection  
2338 if the individual has successfully completed all examinations  
2339 required by subsection (e). The administrator may require an  
2340 applicant for registration under Section 75-71-402 or 75-71-404  
2341 who has not been registered in a state within the two (2) years  
2342 preceding the filing of an application in this state to  
2343 successfully complete an examination.



2344 (e) **Examinations.** A rule adopted or order issued under this  
2345 chapter may require that an examination, including an examination  
2346 developed or approved by an organization of securities regulators,  
2347 be successfully completed by a class of individuals or all  
2348 individuals. An order issued under this chapter may waive, in  
2349 whole or in part, an examination as to an individual and a rule  
2350 adopted under this chapter may waive, in whole or in part, an  
2351 examination as to a class of individuals if the administrator  
2352 determines that the examination is not necessary or appropriate in  
2353 the public interest and for the protection of investors.

2354 (f) **Summary process.** The administrator may suspend or deny  
2355 an application summarily; restrict, condition, limit, or suspend a  
2356 registration; or censure, bar, or impose a civil penalty on a  
2357 registrant before final determination of an administrative  
2358 proceeding. Upon the issuance of an order, the administrator  
2359 shall promptly notify each person subject to the order that the  
2360 order has been issued, the reasons for the action, and that within  
2361 fifteen (15) days after the receipt of a request in a record from  
2362 the person the matter will be scheduled for a hearing. If a  
2363 hearing is not requested and none is ordered by the administrator  
2364 within thirty (30) days after the date of service of the order,  
2365 the order becomes final by operation of law. If a hearing is  
2366 requested or ordered, the administrator, after notice of and  
2367 opportunity for hearing to each person subject to the order, may





2368 modify or vacate the order or extend the order until final  
2369 determination.

2370 (g) **Procedural requirements.** An order issued may not be  
2371 issued under this section, except under subsection (f), without:

2372 (1) Appropriate notice to the applicant or registrant;

2373 (2) Opportunity for hearing; and

2374 (3) Findings of fact and conclusions of law in a record  
2375 in accordance with the administrative hearing procedures set forth  
2376 in the rules.

2377 (h) **Control person liability.** A person that controls,  
2378 directly or indirectly, a person not in compliance with this  
2379 section may be disciplined by order of the administrator under  
2380 subsections (a) through (c) to the same extent as the noncomplying  
2381 person, unless the controlling person did not know, and in the  
2382 exercise of reasonable care could not have known, of the existence  
2383 of conduct that is a ground for discipline under this section.

2384 (i) **Limit on investigation or proceeding.** The administrator  
2385 may not institute a proceeding under subsection (a), (b), or (c)  
2386 based solely on material facts actually known by the administrator  
2387 unless an investigation or the proceeding is instituted within one  
2388 (1) year after the administrator actually acquires knowledge of  
2389 the material facts.

2390 **SECTION 34.** Section 75-71-413, Mississippi Code of 1972, is  
2391 brought forward as follows:



2392           75-71-413. (a) A broker-dealer registered or required to be  
2393 registered under this chapter or an investment adviser registered  
2394 or required to be registered under this chapter that is required  
2395 to file a report with the Department of Human Services under the  
2396 Mississippi Vulnerable Persons Act, Section 43-47-1 et seq., shall  
2397 immediately forward a copy of the report to the administrator and  
2398 may notify any third party reasonably associated with the customer  
2399 of the suspected financial exploitation, or any other party  
2400 permitted by state or federal laws or regulations, the rules of a  
2401 self-regulatory organization or by customer agreement.

2402           (b) If the broker-dealer registered or required to be  
2403 registered under this chapter or the investment adviser registered  
2404 or required to be registered under this chapter reasonably  
2405 believes that a requested transaction may result in financial  
2406 exploitation of its customer, that person may delay a transaction  
2407 not to exceed fifteen (15) business days. If the transaction is  
2408 delayed, the person shall, within two (2) business days, notify  
2409 the administrator and all parties authorized to transact business  
2410 on or to view the account subject to the delay. The broker-dealer  
2411 or investment adviser shall immediately initiate an internal  
2412 review of the suspected or attempted financial exploitation of the  
2413 customer. The broker-dealer or investment advisor shall provide  
2414 the administrator and the Department of Human Services with an  
2415 update on the investigation upon request.



2416 (c) Any delay of a transaction as authorized by this section  
2417 will expire upon the sooner of:

2418 (1) A determination by the broker-dealer or investment  
2419 adviser, and the administrator, that the transaction will not  
2420 result in financial exploitation of the eligible adult; or

2421 (2) Fifteen (15) business days, unless the  
2422 administrator requests that the broker-dealer or investment  
2423 adviser extend the delay, in which case the delay shall be  
2424 extended for an additional ten (10) days unless otherwise extended  
2425 or terminated in accordance with paragraph (3).

2426 (3) The Administrator or the Department of Human  
2427 Services may petition a court of competent jurisdiction to enter  
2428 an order extending or terminating the delay of the transaction.

2429 (d) Disclosures and notifications of transaction delays  
2430 shall not be made to any third party who is suspected of financial  
2431 exploitation or other abuse.

2432 (e) A person that makes disclosures or delays transactions  
2433 under this section shall be immune from any administrative or  
2434 civil liability that might otherwise arise from compliance with  
2435 this section or activity authorized by this section.

2436 (f) A person who fails to comply with subsection (a) of this  
2437 section shall be subject to Section 43-47-7(1)(c) of the  
2438 Mississippi Vulnerable Persons Act.

2439 **SECTION 35.** Section 75-71-501, Mississippi Code of 1972, is  
2440 brought forward as follows:



2441           75-71-501. **General fraud.** It is unlawful for a person, in  
2442 connection with the offer, sale, or purchase of a security,  
2443 directly or indirectly:

2444                   (1) To employ a device, scheme, or artifice to defraud;

2445                   (2) To make an untrue statement of a material fact or  
2446 to omit to state a material fact necessary in order to make the  
2447 statements made, in the light of the circumstances under which  
2448 they were made, not misleading; or

2449                   (3) To engage in an act, practice, or course of  
2450 business that operates or would operate as a fraud or deceit upon  
2451 another person.

2452           **SECTION 36.** Section 75-71-502, Mississippi Code of 1972, is  
2453 brought forward as follows:

2454           75-71-502. **Prohibited conduct in providing investment**

2455 **advice.** (a) **Fraud in providing investment advice.** It is  
2456 unlawful for a person that advises others for compensation, either  
2457 directly or indirectly or through publications or writings, as to  
2458 the value of securities or the advisability of investing in,  
2459 purchasing, or selling securities or that, for compensation and as  
2460 part of a regular business, issues or promulgates analyses or  
2461 reports relating to securities:

2462                   (1) To employ a device, scheme, or artifice to defraud  
2463 another person; or



2464 (2) To engage in an act, practice, or course of  
2465 business that operates or would operate as a fraud or deceit upon  
2466 another person.

2467 (b) **Rules specifying contents of advisory contract.** A rule  
2468 adopted under this chapter may specify the contents of an  
2469 investment advisory contract entered into, extended, or renewed by  
2470 an investment adviser.

2471 **SECTION 37.** Section 75-71-503, Mississippi Code of 1972, is  
2472 brought forward as follows:

2473 75-71-503. **Evidentiary burden.** (a) **Civil.** In a civil  
2474 action or administrative proceeding under this chapter, a person  
2475 claiming an exemption, exception, preemption, or exclusion has the  
2476 burden to prove the applicability of the claim.

2477 (b) **Criminal.** In a criminal proceeding under this chapter,  
2478 a person claiming an exemption, exception, preemption, or  
2479 exclusion has the burden of going forward with evidence of the  
2480 claim.

2481 **SECTION 38.** Section 75-71-504, Mississippi Code of 1972, is  
2482 brought forward as follows:

2483 75-71-504. **Filing of sales and advertising literature.** (a)  
2484 **Filing requirement.** Except as otherwise provided in subsection  
2485 (b), a rule adopted or order issued under this chapter may require  
2486 the filing of a prospectus, pamphlet, circular, form letter,  
2487 advertisement, sales literature, or other advertising record  
2488 relating to a security or investment advice, addressed or intended



2489 for distribution to prospective investors, including clients or  
2490 prospective clients of a person registered or required to be  
2491 registered as an investment adviser under this chapter.

2492 (b) **Excluded communications.** This section does not apply to  
2493 sales and advertising literature specified in subsection (a) which  
2494 relates to a federal covered security, a federal covered  
2495 investment adviser, or a security or transaction exempted by  
2496 Section 75-71-201, Section 75-71-202, or Section 75-71-203 except  
2497 as required pursuant to Section 75-71-201(7).

2498 **SECTION 39.** Section 75-71-505, Mississippi Code of 1972, is  
2499 brought forward as follows:

2500 75-71-505. **Misleading filings.** It is unlawful for a person  
2501 to make or cause to be made, in a record that is used in an action  
2502 or proceeding or filed under this chapter, a statement that, at  
2503 the time and in the light of the circumstances under which it is  
2504 made, is false or misleading in a material respect, or, in  
2505 connection with the statement, to omit to state a material fact  
2506 necessary to make the statement made, in the light of the  
2507 circumstances under which it was made, not false or misleading.

2508 **SECTION 40.** Section 75-71-506, Mississippi Code of 1972, is  
2509 brought forward as follows:

2510 75-71-506. **Misrepresentations concerning registration or**  
2511 **exemption.** The filing of an application for registration, a  
2512 registration statement, a notice filing under this chapter, the  
2513 registration of a person, the notice filing by a person, or the



2514 registration of a security under this chapter does not constitute  
2515 a finding by the administrator that a record filed under this  
2516 chapter is true, complete, and not misleading. The filing or  
2517 registration or the availability of an exemption, exception,  
2518 preemption, or exclusion for a security or a transaction does not  
2519 mean that the administrator has passed upon the merits or  
2520 qualifications of, or recommended or given approval to, a person,  
2521 security, or transaction. It is unlawful to make, or cause to be  
2522 made, to a purchaser, customer, client, or prospective customer or  
2523 client a representation inconsistent with this section.

2524       **SECTION 41.** Section 75-71-507, Mississippi Code of 1972, is  
2525 brought forward as follows:

2526       75-71-507. **Qualified immunity.** A broker-dealer, agent,  
2527 investment adviser, federal covered investment adviser, or  
2528 investment adviser representative is not liable to another  
2529 broker-dealer, agent, investment adviser, federal covered  
2530 investment adviser, or investment adviser representative for  
2531 defamation relating to a statement that is contained in a record  
2532 required by the administrator, or designee of the administrator,  
2533 the Securities and Exchange Commission, or a self-regulatory  
2534 organization, unless the person knew, or should have known at the  
2535 time that the statement was made, that it was false in a material  
2536 respect or the person acted in reckless disregard of the  
2537 statement's truth or falsity.



2538           **SECTION 42.** Section 75-71-508, Mississippi Code of 1972, is  
2539 brought forward as follows:

2540           75-71-508. **Criminal penalties.** (a) **Criminal penalties.** A  
2541 person that willfully violates this chapter except Section  
2542 75-71-504 or the notice filing requirements of Section 75-71-302  
2543 or Section 75-71-405, or that willfully violates Section 75-71-505  
2544 knowing the statement made to be false or misleading in a material  
2545 respect, upon conviction, shall be fined not more than the amount  
2546 set forth in Section 75-71-613 or imprisoned not more than five  
2547 (5) years, or both. An individual convicted of violating a rule  
2548 or order under this chapter may be fined, but may not be  
2549 imprisoned, if the individual did not have knowledge of the rule  
2550 or order. Each violation shall be considered as a separate  
2551 offense in a single proceeding or a series of related proceedings.

2552           (b) **Criminal referral not required.** The Attorney General  
2553 with or without a referral from the administrator, may institute  
2554 criminal proceedings under this chapter. The attorneys duly  
2555 employed by the administrator may be appointed by the Attorney  
2556 General or the proper prosecuting attorney or local district  
2557 attorney to act as special prosecutors in criminal proceedings.

2558           (c) **No limitation on other criminal enforcement.** This  
2559 chapter does not limit the power of this state to punish a person  
2560 for conduct that constitutes a crime under other laws of this  
2561 state.





2562           **SECTION 43.** Section 75-71-509, Mississippi Code of 1972, is  
2563 brought forward as follows:

2564           75-71-509. **Civil liability.** (a) **Securities Litigation**  
2565 **Uniform Standards Act.** Enforcement of civil liability under this  
2566 section is subject to the Securities Litigation Uniform Standards  
2567 Act of 1998.

2568           (b) **Liability of seller to purchaser.** A person is liable to  
2569 the purchaser if the person sells a security in violation of  
2570 Section 75-71-301 or, by means of an untrue statement of a  
2571 material fact or an omission to state a material fact necessary in  
2572 order to make the statement made, in light of the circumstances  
2573 under which it is made, not misleading, the purchaser not knowing  
2574 the untruth or omission and the seller not sustaining the burden  
2575 of proof that the seller did not know and, in the exercise of  
2576 reasonable care, could not have known of the untruth or omission.  
2577 An action under this subsection is governed by the following:

2578           (1) The purchaser may maintain an action to recover the  
2579 consideration paid for the security, less the amount of any income  
2580 received on the security, and interest at the legal rate of  
2581 interest from the date of the purchase, costs, and reasonable  
2582 attorney's fees determined by the court, upon the tender of the  
2583 security, or for actual damages as provided in paragraph (3).

2584           (2) The tender referred to in paragraph (1) may be made  
2585 any time before entry of judgment. Tender requires only notice in  
2586 a record of ownership of the security and willingness to exchange



2587 the security for the amount specified. A purchaser that no longer  
2588 owns the security may recover actual damages as provided in  
2589 paragraph (3).

2590 (3) Actual damages in an action arising under this  
2591 subsection (b) are the amount that would be recoverable upon a  
2592 tender less the value of the security when the purchaser disposed  
2593 of it, and interest at the legal rate of interest from the date of  
2594 the purchase, costs, and reasonable attorney's fees determined by  
2595 the court.

2596 (c) **Liability of purchaser to seller.** A person is liable to  
2597 the seller if the person buys a security by means of an untrue  
2598 statement of a material fact or omission to state a material fact  
2599 necessary in order to make the statement made, in light of the  
2600 circumstances under which it is made, not misleading, the seller  
2601 not knowing of the untruth or omission, and the purchaser not  
2602 sustaining the burden of proof that the purchaser did not know,  
2603 and in the exercise of reasonable care, could not have known of  
2604 the untruth or omission. An action under this subsection is  
2605 governed by the following:

2606 (1) The seller may maintain an action to recover the  
2607 security, and any income received on the security, costs, and  
2608 reasonable attorney's fees determined by the court, upon the  
2609 tender of the purchase price, or for actual damages as provided in  
2610 paragraph (3).



2611           (2) The tender referred to in paragraph (1) may be made  
2612 any time before entry of judgment. Tender requires only notice in  
2613 a record of the present ability to pay the amount tendered and  
2614 willingness to take delivery of the security for the amount  
2615 specified. If the purchaser no longer owns the security, the  
2616 seller may recover actual damages as provided in paragraph (3).

2617           (3) Actual damages in an action arising under this  
2618 subsection (c) are the difference between the price at which the  
2619 security was sold and the value the security would have had at the  
2620 time of the sale in the absence of the purchaser's conduct causing  
2621 liability, and interest at the legal rate of interest from the  
2622 date of the sale of the security, costs and reasonable attorney's  
2623 fees determined by the court.

2624           (d) **Liability of unregistered broker-dealer and agent.** A  
2625 person acting as a broker-dealer or agent that sells or buys a  
2626 security in violation of Section 75-71-401(a), 75-71-402(a), or  
2627 Section 75-71-506 is liable to the customer. The customer, if a  
2628 purchaser, may maintain an action for recovery of actual damages  
2629 as specified in subsection (b)(1) through (3), or, if a seller,  
2630 for a remedy as specified in subsection (c)(1) through (3).

2631           (e) **Liability of unregistered investment adviser and**  
2632 **investment adviser representative.** A person acting as an  
2633 investment adviser or investment adviser representative that  
2634 provides investment advice for compensation in violation of  
2635 Section 75-71-403(a), Section 75-71-404(a), or Section 75-71-506



2636 is liable to the client. The client may maintain an action to  
2637 recover the consideration paid for the advice, interest at the  
2638 legal rate of interest from the date of payment, costs, and  
2639 reasonable attorney's fees determined by the court.

2640 (f) **Liability for investment advice.** A person that receives  
2641 directly or indirectly any consideration for providing investment  
2642 advice to another person and that employs a device, scheme, or  
2643 artifice to defraud the other person or engages in an act,  
2644 practice, or course of business that operates or would operate as  
2645 a fraud or deceit on the other person, is liable to the other  
2646 person. An action under this subsection is governed by the  
2647 following:

2648 (1) The person defrauded may maintain an action to  
2649 recover the consideration paid for the advice and the amount of  
2650 any actual damages caused by the fraudulent conduct, interest at  
2651 the legal rate of interest from the date of the fraudulent  
2652 conduct, costs, and reasonable attorney's fees determined by the  
2653 court, less the amount of any income received as a result of the  
2654 fraudulent conduct.

2655 (2) This subsection (f) does not apply to a  
2656 broker-dealer or its agents if the investment advice provided is  
2657 solely incidental to transacting business as a broker-dealer and  
2658 no special compensation is received for the investment advice.



2659 (g) **Joint and several liability.** The following persons are  
2660 liable jointly and severally with and to the same extent as  
2661 persons liable under subsections (b) through (f):

2662 (1) A person that directly or indirectly controls a  
2663 person liable under subsections (b) through (f), unless the  
2664 controlling person sustains the burden of proof that the person  
2665 did not know, and in the exercise of reasonable care could not  
2666 have known, of the existence of conduct by reason of which the  
2667 liability is alleged to exist;

2668 (2) An individual who is a managing partner, executive  
2669 officer, or director of a person liable under subsections (b)  
2670 through (f), including an individual having a similar status or  
2671 performing similar functions, unless the individual sustains the  
2672 burden of proof that the individual did not know and, in the  
2673 exercise of reasonable care could not have known, of the existence  
2674 of conduct by reason of which the liability is alleged to exist;

2675 (3) An individual who is an employee of or associated  
2676 with a person liable under subsections (b) through (f) and who  
2677 materially aids the conduct giving rise to the liability, unless  
2678 the individual sustains the burden of proof that the individual  
2679 did not know and, in the exercise of reasonable care could not  
2680 have known, of the existence of conduct by reason of which the  
2681 liability is alleged to exist; and

2682 (4) A person that is a broker-dealer, agent, investment  
2683 adviser, or investment adviser representative that materially aids



2684 the conduct giving rise to the liability under subsections (b)  
2685 through (f), unless the person sustains the burden of proof that  
2686 the person did not know and, in the exercise of reasonable care  
2687 could not have known, of the existence of conduct by reason of  
2688 which liability is alleged to exist.

2689 (h) **Right of contribution.** A person liable under this  
2690 section has a right of contribution as in cases of contract  
2691 against any other person liable under this section for the same  
2692 conduct.

2693 (i) **Survival of cause of action.** A cause of action under  
2694 this section survives the death of an individual who might have  
2695 been a plaintiff or defendant.

2696 (j) **Statute of limitations.** A person may not obtain relief:

2697 (1) Under subsection (b) for violation of Section  
2698 75-71-301, or under subsection (d) or (e), unless the action is  
2699 instituted within one (1) year after the violation occurred; or

2700 (2) Under subsection (b), other than for violation of  
2701 Section 75-71-301, or under subsection (c) or (f), unless the  
2702 action is instituted within the earlier of two (2) years after  
2703 discovery of the facts constituting the violation or five (5)  
2704 years after the violation.

2705 (k) **No enforcement of violative contract.** A person that has  
2706 made, or has engaged in the performance of, a contract in  
2707 violation of this chapter or a rule adopted or order issued under  
2708 this chapter, or that has acquired a purported right under the



2709 contract with knowledge of conduct by reason of which its making  
2710 or performance was in violation of this chapter, may not base an  
2711 action on the contract.

2712 (l) **No contractual waiver.** A condition, stipulation, or  
2713 provision binding a person purchasing or selling a security or  
2714 receiving investment advice to waive compliance with this chapter  
2715 or a rule adopted or order issued under this chapter is void.

2716 (m) **Survival of other rights or remedies.** The rights and  
2717 remedies provided by this chapter are in addition to any other  
2718 rights or remedies that may exist, but this chapter does not  
2719 create a cause of action not specified in this section or Section  
2720 75-71-411(e).

2721 **SECTION 44.** Section 75-71-510, Mississippi Code of 1972, is  
2722 brought forward as follows:

2723 75-71-510. **Rescission offers.** A purchaser of a security,  
2724 seller of a security, or recipient of investment advice may not  
2725 maintain an action under Section 75-71-509 if:

2726 (1) The purchaser of a security, seller of a security,  
2727 or recipient of investment advice receives in a record, before the  
2728 action is instituted:

2729 (A) An offer stating the respect in which  
2730 liability under Section 75-71-509 may have arisen and fairly  
2731 advising the purchaser of a security, seller of a security, or  
2732 recipient of investment advice of that person's rights in  
2733 connection with the offer, and any financial or other information



2734 necessary to correct all material misrepresentations or omissions  
2735 in the information that was required by this chapter to be  
2736 furnished to that person at the time of the purchase of the  
2737 security, sale of the security, or receipt of the investment  
2738 advice;

2739           (B) If the basis for relief under this section may  
2740 have been a violation of Section 75-71-509(b), an offer to  
2741 repurchase the security for cash, payable on delivery of the  
2742 security, equal to the consideration paid, and interest at six  
2743 percent (6%) from the date of the purchase, less the amount of any  
2744 income received on the security, or, if the purchaser no longer  
2745 owns the security, an offer to pay the purchaser upon acceptance  
2746 of the offer damages in an amount that would be recoverable upon a  
2747 tender, less the value of the security when the purchaser disposed  
2748 of it, and interest at eight percent (8%) interest from the date  
2749 of the purchase in cash equal to the damages computed in the  
2750 manner provided in this subparagraph;

2751           (C) If the basis for relief under this section may  
2752 have been a violation of Section 75-71-509(c), an offer to tender  
2753 the security, on payment by the seller of an amount equal to the  
2754 purchase price paid, less income received on the security by the  
2755 purchaser and interest at the legal rate of interest from the date  
2756 of the sale; or if the purchaser no longer owns the security, an  
2757 offer to pay the seller upon acceptance of the offer, in cash,  
2758 damages in the amount of the difference between the price at which





2759 the security was purchased and the value the security would have  
2760 had at the time of the purchase in the absence of the purchaser's  
2761 conduct that may have caused liability and interest at the legal  
2762 rate of interest from the date of the sale;

2763 (D) If the basis for relief under this section may  
2764 have been a violation of Section 75-71-509(d); and if the customer  
2765 is a purchaser, an offer to pay as specified in subparagraph (B);  
2766 or, if the customer is a seller, an offer to tender or to pay as  
2767 specified in subparagraph (C);

2768 (E) If the basis for relief under this section may  
2769 have been a violation of Section 75-71-509(e), an offer to  
2770 reimburse in cash the consideration paid for the advice and  
2771 interest at the legal rate of interest from the date of payment;  
2772 or

2773 (F) If the basis for relief under this section may  
2774 have been a violation of Section 75-71-509(f), an offer to  
2775 reimburse in cash the consideration paid for the advice, the  
2776 amount of any actual damages that may have been caused by the  
2777 conduct, and interest at the legal rate of interest from the date  
2778 of the violation causing the loss;

2779 (2) The offer under paragraph (1) states that it must  
2780 be accepted by the purchaser, seller, or recipient of investment  
2781 advice within thirty (30) days after the date of its receipt by  
2782 the purchaser, seller, or recipient of investment advice or any



2783 shorter period, of not less than three (3) days, that the  
2784 administrator, by order, specifies;

2785 (3) The offeror has the present ability to pay the  
2786 amount offered or to tender the security under paragraph (1);

2787 (4) The offer under paragraph (1) is delivered to the  
2788 purchaser, seller, or recipient of investment advice, or sent in a  
2789 manner that ensures receipt by the purchaser, seller, or recipient  
2790 of investment advice; and

2791 (5) The purchaser, seller, or recipient of investment  
2792 advice that accepts the offer under paragraph (1) in a record  
2793 within the period specified under paragraph (2) is paid in  
2794 accordance with the terms of the offer.

2795 **SECTION 45.** Section 75-71-601, Mississippi Code of 1972, is  
2796 brought forward as follows:

2797 75-71-601. **Administration.** (a) **Administration.** The  
2798 administrator shall administer this chapter.

2799 (b) **Unlawful use of records or information.** It is unlawful  
2800 for the administrator or an officer, employee, or designee of the  
2801 administrator to use for personal benefit or the benefit of others  
2802 records or other information obtained by or filed with the  
2803 administrator that are not public under Section 75-71-607(b).  
2804 This chapter does not authorize the administrator or an officer,  
2805 employee, or designee of the administrator to disclose the record  
2806 or information, except in accordance with Section 75-71-602,  
2807 75-71-607(c), or 75-71-608.



2808 (c) **No privilege or exemption created or diminished.** This  
2809 chapter does not create or diminish a privilege or exemption that  
2810 exists at common law, by statute or rule, or otherwise.

2811 (d) **Investor education.** The administrator may develop and  
2812 implement investor education initiatives to inform the public  
2813 about investing in securities, with particular emphasis on the  
2814 prevention and detection of securities fraud. In developing and  
2815 implementing these initiatives, the administrator may collaborate  
2816 with public and nonprofit organizations with an interest in  
2817 investor education. The administrator may accept a grant or  
2818 donation from a person that is not affiliated with the securities  
2819 industry or from a nonprofit organization, regardless of whether  
2820 the organization is affiliated with the securities industry, to  
2821 develop and implement investor education initiatives. This  
2822 subsection does not authorize the administrator to require  
2823 participation or monetary contributions of a registrant in an  
2824 investor education program.

2825 **SECTION 46.** Section 75-71-602, Mississippi Code of 1972, is  
2826 brought forward as follows:

2827 75-71-602. **Investigations and subpoenas.** (a) **Authority to**  
2828 **investigate.** The administrator may:

2829 (1) Conduct public or private investigations within or  
2830 outside of this state which the administrator considers necessary  
2831 or appropriate to determine whether a person has violated, is  
2832 violating, or is about to violate this chapter or a rule adopted



2833 or order issued under this chapter, or to aid in the enforcement  
2834 of this chapter or in the adoption of rules and forms under this  
2835 chapter;

2836 (2) Require or permit a person to testify, file a  
2837 statement, or produce a record, under oath or otherwise as the  
2838 administrator determines, as to all the facts and circumstances  
2839 concerning a matter to be investigated or about which an action or  
2840 proceeding is to be instituted; and

2841 (3) Publish a record concerning an action, proceeding,  
2842 or an investigation under, or a violation of, this chapter or a  
2843 rule adopted or order issued under this chapter if the  
2844 administrator determines it is necessary or appropriate in the  
2845 public interest and for the protection of investors.

2846 (b) **Administrator powers to investigate.** For the purpose of  
2847 an investigation under this chapter, the administrator or its  
2848 designated officer may administer oaths and affirmations, subpoena  
2849 witnesses, seek compulsion of attendance, take evidence, require  
2850 the filing of statements, and require the production of any  
2851 records that the administrator considers relevant or material to  
2852 the investigation.

2853 (c) **Procedure and remedies for noncompliance.** If a person  
2854 does not appear or refuses to testify, file a statement, produce  
2855 records, or otherwise does not obey a subpoena as required by the  
2856 administrator under this chapter, the administrator may apply to  
2857 the Chancery Court of the First Judicial District of Hinds County,



2858 Mississippi, or a court of another state to enforce compliance.

2859 The court may:

2860 (1) Hold the person in contempt;

2861 (2) Order the person to appear before the  
2862 administrator;

2863 (3) Order the person to testify about the matter under  
2864 investigation or in question;

2865 (4) Order the production of records;

2866 (5) Grant injunctive relief, including restricting or  
2867 prohibiting the offer or sale of securities or the providing of  
2868 investment advice; and

2869 (6) Grant any other necessary or appropriate relief.

2870 (d) **Application for relief.** This section does not preclude  
2871 a person from applying to the Chancery Court of the First Judicial  
2872 District of Hinds County, Mississippi, or a court of another state  
2873 for relief from a request to appear, testify, file a statement,  
2874 produce records, or obey a subpoena.

2875 (e) **Use immunity procedure.** An individual is not excused  
2876 from attending, testifying, filing a statement, producing a record  
2877 or other evidence, or obeying a subpoena of the administrator  
2878 under this chapter or in an action or proceeding instituted by the  
2879 administrator under this chapter on the ground that the required  
2880 testimony, statement, record, or other evidence, directly or  
2881 indirectly, may tend to incriminate the individual or subject the  
2882 individual to a criminal fine, penalty, or forfeiture. If the



2883 individual refuses to testify, file a statement, or produce a  
2884 record or other evidence on the basis of the individual's  
2885 privilege against self-incrimination, the administrator may apply  
2886 to the Chancery Court of the First Judicial District of Hinds  
2887 County, Mississippi, to compel the testimony, the filing of the  
2888 statement, the production of the record, or the giving of other  
2889 evidence. The testimony, record, or other evidence compelled  
2890 under such an order may not be used, directly or indirectly,  
2891 against the individual in a criminal case, except in a prosecution  
2892 for perjury or contempt or otherwise failing to comply with the  
2893 order.

2894 (f) **Assistance to securities regulator of another**  
2895 **jurisdiction.** At the request of the securities regulator of  
2896 another state or a foreign jurisdiction, the administrator may  
2897 provide assistance if the requesting regulator states that it is  
2898 conducting an investigation to determine whether a person has  
2899 violated, is violating, or is about to violate a law or rule of  
2900 the other state or foreign jurisdiction relating to securities  
2901 matters that the requesting regulator administers or enforces.  
2902 The administrator may provide the assistance by using the  
2903 authority to investigate and the powers conferred by this section  
2904 as the administrator determines is necessary or appropriate. The  
2905 assistance may be provided without regard to whether the conduct  
2906 described in the request would also constitute a violation of this  
2907 chapter or other law of this state if occurring in this state. In



2908 deciding whether to provide the assistance, the administrator may  
2909 consider whether the requesting regulator is permitted and has  
2910 agreed to provide assistance reciprocally within its state or  
2911 foreign jurisdiction to the administrator on securities matters  
2912 when requested; whether compliance with the request would violate  
2913 or prejudice the public policy of this state; and the availability  
2914 of resources and employees of the administrator to carry out the  
2915 request for assistance.

2916         **SECTION 47.** Section 75-71-603, Mississippi Code of 1972, is  
2917 brought forward as follows:

2918         75-71-603. **Civil enforcement.** (a) **Civil action instituted**  
2919 **by administrator.** If the administrator believes that a person has  
2920 engaged, is engaging, or is about to engage in an act, practice,  
2921 or course of business constituting a violation of this chapter or  
2922 a rule adopted or order issued under this chapter or that a person  
2923 has, is, or is about to engage in an act, practice, or course of  
2924 business that materially aids a violation of this chapter or a  
2925 rule adopted or order issued under this chapter, the administrator  
2926 may maintain an action in chancery court to enjoin the act,  
2927 practice, or course of business and to enforce compliance with  
2928 this chapter or a rule adopted or order issued under this chapter.

2929         (b) **Relief available.** In an action under this section and  
2930 on a proper showing, the court may:

2931                 (1) Issue a permanent or temporary injunction,  
2932 restraining order, or declaratory judgment;



2933                   (2) Order other appropriate or ancillary relief, which  
2934 may include:

2935                   (A) An asset freeze, accounting, writ of  
2936 attachment, writ of general or specific execution, and appointment  
2937 of a receiver or conservator, that may be the administrator, for  
2938 the defendant or the defendant's assets;

2939                   (B) Ordering the administrator to take charge and  
2940 control of a defendant's property, including investment accounts  
2941 and accounts in a depository institution, rents, and profits; to  
2942 collect debts; and to acquire and dispose of property;

2943                   (C) Imposing a civil penalty of the amount set  
2944 forth in Section 75-71-613 for each violation; an order of  
2945 rescission, restitution, or disgorgement directed to a person that  
2946 has engaged in an act, practice, or course of business  
2947 constituting a violation of this chapter or the predecessor act or  
2948 a rule adopted or order issued under this chapter or the  
2949 predecessor act; and

2950                   (D) Ordering the payment of prejudgment and  
2951 postjudgment interest; or

2952                   (3) Order such other relief as the court considers  
2953 appropriate.

2954                   (c) **No bond required.** The administrator may not be required  
2955 to post a bond in an action or proceeding under this chapter.

2956                   **SECTION 48.** Section 75-71-604, Mississippi Code of 1972, is  
2957 brought forward as follows:





2958           75-71-604. **Administrative enforcement.** (a) **Issuance of an**  
2959 **order or notice.** If the administrator determines that a person  
2960 has engaged, is engaging, or is about to engage in an act,  
2961 practice, or course of business constituting a violation of this  
2962 chapter or a rule adopted or order issued under this chapter or  
2963 that a person has materially aided, is materially aiding, or is  
2964 about to materially aid an act, practice, or course of business  
2965 constituting a violation of this chapter or a rule adopted or  
2966 order issued under this chapter, the administrator may:

2967           (1) Issue an order directing the person to cease and  
2968 desist from engaging in the act, practice, or course of business  
2969 or to take other action necessary or appropriate to comply with  
2970 this chapter;

2971           (2) Issue an order denying, suspending, revoking, or  
2972 conditioning the exemptions for a broker-dealer under Section  
2973 75-71-401(b) (1) (D) or (F) or an investment adviser under Section  
2974 75-71-403(b) (1) (C); or

2975           (3) Issue an order:

2976                   (A) Under Section 75-71-204;

2977                   (B) Imposing a civil penalty in the case of an  
2978 issuer of registered securities, broker-dealer, investment  
2979 advisor, agent, investment adviser representative, or other person  
2980 who violated this chapter;



2981 (C) Barring or suspending the person from  
2982 association with a broker-dealer or investment advisor registered  
2983 in this state; or

2984 (D) Requiring the person to pay restitution for  
2985 any loss or disgorge any profits arising from the violation,  
2986 including interest.

2987 (b) **Summary process.** An order under subsection (a) is  
2988 effective on the date of issuance. Upon issuance of the order,  
2989 the administrator shall promptly serve each person subject to the  
2990 order with a copy of the order and a notice that the order has  
2991 been entered, in accordance with Section 75-71-611. The order  
2992 must include a statement of any civil penalty or other  
2993 administrative remedy to be imposed under subsection (a) or costs  
2994 of investigation the administrator will seek, a statement of the  
2995 reasons for the order, and notice that, within fifteen (15) days  
2996 after receipt of a request in a record from the person, the matter  
2997 will be scheduled for a hearing. If a person subject to the order  
2998 does not request a hearing and none is ordered by the  
2999 administrator within thirty (30) days after the date of service of  
3000 the order, the order, including the imposition of a civil penalty  
3001 or other administrative remedy to be imposed under subsection (a)  
3002 or requirement for payment of the costs of investigation if a  
3003 civil penalty or costs were sought in the statement accompanying  
3004 the order, becomes final as to that person by operation of law.  
3005 If a hearing is requested or ordered, the administrator, after



3006 notice of and opportunity for hearing to each person subject to  
3007 the order, may modify or vacate the order or extend it until final  
3008 determination.

3009 (c) **Procedure for final order.** If a hearing is requested or  
3010 ordered pursuant to subsection (b), a hearing must be held  
3011 pursuant to the administrative hearing procedures set forth in the  
3012 rules. A final order may not be issued unless the administrator  
3013 makes findings of fact and conclusions of law in a record in  
3014 accordance with the administrative hearing procedures set forth in  
3015 the rules. The final order may make final, vacate, or modify the  
3016 order issued under subsection (a).

3017 (d) **Civil penalty.** In a final order under subsection (c),  
3018 the administrator may impose a civil penalty in an amount set  
3019 forth in Section 75-71-613 for each violation and each violation  
3020 shall be considered a separate offense in a single proceeding or a  
3021 series of related proceedings.

3022 (e) **Costs.** In a final order, the administrator may charge  
3023 the actual cost of an investigation or proceeding for a violation  
3024 of this chapter or a rule adopted or order issued under this  
3025 chapter.

3026 (f) **Filing of certified final order with court; effect of**  
3027 **filing.** If a petition for judicial review of a final order is not  
3028 filed in accordance with Section 75-71-609, or the petition is  
3029 denied by the court, the administrator may file a certified copy  
3030 of the final order with the clerk of a court in the jurisdiction



3031 where enforcement will be sought. The order so filed has the same  
3032 effect as a judgment of the court and may be recorded, enforced,  
3033 or satisfied in the same manner as a judgment of the court.

3034 (g) **Enforcement by court; further civil penalty.** If a  
3035 person does not comply with an order under this section, the  
3036 administrator may petition a court of competent jurisdiction to  
3037 enforce the order and collect administrative civil penalties and  
3038 costs imposed under the final order. The court may not require  
3039 the administrator to post a bond in an action or proceeding under  
3040 this section. If the court finds, after service and opportunity  
3041 for hearing, that the person was not in compliance with the order,  
3042 the court may adjudge the person in civil contempt of the order.  
3043 The court may impose a further civil penalty against the person  
3044 for contempt in an amount set forth in Section 75-71-613 for each  
3045 violation and may grant any other relief the court determines is  
3046 just and proper in the circumstances.

3047 **SECTION 49.** Section 75-71-605, Mississippi Code of 1972, is  
3048 brought forward as follows:

3049 75-71-605. **Rules, forms, orders, interpretative opinions,**  
3050 **and hearings.** (a) **Issuance and adoption of forms, orders, and**  
3051 **rules.** The administrator may:

3052 (1) Issue forms and orders and, after notice and  
3053 comment, may adopt and amend rules necessary or appropriate to  
3054 carry out this chapter and may repeal rules, including rules and



3055 forms governing registration statements, applications, notice  
3056 filings, reports, and other records;

3057 (2) By rule, define terms, whether or not used in this  
3058 chapter, but those definitions may not be inconsistent with this  
3059 chapter; and

3060 (3) By rule, classify securities, persons, and  
3061 transactions and adopt different requirements for different  
3062 classes. Offers to other persons as described in Section  
3063 75-71-202(13)(C) exempted by rule adopted under this chapter or  
3064 order issued under this chapter may be conditioned by rule or  
3065 order and any rule adopted as provided in Section 75-71-203 to  
3066 provide an additional exemption from registration may include  
3067 conditions on such exemption.

3068 (b) **Findings and cooperation.** Under this chapter, a rule or  
3069 form may not be adopted or amended, or an order issued or amended,  
3070 unless the administrator finds that the rule, form, order, or  
3071 amendment is necessary or appropriate in the public interest or  
3072 for the protection of investors and is consistent with the  
3073 purposes intended by this chapter. In adopting, amending, and  
3074 repealing rules and forms, Section 75-71-608 applies in order to  
3075 achieve uniformity among the states and coordination with federal  
3076 laws in the form and content of registration statements,  
3077 applications, reports, and other records, including the adoption  
3078 of uniform rules, forms, and procedures.



3079           (c) **Financial statements.** Subject to Section 15(h) of the  
3080 Securities Exchange Act and Section 222 of the Investment Advisers  
3081 Act of 1940, the administrator may require that a financial  
3082 statement filed under this chapter be prepared in accordance with  
3083 generally accepted accounting principles in the United States and  
3084 comply with other requirements specified by rule adopted or order  
3085 issued under this chapter. A rule adopted or order issued under  
3086 this chapter may establish:

3087           (1) Subject to Section 15(h) of the Securities Exchange  
3088 Act and Section 222 of the Investment Advisers Act of 1940, the  
3089 form and content of financial statements required under this  
3090 chapter;

3091           (2) Whether unconsolidated financial statements must be  
3092 filed; and

3093           (3) Whether required financial statements must be  
3094 audited by an independent certified public accountant.

3095           (d) **Interpretative opinions.** The administrator may provide  
3096 interpretative opinions or issue determinations that the  
3097 administrator will not institute a proceeding or an action under  
3098 this chapter against a specified person for engaging in a  
3099 specified act, practice, or course of business if the  
3100 determination is consistent with this chapter. A rule adopted or  
3101 order issued under this chapter may establish a reasonable charge  
3102 for interpretative opinions or determinations that the



3103 administrator will not institute an action or a proceeding under  
3104 this chapter.

3105 (e) **Effect of compliance.** A penalty under this chapter may  
3106 not be imposed for, and liability does not arise from conduct that  
3107 is engaged in or omitted in good faith believing it conforms to a  
3108 rule, form, or order of the administrator under this chapter.

3109 (f) **Presumption for public hearings.** A hearing in an  
3110 administrative proceeding under this chapter must be conducted in  
3111 public unless the administrator for good cause consistent with  
3112 this chapter determines that the hearing will not be so conducted.

3113 **SECTION 50.** Section 75-71-606, Mississippi Code of 1972, is  
3114 brought forward as follows:

3115 75-71-606. **Administrative files and opinions.** (a) **Public**  
3116 **register of filings.** The administrator shall maintain, or  
3117 designate a person to maintain, a register of applications for  
3118 registration of securities; registration statements; notice  
3119 filings; applications for registration of broker-dealers, agents,  
3120 investment advisers, and investment adviser representatives;  
3121 notice filings by federal covered investment advisers that are or  
3122 have been effective under this chapter or the predecessor act;  
3123 notices of claims of exemption from registration or notice filing  
3124 requirements contained in a record; orders issued under this  
3125 chapter or the predecessor act; and interpretative opinions or no  
3126 action determinations issued under this chapter.



3127           (b) **Public availability.** The administrator shall make all  
3128 rules, forms, interpretative opinions, and orders available to the  
3129 public.

3130           (c) **Copies of public records.** The administrator shall  
3131 furnish a copy of a record that is a public record or a  
3132 certification that the public record does not exist to a person  
3133 that so requests. A rule adopted under this chapter may establish  
3134 a reasonable charge for furnishing the record or certification. A  
3135 copy of the record certified or a certificate by the administrator  
3136 of a record's nonexistence is prima facie evidence of a record or  
3137 its nonexistence.

3138           **SECTION 51.** Section 75-71-607, Mississippi Code of 1972, is  
3139 brought forward as follows:

3140           75-71-607. **Public records; confidentiality.** (a)

3141 **Presumption of public records.** Except as otherwise provided in  
3142 subsection (b), records obtained by the administrator or filed  
3143 under this chapter, including a record contained in or filed with  
3144 a registration statement, application, notice filing, or report,  
3145 are public records and are available for public examination under  
3146 such rules as the administrator prescribes.

3147           (b) **Nonpublic records.** The following records are not public  
3148 records and are not available for public examination under  
3149 subsection (a):





3150 (1) A record obtained by the administrator in  
3151 connection with an audit or inspection under Section 75-71-411(d)  
3152 or an investigation under Section 75-71-602;

3153 (2) A part of a record filed in connection with a  
3154 registration statement under Section 75-71-301 and Sections  
3155 75-71-303 through 75-71-305 or a record under Section 75-71-411(d)  
3156 that contains trade secrets or confidential information if the  
3157 person filing the registration statement or report has asserted a  
3158 claim of confidentiality or privilege that is authorized by law;

3159 (3) A record that is not required to be provided to the  
3160 administrator or filed under this chapter and is provided to the  
3161 administrator only on the condition that the record will not be  
3162 subject to public examination or disclosure;

3163 (4) A nonpublic record received from a person specified  
3164 in Section 75-71-608(a);

3165 (5) Any social security number, residential address  
3166 unless used as a business address, and residential telephone  
3167 number unless used as a business telephone number, contained in a  
3168 record that is filed; and

3169 (6) A record obtained by the administrator through a  
3170 designee of the administrator that a rule or order under this  
3171 chapter determines has been:

3172 (A) Expunged from the administrator's records by  
3173 the designee; or



3174 (B) Determined to be nonpublic or nondisclosable  
3175 by that designee if the administrator finds the determination to  
3176 be in the public interest and for the protection of investors.

3177 (c) **Administrator discretion to disclose.** If disclosure is  
3178 for the purpose of a civil, administrative, or criminal  
3179 investigation, action, or proceeding or to a person specified in  
3180 Section 75-71-608(a), the administrator may disclose a record  
3181 obtained in connection with an audit or inspection under Section  
3182 75-71-411(d) or a record obtained in connection with an  
3183 investigation under Section 75-71-602.

3184 **SECTION 52.** Section 75-71-608, Mississippi Code of 1972, is  
3185 brought forward as follows:

3186 75-71-608. **Uniformity and cooperation with other agencies.**

3187 (a) **Objective of uniformity.** The administrator may, in its  
3188 discretion, cooperate, coordinate, consult, and, subject to  
3189 Section 75-71-607, share records and information with the  
3190 securities regulator of another state, Canada, a Canadian province  
3191 or territory, a foreign jurisdiction, the Securities and Exchange  
3192 Commission, the United States Department of Justice, the Commodity  
3193 Futures Trading Commission, the Federal Trade Commission, the  
3194 Securities Investor Protection Corporation, a self-regulatory  
3195 organization, a national or international organization of  
3196 securities regulators, a federal or state banking or insurance  
3197 regulator, and a governmental law enforcement or regulatory agency  
3198 to effectuate greater uniformity in securities matters among the



3199 federal government, self-regulatory organizations, states, and  
3200 foreign governments.

3201 (b) **Policies to consider.** In cooperating, coordinating,  
3202 consulting, and sharing records and information under this section  
3203 and in acting by rule, order, or waiver under this chapter, the  
3204 administrator shall, in its discretion, take into consideration in  
3205 carrying out the public interest the following general policies:

3206 (1) Maximizing effectiveness of regulation for the  
3207 protection of investors;

3208 (2) Maximizing uniformity in federal and state  
3209 regulatory standards; and

3210 (3) Minimizing burdens on the business of capital  
3211 formation, without adversely affecting essentials of investor  
3212 protection.

3213 (c) **Subjects for cooperation.** The cooperation,  
3214 coordination, consultation, and sharing of records and information  
3215 authorized by this section includes:

3216 (1) Establishing or employing one or more designees as  
3217 a central depository for registration and notice filings under  
3218 this chapter and for records required or allowed to be maintained  
3219 under this chapter;

3220 (2) Developing and maintaining uniform forms;

3221 (3) Conducting a joint examination or investigation;

3222 (4) Holding a joint administrative hearing;



- 3223 (5) Instituting and prosecuting a joint civil or  
3224 administrative proceeding;
- 3225 (6) Sharing and exchanging personnel;
- 3226 (7) Coordinating registrations under Sections 75-71-301  
3227 and 75-71-401 through 75-71-404 and exemptions under Section  
3228 75-71-203;
- 3229 (8) Sharing and exchanging records, subject to Section  
3230 75-71-607;
- 3231 (9) Formulating rules, statements of policy,  
3232 guidelines, forms, and interpretative opinions and releases;
- 3233 (10) Formulating common systems and procedures;
- 3234 (11) Notifying the public of proposed rules, forms,  
3235 statements of policy, and guidelines;
- 3236 (12) Attending conferences and other meetings among  
3237 securities regulators, which may include representatives of  
3238 governmental and private sector organizations involved in capital  
3239 formation, deemed necessary or appropriate to promote or achieve  
3240 uniformity; and
- 3241 (13) Developing and maintaining a uniform exemption  
3242 from registration for small issuers, and taking other steps to  
3243 reduce the burden of raising investment capital by small  
3244 businesses.

3245 **SECTION 53.** Section 75-71-609, Mississippi Code of 1972, is  
3246 brought forward as follows:



3247           75-71-609. (a) **Petition for judicial review of order;**  
3248 **venue; scope of review.** Any person aggrieved by a final order of  
3249 the administrator may obtain a review of the order in the Chancery  
3250 Court of the First Judicial District of Hinds County, Mississippi,  
3251 by filing in court, within sixty (60) days after the entry of the  
3252 order, a written petition praying that the order be modified or  
3253 set aside, in whole or in part. A copy of the petition shall be  
3254 forthwith served upon the administrator and thereupon the  
3255 administrator shall certify and file in court a copy of the filing  
3256 and evidence upon which the order was entered. When these have  
3257 been filed, the court has exclusive jurisdiction to affirm,  
3258 modify, enforce or set aside the order, in whole or in part. The  
3259 findings of the administrator as to the facts, if supported by  
3260 competent material and substantial evidence, are conclusive.

3261           (b) **Adduction of additional evidence.** If either party  
3262 applies to the court for leave to adduce additional material  
3263 evidence, and shows to the satisfaction of the court that there  
3264 were reasonable grounds for failure to adduce the evidence in the  
3265 hearing before the administrator, the court may order the  
3266 additional evidence to be taken before the administrator and to be  
3267 adduced upon the hearing in such manner and upon such conditions  
3268 as the court considers proper. The administrator may modify his  
3269 findings and order by reason of the additional evidence and shall  
3270 file in court the additional evidence together with any modified  
3271 or new findings or order.



3272 (c) **Stay of administrative order under review.** The  
3273 commencement of proceedings under subsection (a) does not, unless  
3274 specifically ordered by the court, operate as a stay of the  
3275 administrator's order.

3276 **SECTION 54.** Section 75-71-610, Mississippi Code of 1972, is  
3277 brought forward as follows:

3278 75-71-610. **Jurisdiction.** (a) **Sales and offers to sell.**  
3279 Sections 75-71-301, 75-71-302, 75-71-401(a), 75-71-402(a),  
3280 75-71-403(a), 75-71-404(a), 75-71-501, 75-71-506, 75-71-509, and  
3281 75-71-510 do not apply to a person that sells or offers to sell a  
3282 security unless the offer to sell or the sale is made in this  
3283 state or the offer to purchase or the purchase is made and  
3284 accepted in this state.

3285 (b) **Purchases and offers to purchase.** Sections  
3286 75-71-401(a), 75-71-402(a), 75-71-403(a), 75-71-404(a), 75-71-501,  
3287 75-71-506, 75-71-509, and 75-71-510 do not apply to a person that  
3288 purchases or offers to purchase a security unless the offer to  
3289 purchase or the purchase is made in this state or the offer to  
3290 sell or the sale is made and accepted in this state.

3291 (c) **Offers in this state.** For the purpose of this section,  
3292 an offer to sell or to purchase a security is made in this state,  
3293 whether or not either party is then present in this state, if the  
3294 offer:

3295 (1) Originates from within this state; or



3296 (2) Is directed by the offeror to a place in this state  
3297 and received at the place to which it is directed.

3298 (d) **Acceptances in this state.** For the purpose of this  
3299 section, an offer to purchase or to sell is accepted in this  
3300 state, whether or not either party is then present in this state,  
3301 if the acceptance:

3302 (1) Is communicated to the offeror in this state and  
3303 the offeree reasonably believes the offeror to be present in this  
3304 state and the acceptance is received at the place in this state to  
3305 which it is directed; and

3306 (2) Has not previously been communicated to the  
3307 offeror, orally or in a record, outside this state.

3308 (e) **Publications, radio, television, or electronic**  
3309 **communications.** An offer to sell or to purchase is not made in  
3310 this state when a publisher circulates or there is circulated on  
3311 the publisher's behalf in this state a bona fide newspaper or  
3312 other publication of general, regular, and paid circulation that  
3313 is not published in this state, or that is published in this state  
3314 but has had more than two-thirds (2/3) of its circulation outside  
3315 this state during the previous twelve (12) months or when a radio  
3316 or television program or other electronic communication  
3317 originating outside this state is received in this state. A radio  
3318 or television program, or other electronic communication is  
3319 considered as having originated in this state if either the



3320 broadcast studio or the originating source of transmission is  
3321 located in this state, unless:

3322 (1) The program or communication is syndicated and  
3323 distributed from outside this state for redistribution to the  
3324 general public in this state;

3325 (2) The program or communication is supplied by a  
3326 radio, television, or other electronic network with the electronic  
3327 signal originating from outside this state for redistribution to  
3328 the general public in this state;

3329 (3) The program or communication is an electronic  
3330 communication that originates outside this state and is captured  
3331 for redistribution to the general public in this state by a  
3332 community antenna or cable, radio, cable television, or other  
3333 electronic system; or

3334 (4) The program or communication consists of an  
3335 electronic communication that originates in this state, but which  
3336 is not intended for distribution to the general public in this  
3337 state.

3338 (f) **Investment advice and misrepresentations.** Sections  
3339 75-71-403(a), 75-71-404(a), 75-71-405(a), 75-71-502, 75-71-505,  
3340 and 75-71-506 apply to a person if the person engages in an act,  
3341 practice, or course of business instrumental in effecting  
3342 prohibited or actionable conduct in this state, whether or not  
3343 either party is then present in this state.





3344           **SECTION 55.** Section 75-71-611, Mississippi Code of 1972, is  
3345 brought forward as follows:

3346           75-71-611.   **Service of process.**   (a)   **Signed consent to**  
3347 **service of process.** A consent to service of process complying  
3348 with this section required by this chapter must be signed and  
3349 filed in the form required by a rule or order under this chapter.  
3350 A consent appointing the administrator the person's agent for  
3351 service of process in a noncriminal action or proceeding against  
3352 the person, or the person's successor or personal representative  
3353 under this chapter or a rule adopted or order issued under this  
3354 chapter after the consent is filed, has the same force and  
3355 validity as if the service were made personally on the person  
3356 filing the consent. A person that has filed a consent complying  
3357 with this subsection in connection with a previous application for  
3358 registration or notice filing need not file an additional consent.

3359           (b)   **Conduct constituting appointment of agent for service.**  
3360 If a person, including a nonresident of this state, engages in an  
3361 act, practice, or course of business prohibited or made actionable  
3362 by this chapter or a rule adopted or order issued under this  
3363 chapter and the person has not filed a consent to service of  
3364 process under subsection (a), the act, practice, or course of  
3365 business constitutes the appointment of the administrator as the  
3366 person's agent for service of process in a noncriminal action or  
3367 proceeding against the person or the person's successor or  
3368 personal representative.



3369 (c) **Procedure for service of process.** Service under  
3370 subsection (a) or (b) may be made by providing a copy of the  
3371 process to the office of the administrator, but it is not  
3372 effective unless:

3373 (1) The plaintiff, which may be the administrator,  
3374 promptly sends notice of the service and a copy of the process,  
3375 return receipt requested, to the defendant or respondent at the  
3376 address set forth in the consent to service of process or, if a  
3377 consent to service of process has not been filed, at the last  
3378 known address, or takes other reasonable steps to give notice; and

3379 (2) The plaintiff files an affidavit of compliance with  
3380 this subsection (c) in the action or proceeding on or before the  
3381 return day of the process, if any, or within the time that the  
3382 court, or the administrator in a proceeding before the  
3383 administrator, allows.

3384 (d) **Service in administrative proceedings or civil actions**  
3385 **by administrator.** Service pursuant to subsection (c) may be used  
3386 in a proceeding before the administrator or by the administrator  
3387 in a civil action in which the administrator is the moving party.

3388 (e) **Opportunity to defend.** If process is served under  
3389 subsection (c), the court, or the administrator in a proceeding  
3390 before the administrator, shall order continuances as are  
3391 necessary or appropriate to afford the defendant or respondent  
3392 reasonable opportunity to defend.



3393           **SECTION 56.** Section 75-71-612, Mississippi Code of 1972, is  
3394 brought forward as follows:

3395           75-71-612. **Severability clause.** If any provision of this  
3396 chapter or its application to any person or circumstances is held  
3397 invalid, the invalidity does not affect other provisions or  
3398 applications of this chapter that can be given effect without the  
3399 invalid provision or application, and to this end the provisions  
3400 of this chapter are severable.

3401           **SECTION 57.** Section 75-71-613, Mississippi Code of 1972, is  
3402 brought forward as follows:

3403           75-71-613. **Amounts of civil and criminal penalties.** (a)  
3404 **Amount of civil disciplinary penalties imposed - registrants.** The  
3405 amount of the civil penalty or fine described in Section  
3406 75-71-412(c) is a maximum of Twenty-five Thousand Dollars  
3407 (\$25,000.00) for each violation.

3408           (b) **Amount of criminal penalties under Section 75-71-508.**  
3409 The amount of the criminal penalty or fine described in Section  
3410 75-71-508 is not more than Twenty-five Thousand Dollars  
3411 (\$25,000.00) for each violation.

3412           (c) **Amount of civil penalty under Section 75-71-603 - civil**  
3413 **enforcement.** The amount of the civil penalty described in Section  
3414 75-71-603(b) (2) (C) is a maximum of Twenty-five Thousand Dollars  
3415 (\$25,000.00) for each violation, provided that an additional civil  
3416 penalty may be imposed up to a maximum of Fifteen Thousand Dollars



3417 (\$15,000.00) for violations of the chapter committed against  
3418 elders or disabled persons.

3419 (d) **Amount of civil penalty and further civil penalty under**  
3420 **Section 75-71-604 - administrative enforcement.** (1) The amount  
3421 of the civil penalty described in Section 75-71-604(d) is a  
3422 maximum of Twenty-five Thousand Dollars (\$25,000.00) for each  
3423 violation, provided that an additional civil penalty may be  
3424 imposed up to a maximum of Fifteen Thousand Dollars (\$15,000.00)  
3425 for violations of the chapter committed against elders or disabled  
3426 persons.

3427 (2) The amount of the further civil penalty described  
3428 in Section 75-71-604(g) is a maximum of Twenty-five Thousand  
3429 Dollars (\$25,000.00) for each violation.

3430 **SECTION 58.** Section 75-71-701, Mississippi Code of 1972, is  
3431 brought forward as follows:

3432 75-71-701. (a) **Applicability of predecessor chapter to**  
3433 **pending proceedings and existing rights.** The predecessor chapter  
3434 exclusively governs all actions or proceedings that are pending on  
3435 January 1, 2010, or may be instituted on the basis of conduct  
3436 occurring before January 1, 2010, but a private civil action may  
3437 not be maintained to enforce any liability under the predecessor  
3438 chapter unless instituted within any period of limitation that  
3439 applied when the cause of action accrued or within five (5) years  
3440 after January 1, 2010, whichever is earlier. This time limitation  
3441 shall not apply to a civil enforcement action or an administrative



3442 enforcement action instituted by the administrator under Section  
3443 75-71-603 or Section 75-71-604.

3444 (b) **Continued effectiveness under predecessor chapter.** All  
3445 effective registrations under the predecessor chapter, all  
3446 administrative orders relating to the registrations, rules,  
3447 statements of policy, interpretative opinions, declaratory  
3448 rulings, no-action determinations, and conditions imposed on the  
3449 registrations under the predecessor chapter remain in effect while  
3450 they would have remained in effect if this chapter had not been  
3451 enacted. They are considered to have been filed, issued, or  
3452 imposed under this chapter, but are exclusively governed by the  
3453 predecessor chapter.

3454 (c) **Applicability of predecessor chapter to offers or sales.**  
3455 The predecessor chapter exclusively applies to an offer or sale  
3456 made within one (1) year after January 1, 2010, pursuant to an  
3457 offering made in good faith before January 1, 2010, on the basis  
3458 of an exemption available under the predecessor chapter.

3459 (d) For the purposes of this chapter, "predecessor chapter"  
3460 means Chapter 71 of Title 75, Mississippi Code of 1972, as it  
3461 existed on December 31, 2009.

3462 **SECTION 59.** Section 75-15-3, Mississippi Code of 1972, is  
3463 brought forward as follows:

3464 75-15-3. For the purposes of this chapter:

3465 (a) "Check" means any check, draft, money order,  
3466 personal money order or other instrument, including but not



3467 limited to stored value cards, for the transmission or payment of  
3468 money. The format of a check may be either paper, electronic,  
3469 plastic or any combination thereof.

3470 (b) "Commissioner" means the Commissioner of Banking  
3471 and Consumer Finance of the State of Mississippi.

3472 (c) "Deliver" means to deliver a check to the first  
3473 person who in payment for same makes or purports to make a  
3474 remittance of or against the face amount thereof, whether or not  
3475 the deliverer also charges a fee in addition to the face amount,  
3476 and whether or not the deliverer signs the check.

3477 (d) "Executive officer" means the licensee's president,  
3478 chairman of the executive committee, senior officer responsible  
3479 for the licensee's business, chief financial officer and any other  
3480 person who performs similar functions.

3481 (e) "Licensee" means a person duly licensed by the  
3482 commissioner under this chapter.

3483 (f) "Monetary value" means a medium of exchange,  
3484 whether or not redeemable in money.

3485 (g) "Money transmission" means to engage in the  
3486 business of the sale or issuance of checks or of receiving money  
3487 or monetary value for transmission to a location within or outside  
3488 the United States by any and all means, including but not limited  
3489 to wire, facsimile or electronic transfer.



3490 (h) "Outstanding check" means any check issued or sold  
3491 in Mississippi by or for the licensee that has been reported as  
3492 sold but not yet paid by or for the licensee.

3493 (i) "Person" means any individual, partnership,  
3494 association, joint-stock association, trust or corporation, but  
3495 does not include the United States government or the government of  
3496 this state.

3497 (j) "Personal money order" means any instrument for the  
3498 transmission or payment of money in relation to which the  
3499 purchaser or remitter appoints or purports to appoint the seller  
3500 thereof as his agent for the receipt, transmission or handling of  
3501 money, whether the instrument is signed by the seller or by the  
3502 purchaser or remitter or some other person.

3503 (k) "Records" or "documents" means any item in hard  
3504 copy or produced in a format of storage commonly described as  
3505 electronic, imaged, magnetic, microphotographic or otherwise, and  
3506 any reproduction so made shall have the same force and effect as  
3507 the original thereof and be admitted in evidence equally with the  
3508 original.

3509 (l) "Sell" means to sell, to issue or to deliver a  
3510 check.

3511 (m) "Stored value" means monetary value that is  
3512 evidenced by an electronic record.

3513 **SECTION 60.** Section 75-15-5, Mississippi Code of 1972, is  
3514 brought forward as follows:



3515           75-15-5. No person, except those specified in Section  
3516 75-15-7, shall engage in the business of money transmission, as a  
3517 service or for a fee or other consideration, without having first  
3518 obtained a license under this chapter.

3519           **SECTION 61.** Section 75-15-7, Mississippi Code of 1972, is  
3520 brought forward as follows:

3521           75-15-7. Nothing in this chapter shall apply to the sale or  
3522 issuance or delivering of checks by:

3523                   (a) Any financial institution whose deposits are  
3524 insured by any agency of the United States government or any trust  
3525 company authorized to do business in this state;

3526                   (b) The government of the United States or any  
3527 department or agent thereof;

3528                   (c) The State of Mississippi or any municipal  
3529 corporation, county or other political subdivision of this state;

3530                   (d) Agents of a licensee, as provided for in Section  
3531 75-15-17, provided that this exemption shall apply only to the  
3532 agent's acts on behalf of the licensee and this exemption shall  
3533 not exempt the agent from the provisions of this chapter where he  
3534 conducts money transmissions for his own account;

3535                   (e) Attorneys-at-law, as to checks issued in the  
3536 regular course of the practice of law;

3537                   (f) Persons not carrying on the trade or business of  
3538 money transmission, this exemption is intended to include persons  
3539 who conduct money transmissions only as an incidental act to





3540 another trade or business regularly carried on by them and persons  
3541 who only occasionally and infrequently conduct money transmissions  
3542 for another person; or

3543 (g) The Nationwide Mortgage Licensing System and  
3544 Registry for mortgage brokers, mortgage lenders and mortgage loan  
3545 originators.

3546 **SECTION 62.** Section 75-15-9, Mississippi Code of 1972, is  
3547 brought forward as follows:

3548 75-15-9. Each application for a license to engage in the  
3549 business of money transmission shall be made in writing and under  
3550 oath to the commissioner in such form as he may prescribe. The  
3551 application shall state the full name and business address of:

3552 (a) The proprietor, if the applicant is an individual;

3553 (b) Every member, if the applicant is a partnership or  
3554 association;

3555 (c) The corporation and each executive officer and  
3556 director thereof, if the applicant is a corporation;

3557 (d) Every trustee and officer if the applicant is a  
3558 trust;

3559 (e) The applicant shall have a net worth of at least  
3560 Twenty-five Thousand Dollars (\$25,000.00) plus Fifteen Thousand  
3561 Dollars (\$15,000.00) for each location in excess of one (1) at  
3562 which the applicant proposes to conduct money transmissions in  
3563 this state, computed according to generally accepted accounting



3564 principles, but in no event shall the net worth be required to be  
3565 in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00);

3566 (f) The financial responsibility, financial condition,  
3567 business experience and character and general fitness of the  
3568 applicant shall be such as reasonably to warrant the belief that  
3569 applicant's business will be conducted honestly, carefully and  
3570 efficiently;

3571 (g) Each application for a license shall be accompanied  
3572 by an investigation fee of Fifty Dollars (\$50.00) and license fee  
3573 in the amount required by Section 75-15-15. All fees collected by  
3574 the commissioner under the provisions of this chapter shall be  
3575 deposited into the Consumer Finance Fund of the Department of  
3576 Banking and Consumer Finance;

3577 (h) An applicant shall not have been convicted of a  
3578 felony in any jurisdiction or a misdemeanor of fraud, theft,  
3579 forgery, bribery, embezzlement, or making a fraudulent or false  
3580 statement in any jurisdiction.

3581 **SECTION 63.** Section 75-15-11, Mississippi Code of 1972, is  
3582 brought forward as follows:

3583 75-15-11. Each application for a license shall be  
3584 accompanied by:

3585 (a) Certified financial statements, reasonably  
3586 satisfactory to the commissioner, showing that the applicant has a  
3587 net worth of at least Twenty-five Thousand Dollars (\$25,000.00)  
3588 plus Fifteen Thousand Dollars (\$15,000.00) for each location in



3589 excess of one (1) at which the applicant proposes to conduct money  
3590 transmissions in this state, computed according to generally  
3591 accepted accounting principles, but in no event shall the net  
3592 worth be required to be in excess of Two Hundred Fifty Thousand  
3593 Dollars (\$250,000.00).

3594 (b) A surety bond issued by a bonding company or  
3595 insurance company authorized to do business in this state, in the  
3596 principal sum of Twenty-five Thousand Dollars (\$25,000.00) or in  
3597 an amount equal to outstanding money transmissions in Mississippi,  
3598 whichever is greater, but in no event shall the bond be required  
3599 to be in excess of Five Hundred Thousand Dollars (\$500,000.00).  
3600 However, the commissioner may increase the required amount of the  
3601 bond upon the basis of the impaired financial condition of a  
3602 licensee as evidenced by a reduction in net worth, financial  
3603 losses or other relevant criteria. The bond shall be in form  
3604 satisfactory to the commissioner and shall run to the state for  
3605 the use and benefit of the Department of Banking and Consumer  
3606 Finance and any claimants against the applicant or his agents to  
3607 secure the faithful performance of the obligations of the  
3608 applicant and his agents with respect to the receipt, handling,  
3609 transmission and payment of money in connection with money  
3610 transmissions in Mississippi. The aggregate liability of the  
3611 surety in no event shall exceed the principal sum of the bond.  
3612 The surety on the bond shall have the right to cancel the bond  
3613 upon giving sixty (60) days' notice in writing to the commissioner



3614 and thereafter shall be relieved of liability for any breach of  
3615 condition occurring after the effective date of the cancellation.  
3616 Any claimants against the applicant or his agents may themselves  
3617 bring suit directly on the bond, or the Attorney General may bring  
3618 suit thereon in behalf of those claimants, either in one (1)  
3619 action or successive actions.

3620 (c) In lieu of the corporate surety bond, the applicant  
3621 may deposit with the State Treasurer bonds or other obligations of  
3622 the United States or guaranteed by the United States or bonds or  
3623 other obligations of this state or of any municipal corporation,  
3624 county, or other political subdivision or agency of this state, or  
3625 certificates of deposit of national or state banks doing business  
3626 in Mississippi, having an aggregate market value at least equal to  
3627 that of the corporate surety bond otherwise required. Those bonds  
3628 or obligations or certificates of deposit shall be deposited with  
3629 the State Treasurer to secure the same obligations as would a  
3630 corporate surety bond, but the depositor shall be entitled to  
3631 receive all interest and dividends thereon and shall have the  
3632 right to substitute other bonds or obligations or certificates of  
3633 deposit for those deposited, with the approval of the  
3634 commissioner, and shall be required so to do on order of the  
3635 commissioner made for good cause shown. The State Treasurer shall  
3636 provide for custody of the bonds or obligations or certificates of  
3637 deposits by a qualified trust company or bank located in the State  
3638 of Mississippi or by any Federal Reserve Bank. The compensation,



3639 if any, of the custodian for acting as such under this section  
3640 shall be paid by the depositing licensee.

3641 (d) Proof of registration as a money service business  
3642 per 31 CFR Section 103.41, if applicable.

3643 (e) A set of fingerprints from any local law  
3644 enforcement agency for each owner of a sole proprietorship,  
3645 partners in a partnership or principal owners of a limited  
3646 liability company that own at least ten percent (10%) of the  
3647 voting shares of the company, shareholders owning ten percent  
3648 (10%) or more of the outstanding shares of the corporation, except  
3649 publically traded corporations and their subsidiaries, and any  
3650 other executive officer with significant oversight duties of the  
3651 business. In order to determine the applicant's suitability for  
3652 license, the commissioner shall forward the fingerprints to the  
3653 Department of Public Safety for a state criminal history records  
3654 check, and the fingerprints shall be forwarded by the Department  
3655 of Public Safety to the FBI for a national criminal history  
3656 records check. The department shall not issue a license if it  
3657 finds that the applicant, or any person who is an owner, partner,  
3658 director or executive officer of the applicant, has been convicted  
3659 of: (i) a felony in any jurisdiction; or (ii) a crime that, if  
3660 committed within the state, would constitute a felony under the  
3661 laws of this state; or (iii) a misdemeanor of fraud, theft,  
3662 forgery, bribery, embezzlement or making a fraudulent or false  
3663 statement in any jurisdiction. For the purposes of this chapter,



3664 a person shall be deemed to have been convicted of a crime if the  
3665 person has pleaded guilty to a crime before a court or federal  
3666 magistrate, or plea of nolo contendere, or has been found guilty  
3667 of a crime by the decision or judgment of a court or federal  
3668 magistrate or by the verdict of a jury, irrespective of the  
3669 pronouncement of sentence or the suspension of a sentence, unless  
3670 the person convicted of the crime has received a pardon from the  
3671 President of the United States or the Governor or other pardoning  
3672 authority in the jurisdiction where the conviction was obtained.

3673 **SECTION 64.** Section 75-15-12, Mississippi Code of 1972, is  
3674 brought forward as follows:

3675 75-15-12. (1) In addition to the bond required in Section  
3676 75-15-11, a licensee must possess permissible investments having  
3677 an aggregate market value, calculated in accordance with generally  
3678 accepted accounting principles, of not less than the aggregate  
3679 amount of all outstanding checks issued or sold or money received  
3680 for transmission by the licensee in the United States. This  
3681 requirement may be waived by the commissioner if the dollar volume  
3682 of a licensee's outstanding checks does not exceed the bond or  
3683 other security devices posted by the licensee in accordance with  
3684 Section 75-15-11.

3685 (2) Permissible investments, even if commingled with other  
3686 assets of the licensee, shall be deemed by operation of law to be  
3687 held in trust for the benefit of the purchasers and holders of the  
3688 licensee's outstanding checks and money received for transmission



3689 and may not be considered an asset or property of the licensee in  
3690 the event of bankruptcy, receivership or a claim against the  
3691 licensee unrelated to any of the licensee's obligations under this  
3692 chapter.

3693 (3) Permissible investments mean:

3694 (a) Cash;

3695 (b) Certificates of deposit or other debt obligations  
3696 of a financial institution, either domestic or foreign;

3697 (c) Bills of exchange or time drafts drawn on and  
3698 accepted by federally insured financial depository institutions;

3699 (d) Any investment bearing a rating of one (1) of the  
3700 three (3) highest grades as defined by a nationally recognized  
3701 organization that rates such securities;

3702 (e) Investment securities that are obligations of the  
3703 United States, its agencies or instrumentalities, or obligations  
3704 that are guaranteed fully as to principal and interest of the  
3705 United States, or any obligations of any state, municipality or  
3706 any political subdivision thereof;

3707 (f) Shares in a money market mutual fund,  
3708 interest-bearing bills or notes or bonds, debentures or stock  
3709 traded on any national securities exchange or on a national  
3710 over-the-counter market, or mutual funds primarily composed of  
3711 those securities or a fund composed of one or more permissible  
3712 investments as set forth in this section;



3713 (g) Any demand borrowing agreement or agreements made  
3714 to a corporation or a subsidiary of a corporation whose capital  
3715 stock is listed on a national exchange;

3716 (h) Receivables that are due to a licensee from its  
3717 agents, which are not past due or doubtful of collection; or

3718 (i) Any other investments approved by the commissioner.

3719 (4) The commissioner may limit or disallow for purposes of  
3720 determining compliance with this section an investment, surety  
3721 bond, letter of credit or other security otherwise permitted by  
3722 this section if the commissioner determines it to be  
3723 unsatisfactory for investment purposes or to pose a significant  
3724 supervisory concern.

3725 **SECTION 65.** Section 75-15-13, Mississippi Code of 1972, is  
3726 brought forward as follows:

3727 75-15-13. Upon the filing of the application, the payment of  
3728 the investigation fee and license fee, and the approval by the  
3729 commissioner of the bond or securities delivered under Section  
3730 75-15-11, the commissioner shall investigate the financial  
3731 responsibility, financial and business experience, character and  
3732 general fitness of the applicant, and, if he deems it advisable,  
3733 of its officers and directors, and if he finds that the applicant  
3734 (and its officers and directors, if investigated) has the  
3735 requisite qualifications to meet the requirements of this chapter  
3736 and that its (or their) qualifications are such as to warrant the  
3737 belief that the applicant's business will be conducted honestly,





3738 fairly, equitably, carefully and efficiently and in a manner  
3739 commanding the confidence and trust of the community, he shall  
3740 issue to the applicant a license to engage in the business of  
3741 money transmission subject to the provisions of this chapter.

3742         **SECTION 66.** Section 75-15-15, Mississippi Code of 1972, is  
3743 brought forward as follows:

3744         75-15-15. Each licensee shall pay to the commissioner with  
3745 his initial application a license fee of Seven Hundred Fifty  
3746 Dollars (\$750.00), and annually thereafter on or before April 1 of  
3747 each year, a renewal fee of Four Hundred Dollars (\$400.00), plus  
3748 Fifty Dollars (\$50.00) for each location in excess of one (1) in  
3749 Mississippi through which the licensee plans to conduct money  
3750 transmissions during the license year for which the fee is paid,  
3751 provided that in no event shall the annual renewal fee exceed One  
3752 Thousand Dollars (\$1,000.00).

3753         **SECTION 67.** Section 75-15-17, Mississippi Code of 1972, is  
3754 brought forward as follows:

3755         75-15-17. A licensee may conduct his business at one or more  
3756 locations within this state and through or by means of such agents  
3757 as the licensee may from time to time designate or appoint. No  
3758 license under this chapter shall be required of any agent of a  
3759 licensee, provided that this exemption shall apply only to the  
3760 agent's acts on behalf of the licensee and this exemption shall  
3761 not exempt the agent from the provisions of this chapter where he  
3762 conducts money transmissions for his own account. The licensee



3763 shall require each of his appointed agents to display prominently  
3764 on the agent's premises, where same may be readily viewed by  
3765 prospective clients or purchasers, a printed certificate signed by  
3766 an authorized official of licensee setting forth in bold letters  
3767 the names of the licensee and agent and stating that the licensee  
3768 holds a valid and existing license issued by the commissioner  
3769 under this chapter and that agent is a duly authorized agent of  
3770 licensee. Neither a licensee nor an agent may appoint a subagent  
3771 to conduct money transmissions.

3772         **SECTION 68.** Section 75-15-19, Mississippi Code of 1972, is  
3773 brought forward as follows:

3774         75-15-19. (1) (a) Each licensee shall file with the  
3775 commissioner within fifteen (15) days of the last business day of  
3776 each month a report of the total amount of outstanding money  
3777 transmissions in Mississippi. The principal sum of the surety  
3778 bond or deposit required in Section 75-15-11 shall be adjusted, if  
3779 appropriate, to reflect any changes in outstanding money  
3780 transmissions. Licensees who maintain a surety bond in the  
3781 principal sum of at least Five Hundred Thousand Dollars  
3782 (\$500,000.00) or a securities deposit having an aggregate market  
3783 value of at least equal to Five Hundred Thousand Dollars  
3784 (\$500,000.00) shall be required to report the total amount of  
3785 outstanding money transmissions in Mississippi on a quarterly  
3786 basis.



3787           (b) Each licensee shall file an annual financial  
3788 statement with the commissioner, audited by an independent  
3789 certified public accountant or an independent registered  
3790 accountant, within five (5) months after the close of the  
3791 licensee's fiscal year. The financial statement shall include a  
3792 balance sheet, a profit and loss statement, and a statement of  
3793 retained earnings of the licensee and the licensee's agents  
3794 resulting from the business of money transmission.

3795           (2) The commissioner may conduct or cause to be conducted an  
3796 annual examination or audit of the books and records of any  
3797 licensee at any time or times he deems proper, the cost of the  
3798 examination or audit to be borne by the licensee. The refusal of  
3799 access to the books and records shall be cause for the revocation  
3800 of its license. The commissioner may charge the licensee an  
3801 examination fee in an amount not less than Three Hundred Dollars  
3802 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each  
3803 licensed office, plus any actual expenses incurred while examining  
3804 the licensee's records or books that are located outside the State  
3805 of Mississippi.

3806           (3) Each licensee shall maintain the following books and  
3807 records for a period of five (5) years and the books and records  
3808 shall be available to the commissioner for inspection:

3809           (a) A record of each money transmission sold;



- 3810 (b) A general ledger, posted at least monthly,  
3811 containing all assets, liabilities, capital, income and expense  
3812 accounts;
- 3813 (c) Bank statements and bank reconciliation records;
- 3814 (d) Records of outstanding money transmissions;
- 3815 (e) Records of each money transmission paid within the  
3816 five-year period;
- 3817 (f) A list of the names and addresses of all authorized  
3818 agents; and
- 3819 (g) Any other records the commissioner may reasonably  
3820 require by rule or regulation.

3821 The records required under this section may be maintained in  
3822 photographic, electronic or other similar form.

3823 (4) Each licensee must maintain a written Bank Secrecy  
3824 Act/Anti-Money Laundering Program that complies with 31 CFR  
3825 Section 103.125, if applicable.

3826 (5) The commissioner may conduct a joint examination with  
3827 representatives of other departments or agencies of another state  
3828 or with the federal government. The commissioner may accept an  
3829 examination report of another state or of the federal government  
3830 or a report prepared by a certified public accountant instead of  
3831 conducting an examination. A joint examination or an acceptance  
3832 of an examination report does not preclude the commissioner from  
3833 conducting his own examination. The report of a joint examination  
3834 or an examination report accepted by the commissioner under this



3835 section is an official report of the commissioner for all  
3836 purposes.

3837 (6) The department may adopt the necessary administrative  
3838 regulations, not inconsistent with state law, for the enforcement  
3839 of this chapter.

3840 **SECTION 69.** Section 75-15-21, Mississippi Code of 1972, is  
3841 brought forward as follows:

3842 75-15-21. Nothing in this chapter shall be deemed to require  
3843 a licensee to list agents which are exempt by the provisions of  
3844 Section 75-15-7 of this chapter.

3845 **SECTION 70.** Section 75-15-23, Mississippi Code of 1972, is  
3846 brought forward as follows:

3847 75-15-23. Each licensee shall be liable for the payment of  
3848 all money transmissions and for all checks that the licensee  
3849 sells, in whatever form and whether directly or through an agent,  
3850 as the maker or drawer thereof according to the negotiable  
3851 instrument laws of this state, and shall be responsible only for  
3852 those acts of the agent done on behalf of the licensee. Every  
3853 check sold by a licensee directly or through an agent shall bear  
3854 the name of the licensee clearly imprinted thereon. During the  
3855 period of time that a person is an appointed agent for a licensee,  
3856 the agent shall not directly or indirectly conduct his own money  
3857 transmission business and the agent shall not be, continue to be,  
3858 or become an officer, director, stockholder, employee, or agent of  
3859 any other licensee under this chapter. When a person ceases to be



3860 an agent of a licensee, he shall immediately cease displaying his  
3861 agent's appointment certificate, as provided under Section  
3862 75-15-17 of this chapter and shall immediately surrender same to  
3863 the licensee.

3864         **SECTION 71.** Section 75-15-25, Mississippi Code of 1972, is  
3865 brought forward as follows:

3866         75-15-25. Whenever the bond or securities deposit required  
3867 under Section 75-15-11 is less than Five Hundred Thousand Dollars  
3868 (\$500,000.00), the licensee may not at any time have a total  
3869 amount in outstanding money transmissions or checks in  
3870 Mississippi, in excess of the bond or securities deposit required  
3871 of him under Section 75-15-11, and the licensee shall, in  
3872 accordance with rules and regulations promulgated by the  
3873 commissioner under this chapter, submit a written report to the  
3874 commissioner on the last business day of each month regarding his  
3875 money transmissions outstanding in Mississippi, whether issued by  
3876 himself or through agents, provided that this limitation shall be  
3877 the principal sum of the bond or the market value of the  
3878 securities deposit required of the licensee under Section  
3879 75-15-11, and the sum of this limitation shall not be increased by  
3880 any bond or securities deposit increase required by the  
3881 commissioner under Section 75-15-29 or by deposit of any  
3882 revocation order, suspension bond or securities deposit under  
3883 Section 75-15-27.



3884           **SECTION 72.** Section 75-15-27, Mississippi Code of 1972, is  
3885 brought forward as follows:

3886           75-15-27. Except where a license is automatically revoked  
3887 without any act of the commissioner as specially provided in this  
3888 chapter, no license shall be denied or revoked except on ten (10)  
3889 days' notice (the first day of the ten-day period to be the date  
3890 stated on the notice, which shall be the day it is mailed) to the  
3891 applicant or licensee by the commissioner, sent by letter by  
3892 United States registered mail, return receipt requested, to the  
3893 applicant's or licensee's business address set forth in the  
3894 application. Upon receipt of the notice, as stated in the  
3895 registered mail receipt, the applicant or licensee may, within  
3896 five (5) days thereafter (which five-day period may be wholly or  
3897 partially outside of the ten-day period) make written demand for a  
3898 hearing by the commissioner, which demand, in the case of a  
3899 revocation notice, must be accompanied by an additional surety  
3900 bond or securities deposit, as hereafter provided, the principal  
3901 sum or the market value thereof to be specified by the  
3902 commissioner in the revocation notice. The revocation notice  
3903 shall not become final during the period of time in which the  
3904 licensee may demand such hearing nor if licensee demands a  
3905 hearing, until the matter has been finally determined by the  
3906 commissioner or by the courts, provided as to any revocation  
3907 order, but not a denial order, that the licensee posts together  
3908 with his written demand for hearing an additional corporate surety



3909 bond, written by the same surety that wrote the bond under  
3910 subsection (b) of Section 75-15-11, or an additional securities  
3911 deposit in addition to the securities deposit theretofore made by  
3912 the licensee under subsection (c) of Section 75-15-11 which  
3913 additional surety bond or securities deposit shall be in a  
3914 principal amount or of a market value deemed adequate by the  
3915 commissioner as specified in the revocation order but not  
3916 exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00),  
3917 provided that if the licensee originally deposited with his  
3918 application under Section 75-15-11 a corporate surety bond, the  
3919 additional deposit provided in this section must be another  
3920 corporate surety bond or an increase of the first one and may not  
3921 be a deposit of securities, or if the licensee originally  
3922 deposited securities, the additional deposit shall also be of  
3923 securities and not a corporate surety bond. The bond or  
3924 securities deposit shall secure the same obligations as does the  
3925 corporate surety bond or securities deposit required by Section  
3926 75-15-11, but shall be in addition to the bond or securities  
3927 deposit required thereby. Upon receipt of the written demand, the  
3928 commissioner shall thereafter, with reasonable promptness, hear  
3929 and determine the matter as provided by law. If the applicant or  
3930 licensee deems himself aggrieved by the determination or order of  
3931 the commissioner, he may within fifteen (15) days after the  
3932 determination or order, have the determination or order reviewed  
3933 by an appeal to the Chancery Court of the First Judicial District





3934 of Hinds County, Mississippi, by filing a petition setting out the  
3935 specific order or action or part thereof by which the person deems  
3936 himself aggrieved. All those petitions shall be given preferred  
3937 settings and shall be heard by the court as speedily as possible.  
3938 Such an appeal shall be perfected upon the posting of a bond for  
3939 the costs of the appeal accompanied by the petition. Any party to  
3940 the appeal may appeal to the Supreme Court of Mississippi from the  
3941 decree or order of the chancery court, within thirty (30) days  
3942 from the rendition of the decree or order, in the manner provided  
3943 by law for appeals to the Supreme Court of Mississippi from  
3944 chancery courts.

3945 Final denial or revocation of the license, whether automatic  
3946 or by final determination of the commissioner or the courts, shall  
3947 cancel as of the date of final revocation all bonds or securities  
3948 deposits theretofore deposited by the applicant or licensee under  
3949 any provision of this chapter, provided that the licensee (and his  
3950 corporate surety, if any) shall not be relieved of any accrued  
3951 liabilities, and provided further, where the licensee deposited  
3952 securities, that there shall not be returned to the licensee any  
3953 of the deposited securities until the commissioner determines that  
3954 all accrued liabilities (including, but not limited to, the  
3955 principal sums thereof, accrued interest thereon, and court costs,  
3956 if any, assessed to the licensee) of the licensee under this  
3957 chapter have been satisfied in full.



3958           The commissioner may at any time revoke a license, on any  
3959 ground on which he might refuse to grant a license, for failure to  
3960 pay an annual fee or for violation of any provision of this  
3961 chapter, subject to the provisions of this chapter.

3962           A license shall be automatically and finally revoked without  
3963 any act or further act of the commissioner and without any right  
3964 of the licensee to any hearing or further hearing by the  
3965 commissioner or the courts and without any right of the licensee  
3966 or the commissioner to reinstate or have reinstated the license,  
3967 in the following instances: (a) at expiration of the sixty-day  
3968 notice period, if the corporate surety gives notice of  
3969 cancellation of its bond or any of them; (b) upon failure by  
3970 licensee to pay when due the annual license fee required by  
3971 Section 75-15-15; (c) upon failure by licensee to file when due  
3972 any information required by Section 75-15-19; (d) in case of a  
3973 revocation notice under the first paragraph of this section,  
3974 failure by the licensee to demand hearing as provided therein or  
3975 failure to deposit any additional corporate surety bond or  
3976 securities deposit as required by the commissioner; (e) upon a  
3977 license revocation order becoming final at any stage; (f) failure  
3978 by licensee to deposit when due any additional corporate surety  
3979 bond or securities deposit required by the commissioner under  
3980 Section 75-15-29; or (g) upon final conviction of licensee as to  
3981 any offense covered by Section 75-15-31.



3982           If a revocation order becomes final for any reason or in any  
3983 manner, the license may not be reinstated, except upon new  
3984 application as if the licensee had never been licensed before.  
3985 The commissioner may deny the new application on grounds that a  
3986 previous application was denied or a previous license to applicant  
3987 was revoked or any ground or grounds on which he may deny an  
3988 original application.

3989           **SECTION 73.** Section 75-15-29, Mississippi Code of 1972, is  
3990 brought forward as follows:

3991           75-15-29. Any provision in this chapter to the contrary  
3992 notwithstanding, the commissioner may at any time, if in his sole  
3993 opinion the protection of the public so requires, increase the  
3994 principal sum of the bond or the aggregate market value of the  
3995 deposit required of any applicant or licensee by Section 75-15-11  
3996 but in no case shall the principal sum of the bond or the  
3997 aggregate market value of the deposit required by Section 75-15-11  
3998 exceed Five Hundred Thousand Dollars (\$500,000.00) and provided  
3999 further, that in any situation, where a revocation order has been  
4000 issued and the licensee involved has posted the additional bond  
4001 required under Section 75-15-27, for suspension thereof, pending  
4002 final determination, the commissioner may for the same reasons  
4003 require the principal sum of the additional, suspension bond to be  
4004 increased but in no case shall the principal sum thereof exceed  
4005 Two Hundred Fifty Thousand Dollars (\$250,000.00), and provided  
4006 further that if the licensee originally deposited with his



4007 application under Section 75-15-11 a corporate surety bond, the  
4008 additional increase provided in this section must be by another  
4009 corporate surety bond or an increase of the first one, written by  
4010 the same corporate surety that wrote the first one and may not be  
4011 a deposit of securities or if the licensee originally deposited  
4012 securities, the additional increase shall also be of securities  
4013 and not a corporate surety bond.

4014 **SECTION 74.** Section 75-15-31, Mississippi Code of 1972, is  
4015 brought forward as follows:

4016 75-15-31. (1) If any person to whom or which this chapter  
4017 applies or any agent or representative of that person violates any  
4018 of the provisions of this chapter or attempts to transact the  
4019 business of conducting money transmissions as a service or for a  
4020 fee or other consideration, without having first obtained a  
4021 license from the commissioner under the provisions of this  
4022 chapter, that person and each such agent or representative shall  
4023 be deemed guilty of a misdemeanor and, upon conviction, shall be  
4024 fined not less than One Hundred Dollars (\$100.00) nor more than  
4025 Five Hundred Dollars (\$500.00), and may also be confined to the  
4026 county jail for not more than twelve (12) months. Each violation  
4027 shall constitute a separate offense.

4028 (2) If any person engages in business as provided for in  
4029 this chapter without paying the license fee provided for in this  
4030 chapter before beginning business or before the expiration of the  
4031 person's current license, as the case may be, then the person



4032 shall be liable for the full amount of the license fee plus a  
4033 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)  
4034 for each day that the person has engaged in the business without a  
4035 license or after the expiration of a license.

4036 (3) The commissioner may, after notice and hearing, impose a  
4037 civil penalty against any licensee if the licensee or employee is  
4038 adjudged by the commissioner to be in violation of the provisions  
4039 of this chapter. The civil penalty shall not exceed Five Hundred  
4040 Dollars (\$500.00) per violation and shall be deposited into the  
4041 Consumer Finance Fund of the Department of Banking and Consumer  
4042 Finance.

4043 (4) When the commissioner has reasonable cause to believe  
4044 that a person is violating any provision of this chapter, the  
4045 commissioner, in addition to and without prejudice to the  
4046 authority provided elsewhere in this chapter, may enter an order  
4047 requiring the person to stop and refrain from the violation. The  
4048 commissioner may sue in any circuit court of the state having  
4049 jurisdiction and venue to enjoin the person from engaging in or  
4050 continuing the violation or from doing any act in furtherance of  
4051 the violation. In such an action, the court may enter an order or  
4052 judgment awarding a preliminary or permanent injunction.

4053 **SECTION 75.** Section 75-15-32, Mississippi Code of 1972, is  
4054 brought forward as follows:

4055 75-15-32. The commissioner, or his duly authorized  
4056 representative, for the purpose of discovering violations of this



4057 chapter and for the purpose of determining whether persons are  
4058 subject to the provisions of this chapter, may examine persons  
4059 licensed under this chapter and persons reasonably suspected by  
4060 the commissioner of conducting business that requires a license  
4061 under this chapter, including all relevant books, records and  
4062 papers employed by those persons in the transaction of their  
4063 business, and may summon witnesses and examine them under oath  
4064 concerning matters relating to the business of those persons, or  
4065 such other matters as may be relevant to the discovery of  
4066 violations of this chapter, including without limitation the  
4067 conduct of business without a license as required under this  
4068 chapter.

4069         **SECTION 76.** Section 75-15-33, Mississippi Code of 1972, is  
4070 brought forward as follows:

4071         75-15-33. The masculine, feminine and neuter genders shall  
4072 each include the others and the singular shall include the plural.

4073         **SECTION 77.** Section 75-15-35, Mississippi Code of 1972, is  
4074 brought forward as follows:

4075         75-15-35. Each licensee shall comply with state and federal  
4076 money laundering laws, including, but not limited to, the federal  
4077 "Bank Secrecy Act," 12 USC Section 1951 et seq.

4078         **SECTION 78.** This act shall take effect and be in force from  
4079 and after July 1, 2022.

