



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: December 18, 2018

TIME: 8:31 AM

WSR 19-01-089

**Agency:** Department of Financial Institutions

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR** 18-04-018 ; or

**Expedited Rule Making--Proposed notice was filed as WSR** \_\_\_\_\_ ; or

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

**Proposal is exempt under RCW** \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) The Securities Division proposes to amend the exempt transaction rules contained in WAC 460-44A-300, 460-44A-503, and 460-44A-504 to make ministerial updates.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
January 23, 2019	11:00am	Dept. of Financial Institutions 150 Israel Rd SW Tumwater, WA 98501	

**Date of intended adoption:** January 24, 2019 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Nathan Quigley  
Address: P.O. Box 9033, Olympia, WA 98507  
Email: Nathan.Quigley@dfi.wa.gov  
Fax: 360-704-6463  
Other:  
By (date) January 22, 2019

**Assistance for persons with disabilities:**

Contact Carolyn Hawkey  
Phone: 360-902-8760  
Fax: 360-902-0524  
TTY: 360-664-8126  
Email: Carolyn.Hawkey@dfi.wa.gov  
Other:  
By (date) January 22, 2019

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Securities Division proposes to amend the exempt transaction rules to make ministerial updates. The proposal would make the following changes:

- WAC 460-44A-300 sets forth an exemption from securities registration for offers and sales of securities to accredited investors only and is derived from NASAA's Model Accredited Investor Exemption. The exemption is available to offerings that are made pursuant to Section 3(b) of the Securities Act of 1933 and has not been updated since Section 3(b) was amended by the JOBS Act of 2012 and the SEC subsequently amended its rules thereunder in Regulation A. See SEC Release No. 33-9741, available at <https://www.sec.gov/rules/final/2015/33-9741.pdf>. The proposed amendments would correct the reference in the exemption to Section 3(b)(1) of the amended Securities Act of 1933.
- WAC 460-44A-504 establishes a small offering exemption that may be relied upon in offerings exempt under SEC Rules 147 or 504. This provision has not been updated since the SEC created a new intrastate offering exemption in Rule 147A.

See SEC Release No. 33-10238, available at <https://www.sec.gov/rules/final/2016/33-10238.pdf>. The proposed amendments would add references to Rule 147A in the exemption; and

• While the SEC repealed Rule 505 of Regulation D in 2017 and the Division previously repealed its own corresponding exemption in WAC 460-44A-505, the filing requirements set forth in WAC 460-44A-503, as well as the disqualification provision in WAC 460-44A-504, continue to reference WAC 460-44A-505. The proposed updates will remove all references to Rule 505.

**Reasons supporting proposal:** The proposed amendments should be adopted in order to reflect changes in federal law which impact state exempt transaction rules.

**Statutory authority for adoption:** RCW 21.20.450; RCW 21.20.320(9); RCW 21.20.320(17).

**Statute being implemented:** RCW 21.20

**Is rule necessary because of a:**

Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization)

Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Nathan Quigley	150 Israel Rd SW, Tumwater, WA 98501	360-902-8760
Implementation:	Faith Anderson	150 Israel Rd SW, Tumwater, WA 98501	360-902-8760
Enforcement:	William Beatty	150 Israel Rd SW, Tumwater, WA 98501	360-902-8760

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:

TTY:  
Email:  
Other:

No: Please explain: The Department of Financial Institutions is not one of the agencies listed in RCW 34.05.328.

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)  
(Internal government operations)

RCW 34.05.310 (4)(e)  
(Dictated by statute)

RCW 34.05.310 (4)(c)  
(Incorporation by reference)

RCW 34.05.310 (4)(f)  
(Set or adjust fees)

RCW 34.05.310 (4)(d)  
(Correct or clarify language)

RCW 34.05.310 (4)(g)  
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The proposed amendments are ministerial updates that do not constitute material changes from existing law or policy

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** December 13, 2018

**Name:** Gloria Papiez

**Title:** Director

**Signature:**

