



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: March 19, 2019

TIME: 4:00 PM

WSR 19-07-075

Agency: Department of Financial Institutions, Securities Division

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 17-17-029 ; 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 is proposing to amend WAC 460-42A-030, which provides that certain municipal securities are exempt from registration under RCW 21.20.310(1) if they receive requisite ratings from designated ratings agencies. Specifically, the Securities Division proposes to amend WAC 46-42A-030 to correct an inadvertent drafting error.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

May 7, 2019	9:00 AM	150 Israel Road SW – Room 319 Tumwater, WA 98501	
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Date of intended adoption: May 8, 2019 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Michelle Webster

Address: 150 Israel Road SW, Tumwater, WA 98501

Email: michelle.webster@dfi.wa.gov

Fax: 360-902-0524

Other:

By (date) May 6, 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) May 6, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In 2014, the Securities Division amended WAC 460-10A-160 to update references to securities manuals for the purpose of the “manual exemption.” As part of this update, Moody’s Investors Service was replaced with a reference to Mergent’s Investor Service to reflect current publishers of securities manuals. In an early 2017 update to our rules to remove references to discontinued securities manuals, the Securities Division inadvertently replaced a reference to Moody’s Investors Service with a reference to Mergent, Inc. in WAC 460-42A-030, the exemption for municipal securities that receive requisite ratings from designated ratings agencies. However, Mergent, Inc. does not publish such municipal securities ratings, while Moody’s Investors Service, Inc. is a well-known ratings organization.

The Securities Division had no intent to disqualify offerings with the requisite rating from Moody’s Investors Service, Inc. from relying on the municipal securities exemption in WAC 460-42A-030. Accordingly, the Securities Division proposes to amend WAC 460-42A-030 to replace references to Mergent, Inc. with references to Moody’s Investors Service, Inc.

Beyond the 2017 drafting error, WAC 460-42A-030 has not been significantly amended since 1989. Accordingly, the Securities Division also proposes to amend WAC 460-42A-030 to recognize equivalent ratings by Fitch Ratings, a nationally recognized statistical rating organization that also issues credit ratings to municipal securities.

Reasons supporting proposal: As WAC 460-42A-030 implements the exemption contained in RCW 2.20.310(1), and the prior amendments were made in error, the Division proposes to amend these rules to rectify its prior inadvertent drafting error, and to promote capital formation.

Statutory authority for adoption: RCW 21.20.310(1); RCW 21.20.450

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) Department of Financial Institutions, Securities Division Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Michelle Webster, Esq.	150 Israel Road SW, Tumwater, WA 98501	360-902-8736
Implementation: Manager	Faith Anderson, Program	150 Israel Road SW, Tumwater, WA 98501	360-902-8760
Enforcement: Administrator	William Beatty, Securities	150 Israel Road 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 an agency identified 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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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: A portion of the proposal seeks to correct an inadvertent drafting error that was made in 2017.

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.

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: March 14, 2019

Name: Gloria Papiez

Title: Director

Signature:

