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MEMORANDUM

Cheryl T. Farson, General Counsel
Corporation Commission—Securities Division
Direct line: 602-542-0193
Facsimile: 602-594-7476
E-mail: cf@ccsd.cc.state.az.us

TO: Docket Control
FROM: Cheryl T. Farson *CF*
DATE: September 18, 2007
RE: Docket # RS-00000A-07-0421

Please file the attached Notice of Proposed Rulemaking, Agency Certificate, and Agency Receipt in docket # RS-00000A-07-0421.

Thank you.

Arizona Corporation Commission
DOCKETED
SEP 18 2007

DOCKETED BY *nr*

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2007 SEP 18 A 11: 12
AZ CORP COMMISSION
DOCKET CONTROL

AGENCY RECEIPT

SECRETARY OF STATE

for

2007 SEP 16 AM 9:58

NOTICE OF PROPOSED RULEMAKING

FILED

1. Agency Name: Arizona Corporation Commission, Securities Division
2. The Articles and the Sections involved in the rulemaking listed in alphabetical and numerical order:

Subchapters, Articles, Parts, and Sections

Action

Article 1

Section R14-4-116

Amend

AGENCY CERTIFICATE
Notice of Proposed Rulemaking

1. **Agency name:** Arizona Corporation Commission, Securities Division
2. **Chapter heading:** Chapter 4. Corporation Commission , Securities
3. **Code citation for Chapter:** 14 A.A.C. 4
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in numerical order:**

Subchapters, Articles, Parts, and Sections	Action
Article 1. In General Relating to the Securities Act	
R14-4-116	Amend

5. **The rule contained in this package is true and correct as proposed.**

6. <u></u>	<u>9-7-07</u>
Signature of Interim Executive Director of the Arizona Corporation Commission	Date of Signing

Dean Miller
Typed Name of Signer

Interim Executive Director
Title of Signer

7. **Exempt from Governor's Regulatory Review Council:** A.R.S. § 41-1057

NOTICE OF PROPOSED RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;

SECURITIES REGULATION

CHAPTER 4. CORPORATION COMMISSION—SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

PREAMBLE

1. Sections Affected Rulemaking Action
A.A.C. R14-4-116 Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statute the rule is implementing (specific):
Authorizing statute: A.R.S. § 44-1821
Implementing statute: A.R.S. § 44-1891
Constitutional authority: Arizona Constitution, Article XV, §§ 4 and 13

3. A list of all previous notices appearing in the Register addressing the proposed rule.
Notice of Rulemaking Docket Opening 13 A.A.R. 2687, August 3, 2007

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Cheryl T. Farson, General Counsel
Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, Third Floor
Phoenix, AZ 85007-2996
Telephone: (602) 542-0193
Fax Number: (602) 594-7476
E-mail: cfarson@azcc.gov

Written comments should be submitted to the Corporation Commission's Docket Control as provided in item 10.

5. An explanation of the rule, including the agency's reasons for initiating the rule:

A.A.C. R14-4-116 incorporates by reference certain North American Securities Administrators Association ("NASAA") statements of policy and guidelines used by the Arizona Corporation Commission's Securities Division as its standards of review for specified securities registration applications. Pursuant to A.R.S. § 41-1028 and A.A.C. R1-1-414, A.A.C. R14-4-116 does not include any later amendments or editions of the incorporated matter. Effective May 7, 2007, NASAA amended its policy statements relating to Asset-Backed Securities, Commodity Pool Programs, Equipment Programs, Mortgage Programs, Oil and Gas Programs, Real Estate Investment Trusts, and Real Estate Programs and its Omnibus Guidelines to revise financial suitability standards to reflect inflation. The Corporation Commission proposes to amend A.A.C. R14-4-116 to incorporate the NASAA amendments.

The suitability standards amended by NASAA are financial standards designed to ensure that issuers do not sell complex and risky securities to investors for whom such investments are not suitable. The NASAA statements of policy and guidelines may be viewed in their entirety at <http://www.nasaa.org/home/index.cfm> by clicking on "Direct Participation Programs."

In drafting the amendments, the NASAA project group solicited comments from all of the state securities regulators and from the public. The project group held a public hearing regarding its proposed amendments on October 20, 2006. After receiving, reviewing, and

considering responses from the public, the project group recommended the amendments and NASAA adopted them effective May 7, 2007.

The Corporation Commission proposes to amend A.A.C. R14-4-116 to incorporate the NASAA amended statements of policy and guidelines to enhance investor protection and uniformity among the states with respect to the standard of review applied to applications for registration of the specified securities transactions.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

The economic, small business, and consumer impact statement for A.A.C. R14-4-116 analyzes the costs, savings, and benefits that accrue to the Corporation Commission, regulated persons, and the general public. The amendment to A.A.C. R14-4-116 should have no economic impact on the Corporation Commission. The Corporation Commission does not anticipate that the rule will have a direct financial impact on regulated persons. An indirect financial impact may result if the universe of potential investors is reduced for registered securities transactions subject to the revised suitability standards. The

Corporation Commission does not anticipate that the rule will impose costs upon the general public.

The benefits provided by the amendment to A.A.C. R14-4-116 are nonquantifiable. The Corporation Commission anticipates that the general public may benefit from increased investor protection. State securities regulators participate in the drafting of NASAA statements of policy and adopt them in order to facilitate uniformity among the states regarding the standards imposed on applicants for registration of securities. The Corporation Commission anticipates that regulated persons may benefit from such uniformity.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Cheryl T. Farson, General Counsel
Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, Third Floor
Phoenix, AZ 85007-2996
Telephone: (602) 542-0193
Fax Number: (602) 594-7476
E-mail: cfarson@azcc.gov

Written comments should be submitted to the Corporation Commission's Docket Control as provided in item 10.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Corporation Commission has scheduled the following oral proceeding:

Date: December 3, 2007
Time: 10:00 a.m.
Location: Arizona Corporation Commission
1200 West Washington Avenue, Room 100
Phoenix, Arizona 85007
Nature: Oral proceeding.

Written comments on the Notice of Proposed Rulemaking will be accepted through December 3, 2007. Written comments should include a reference to Docket No. RS-00000A-07-0421 and should be addressed to:

Docket Control
Arizona Corporation Commission
1200 West Washington Avenue
Phoenix, Arizona 85007

Please send a copy of your written comments to the individual identified in item 4. Although the Corporation Commission will accept written comments through December 3, 2007, the Corporation Commission requests that interested persons file initial written comments on the proposed rules on or before November 13, 2007, and file any written comments in response to other interested persons' comments on or before November 26, 2007. Subsequent to the oral proceeding, the Corporation Commission will taken final action at an open meeting with respect to the making of the proposed rule.

An individual with a disability who desires to attend the oral proceeding may request, in advance, a reasonable accommodation such as a sign language interpreter. In addition, an individual with a disability may request this document in an alternative format. Requests should be directed to Linda Hogan, ADA Coordinator, by email at LHogan@azcc.gov or by voice phone number at (602) 542-3931. Requests should be made as early as possible to allow time to arrange an accommodation.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

12. Incorporations by reference and their location in the rule:

The following NASAA materials are incorporated by reference in A.A.C. R14-4-116(A):

1. Statement of policy regarding loans and other material affiliated transactions, amended November 18, 1997.
2. Registration of asset-backed securities, adopted October 25, 1995; amended May 7, 2007.
3. NASAA mortgage program guidelines, adopted September 10, 1996; amended May 7, 2007.
4. Registration of commodity pool programs, adopted September 21, 1983, effective January 1, 1984; amended and adopted May 7, 2007.
5. Equipment programs, adopted November 20, 1986; amended April 22, 1988, and May 7, 2007.
6. Registration of oil and gas programs, adopted September 22, 1976; amended October 12, 1977, October 31, 1979, April 23, 1983, July 1, 1984, September 3, 1987, September 14, 1989, October 24, 1991, and May 7, 2007.
7. Statement of policy regarding real estate investment trusts, revised and adopted May 7, 2007.
8. Real estate programs, last revised May 7, 2007.
9. Statement of policy regarding unequal voting rights, adopted and effective October 24, 1991.

10. Omnibus Guidelines, adopted March 29, 1992; amended May 7, 2007.
11. Statement of policy regarding church extension fund securities, adopted April 17, 1994, entitled guidelines for general obligation financing by religious denominations; amended April 18, 2004.
12. Statement of policy regarding church bonds, adopted April 14, 2002.
13. The full text of the rule follows:

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND
ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 4. CORPORATION COMMISSION—SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

Sections

R14-4-116. NASAA Statements of Policy

R14-4-116. NASAA Statements of Policy

A. Unless otherwise provided in A.R.S. Title 44, Chapter 12, Article 7, transactions that fall within one or more of the following North American Securities Administrators Association (NASAA) statements of policy shall comply with the requirements of those statements of policy to qualify for registration or renewal under A.R.S. Title 44, Chapter 12, Article 7.

This Section shall not apply to the registration of securities under A.R.S. § 44-1901.

1. Statement of policy regarding loans and other material affiliated transactions, amended November 18, 1997.
2. Registration of asset-backed securities, adopted October 25, 1995; amended May 7, 2007.
3. NASAA mortgage program guidelines, adopted September 10, 1996; amended May 7, 2007.
4. Registration of commodity pool programs, adopted September 21, 1983, effective January 1, 1984; amended and adopted ~~August 30, 1990~~ May 7, 2007.
5. Equipment programs, adopted November 20, 1986, ~~effective January 1, 1987~~; amended April 22, 1988, and ~~October 24, 1991~~ May 7, 2007.
6. Registration of oil and gas programs, adopted September 22, 1976; amended October 12, 1977, October 31, 1979, April 23, 1983, July 1, 1984, September 3, 1987, September 14, 1989, and ~~October 24, 1991,~~ and May 7, 2007.
7. Statement of policy regarding real estate investment trusts, revised and adopted ~~September 29, 1993~~ May 7, 2007.
8. Real estate programs, last revised ~~September 29, 1993~~ May 7, 2007.

9. Statement of policy regarding unequal voting rights, adopted and effective October 24, 1991.
 10. Omnibus Guidelines, adopted March 29, 1992; amended May 7, 2007.
 11. Statement of policy regarding church extension fund securities, adopted April 17, 1994, entitled guidelines for general obligation financing by religious denominations; amended April 18, 2004.
 12. Statement of policy regarding church bonds, adopted April 14, 2002.
- B. The material listed in subsection (A) is incorporated by reference and on file with the Commission. The incorporated material does not contain later editions or amendments. The material is published in *NASAA Reports* by Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, Illinois 60646. Copies are available from NASAA, 10 G Street, N.E., Suite 710, Washington D.C. 20002, and the Commission.