

**STATEMENT OF POLICY REGARDING
THE IMPOUNDMENT OF PROCEEDS**

Amended on April 27, 1997, September 28, 1999 and March 31, 2008

I. INTRODUCTION

This statement of policy applies to all applications to register by coordination or by qualification.

II. DEFINITIONS

This statement of policy uses the following terms defined in the NASAA *Statement of Policy Regarding Corporate Securities Definitions*:

Administrator
Affiliate
Associate
Disclosure Document
Impoundment Agent
Person
Promoter
Underwriter

III. DENIAL OF SECURITIES REGISTRATION

If an Underwriter has not firmly underwritten the offering, the Administrator may deny the registration unless the issuer has impounded the proceeds.

IV. DEPOSIT OF PROCEEDS

- A. If an Administrator has denied the registration under Section III, the issuer or other person that receives the proceeds from the sale of the securities must deposit the proceeds in an interest bearing escrow or trust account with an Impoundment Agent.
- B. The following are not eligible to act as an Impoundment Agent:
1. the issuer,
 2. the issuer's officers or directors,
 3. the Underwriter,
 4. any Promoter, or
 5. an Affiliate of any of the above.

V. The Impoundment Agreement

- A. An Impoundment Agreement must provide that, until the Impoundment Agent releases the proceeds to the issuer under the terms of the Agreement, the following persons do not have any claims to the impounded proceeds
 - 1. creditors of the issuer,
 - 2. Affiliates,
 - 3. Associates, or
 - 4. Underwriters.
- B. The Agreement must provide that
 - 1. the Impoundment Agent must notify the Administrator in writing when the Agent releases the proceeds to the issuer or other person entitled to the proceeds;
 - 2. if the proceeds do not meet the minimum requirements within the time set out in the Agreement, the Impoundment Agent
 - a. must release and return the proceeds directly to the investors,
 - b. when returning proceeds to investors, must also pay to the investors, on a pro rata basis, all interest earned on the proceeds, and
 - c. must not deduct any expenses, including fees of the Impoundment Agent.
- C. The Agreement must provide that the Administrator may
 - 1. inspect the records of the Impoundment Agent at any reasonable time and where the records are located, and
 - 2. copy any record that is inspected.
- D. An officer from each of the issuer, Underwriter (if applicable) and Impoundment Agent must sign the Impoundment Agreement on behalf of the entity they represent.
- E. The Disclosure Document must include a summary of the principal terms of the Impoundment Agreement.

- F. The issuer or other person offering securities under the Disclosure Document must file a signed copy of the Impoundment Agreement with the Administrator. On filing, the Agreement becomes part of the Disclosure Document.

VI. PURCHASES BY UNDERWRITERS AND PERSONS CONNECTED TO THE ISSUER

If the issuer receives proceeds of the public offering sold under a Disclosure Statement from an Underwriter or an officer, director, Promoter, Affiliate, or Associate of the Issuer

- A. The Underwriter or other Person must purchase the securities on the same terms as unaffiliated public investors; and
- B. The Disclosure Document must disclose that a Person referred to in this section may purchase securities of the Issuer for purposes of completing the impoundment requirements imposed under this Statement of Policy.