

STATEMENT OF POLICY REGARDING UNSOUND FINANCIAL CONDITION

Adopted on April 27, 1997; Amended 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
Disclosure Document
Insolvent

III. DENIAL OF SECURITIES REGISTRATION

- A. The Administrator may deny the registration if the issuer is Insolvent.
- B. The Administrator may permit an Insolvent issuer to sell securities if the issuer demonstrates that the offering proceeds and the issuer's long-term business plan will improve the issuer's financial condition. The Administrator may require pro forma financial statements acceptable to the Administrator. The pro forma financial statements must include a description and documentation of any material assumptions and demonstrate when the issuer expects to be profitable.

IV. DISCLOSURE REQUIREMENTS

If the issuer is Insolvent, the Disclosure Document must disclose the following prominently:

- A. Persons should not invest unless they can afford to lose their entire investment; and
- B. The following risk factors, if applicable:
 - 1. The presence of an explanatory paragraph in the independent auditor's report;
 - 2. The issuer's lack of revenue from operations and an indication of how the issuer has been financing operations;
 - 3. The presence and amount of any accumulated deficit;

4. The presence and amount of any negative shareholder's equity; or
5. The need for future financing.

V. SUITABILITY STANDARDS

- A. If the issuer is Insolvent, the Administrator may impose net worth standards or limit the sale of securities to accredited investors instead of, or in addition to, the requirements in Sections IV and V. The imposition of these minimal net worth standards does not relieve a dealer from the responsibility to make an independent determination of suitability required under industry standards.
- B. Unless the Administrator determines that the risk associated with the offering would require lower standards, public investors must have the following:
 1. A minimum annual gross income of \$70,000 and a minimum net worth of \$70,000, exclusive of automobile, home and home furnishings, or
 2. A minimum net worth of \$250,000, exclusive of automobile, home and home furnishings.