

NASAA STATEMENT OF POLICY REGARDING DEBT SECURITIES

Adopted April 25, 1993; Amended September 12, 2023.

- I. INTRODUCTION.** This statement of policy applies to all applications to register debt securities with the Administrator by qualification or by coordination.
- II. DEFINITIONS.** This statement of policy uses the following terms defined in the *NASAA Statement of Policy Regarding Corporate Securities Definitions*:
- Administrator
 - Affiliate
 - Associate
 - Person
 - Promoter
- III. DEBT SECURITIES.** The issuer must demonstrate a reasonable ability to service the debt. For purposes of this policy statement, a “reasonable ability to service the debt” can be demonstrated by providing a ratio of earnings to fixed charges or a ratio of earnings to combined fixed charges of at least 1.00 for the three most recent fiscal years and the latest interim period preceding the date of effectiveness of such public offering.
- IV. DEBT SECURITIES WITH LIQUIDATION PRIORITY OVER PROMOTER OWNED DEBT.** The Administrator, in his or her discretion, may choose to not apply III., above, to public offerings of convertible debt securities that are superior in right of payment of interest and liquidation proceeds to any convertible debt that is or may be legally or beneficially, directly or indirectly, owned by Promoters. The risks of failure to meet debt service obligations and the equity characteristics of such securities must be disclosed in the prospectus. An offering of such securities may be reviewed using guidelines for equity offerings.
- V. TRUST INDENTURE FOR DEBT SECURITIES.** Unless the Administrator permits otherwise, public offerings of debt securities shall be offered and sold pursuant to a Trust Indenture (“Indenture”) which adequately protects the rights of the purchasers. Some of these protections are:
- A. The Indenture must comply with the provisions of the Trust Indenture Act of 1939. This must be disclosed in the offering document.
 - B. The events of default of the Indenture shall be disclosed in the offering document.

- C. The trustee must be provided with adequate reports, including any compliance reports from independent auditors, to allow the trustee to ensure compliance with the Indenture.
- D. Neither the trustee nor the issuer's Promoters may be major creditors of the issuer or its Affiliates.
- E. The Indenture must provide that upon any consolidation, merger, recapitalization, reorganization, pledge foreclosure, equity or share exchange, conveyance or transfer of the properties and assets of the issuer substantially as an entirety, or any other transaction having a substantially equivalent effect, the successor Person must expressly assume the payment obligations on the debt securities and the performance of the covenants of the Indenture.
- F. The Indenture must provide that interest will accrue and be paid until the date(s) of redemption or conversion of the debt securities.

VI. REDEMPTION REQUIREMENT. If the Administrator deems it necessary for investor protection, the Administrator may require that the issuer establish a sinking fund or redemption requirements.