

From: [Sumit Madan](#)
To: [NASAA Comments](#)
Cc: [Theresa Leets](#); [Erin Houston](#); bill.beatty@dfi.wa.gov; [Sabrina Wall](#)
Subject: [EXTERNAL]Public Comments on Proposed NASAA Model Franchise Broker Registration Act
Date: Thursday, June 13, 2024 10:23:51 PM

June 13, 2024

Via Electronic Mail

To:
Theresa Leets, Chair of the Project Group
Bill Beatty, Co-chair of the Section
Erin Houston, Co-chair of the Section

Re: Public Comments on Proposed NASAA Model Franchise Broker Registration Act
(the "Act")

To NASAA Representatives,

My name is Sumit Madan, and I have extensive experience as a franchisor, franchise development professional, broker. I am writing to provide feedback on the NASAA Model Franchise Broker Registration Act. Thank you for allowing me to share my insights based on years of involvement in the franchise industry.

I have been an Investment Banker since 1997 and then me and my wife took a franchise in the senior care space I have been involved with Franchising for over 10 years, we grew that office from scratch and now employ 200 people, I have been able to see the benefits firsthand of franchising and this is what I share, I wanted to share my own process

Typically, I showcase around 10 to 15 different franchise options to my clients. These selections stem from my network of referral agreements with hundreds of companies. This presentation follows a thorough interview process, allowing me to tailor choices based on various factors: client skills, work preferences, available time, financial resources and goals, educational and professional background, location, community ties, age, family dynamics, personality, and even hobbies or interests. I present these franchises as viable options given our prior discussions, explaining why I believe they align with the client's profile. I also highlight potential mismatches or concerns for the client to address during their due diligence.

Once the client expresses interest, I facilitate introductions to franchisors, articulating why the client fits their opportunity and outlining any areas of discrepancy. Throughout the subsequent due diligence phase, I offer ongoing support. This includes guidance on navigating the franchisor's discovery process, understanding franchise disclosure documents, formulating questions for both franchisors and current franchisees, and recommending consultation with a franchise attorney or financial experts as needed. My aim is to deliver these support services at the highest professional standard, setting myself apart from competitors. However, it's worth noting that this process, while tailored to each client, follows a structure similar to that taught by professional associations like the FBA, which I am affiliated with.

It's important to note that franchise brokers are intermediaries in transactions, not direct participants. Their role involves educating clients and facilitating introductions to specific franchises upon client request. While brokers do receive referral fees from franchisors if a client is awarded a franchise and subsequently joins the system, it's crucial to understand that the decision to grant the franchise rests solely with the franchisor, and the decision to join the franchise system lies entirely with the client after a thorough due diligence process lasting typically 3-9 months.

Throughout this period, brokers do not handle client funds, are not involved in any transaction agreements, and are not empowered to make commitments on behalf of either the client or the franchisor. They serve as informational guides, not intermediaries in the traditional sense.

Highlighted below are several problematic aspects of the proposed Model Act:

1. **Complex Regulatory Framework:** The extensive regulatory language and structure proposed in the Model Act pose significant challenges, particularly for small-scale franchise brokers who typically operate as mom-and-pop shops. Complying with intricate rules akin to those governing broker-dealers and investment advisers, including legal requirements, compliance measures, and licensing exams, would be financially burdensome and could potentially force many brokers out of business.
2. **Misunderstanding of Broker Functions:** The Model Act appears to misconstrue the role of franchise brokers. Unlike traditional salespersons, brokers facilitate introductions rather than directly selling franchises. They lack the authority to award franchises; only franchisors can make such decisions. Therefore, the act's insistence on brokers disclosing specific earning amounts from franchisors could be intrusive, misleading, and unfairly burdensome, especially considering that broker services are typically offered to clients free of charge.
3. **Flawed Prohibited Practices List:** The Act's list of prohibited practices seems more focused on registration requirements rather than addressing actual harmful actions. There's a lack of clarity on practices that are detrimental to the public interest, leading to concerns about the fairness and efficacy of the regulatory framework.
4. **Excessive Record-Keeping Requirements:** Section 6, paragraph 3 mandates brokers to retain records for franchises "offered" for a decade after ceasing operations. However, franchise brokers do not technically offer franchises for sale; it's the franchisors who extend offers. Moreover, the ten-year record-keeping mandate far exceeds the obligations imposed on SEC-registered investment advisers. This requirement is disproportionate to the services rendered, especially considering that many clients do not ultimately purchase a franchise.

I acknowledge that this comment has been quite extensive, and I sincerely hope it receives proper attention. I want to emphasize that as a franchise broker, I've invested significantly in high-quality training and maintain active membership in associations that offer continuous education, which entails ongoing monthly fees. I devote extensive hours to my work and approach my responsibilities with the same level of seriousness as I did in my previous role in the securities industry. My aim is always to provide well-informed, honest advice, prioritizing the best interests of my clients. Therefore, I am deeply dismayed by the misleading and unreasonable remarks, such as those found on Page 3 of the Project

Group's Request for Public Comment.

I appreciate the efforts to increase transparency and support the sentiment behind the proposed Act.

We respectfully request that NASAA extend the comment period and engage more thoroughly with all relevant stakeholders to develop a balanced and effective regulatory framework.

This approach will ensure that the final document works for all parties and encourages, rather than discourages, people from considering franchise opportunities.

Thank you for your attention to this matter. We look forward to working collaboratively with NASAA to achieve our shared goals or responsible franchising.

Best regards,

Sumit Madan

Vishnu Franchise Brokers

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Recipient acknowledges that it has not relied on any statement made by our brokers in our candidates determination of whether or not to become a franchisee or enter into any relationship with the Franchise. The candidate has conducted or will conduct, prior to signing any agreement with respect to the Franchise, its own due diligence on the Franchise and has not and will not rely on any representation whatsoever of our brokers.

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This email does not constitute an offer of a franchise per the registration requirements by the Franchisor in some States. The following are the registration States (CA, HI, IL, IN, MD, MI, MN, NY, ND, RI, SD, VA, WA, WI).

The information provided in any PowerPoint presentation or brochure is found in greater detail in the franchisor's Franchise Disclosure Document. You should review the entire Franchise Disclosure Document carefully and seek the advice of a professional advisor prior to making any decision on whether to purchase this franchise. Do not rely on any information which is not consistent with the information in the Franchise Disclosure Document.