

From: [Keith Liscio](#)
To: [NASAA Comments](#)
Cc: bill.beatty@dfi.wa.gov; [Theresa Leets](#); [Erin Houston](#)
Subject: [EXTERNAL]
Date: Thursday, June 13, 2024 8:47:43 PM

To Whom It May Concern at the North American Securities Administrators Association:

My name is Keith Liscio, and I am the President of Excelsior Franchise Center, a franchise brokerage firm. I am writing to provide feedback on the NASAA Model Franchise Broker Registration Act based on my years of experience in the franchise industry.

I share your goal of providing transparency and ensuring ethical practices in my industry. The current draft of the Model Act, however, introduces complexities that could inadvertently hinder the franchise sales process and undermine the formation of small businesses across the country.

Small businesses are the economic engine that powers the American economy. They drive economic growth and employ millions of workers. Franchise businesses have a far greater success rate than independent start-ups. Anything that hinders the sale and development of franchise businesses unnecessarily has the potential to cause catastrophic economic effects.

Independent franchise brokers represent the majority of emerging franchise brands. These smaller brands simply will not be able to compete without the time and attention of these brokers, causing consolidation in the industry and further domination by the forces of private equity that are already snapping up more established franchise brands.

I have several concerns about the draft regulations and hope to influence the final document in a way that benefits the franchise industry, prospective business owners, and consumers:

NASAA request page 5 Section 2(3) states: “ ‘Franchise broker’ means any person that directly or indirectly engages in the offer or sale of a franchise and receives, or is promised, a fee, commission, or other form of consideration from a franchisor, subfranchisor, or franchisee, or an affiliate of a franchisor, subfranchisor, or franchisee.” This definition of a Franchise broker is simply too broad. If any entity that directly or indirectly receives any value for suggesting a prospect be awarded a franchise is considered a “Franchise Broker,” almost anyone involved in the process in even the most ancillary way could face unintended regulation, having a negative effect on the franchise sales process. Regulatory violations and lawsuits against franchise brokers will mount from people now affected by the new extension of the franchise broker definition.

Page 6 Section 2(3) states: “ ‘Franchise broker’ does not include: (i) a franchise broker representative; (ii) a franchisor, a subfranchisor, or an affiliate of a franchisor or subfranchisor; (iii) the officers, directors, or employees of a franchisor, a subfranchisor, or an affiliate of a franchisor or subfranchisor; or (iv) a current franchisee of a franchisor or subfranchisor so long as the franchisee does not receive fees, commissions, or other forms of consideration valued at more than \$1,000 (an amount that will be adjusted annually for inflation) in a calendar year.” In other words, the franchisee is considered a Franchise Broker and required to register if they receive \$1k or more in benefits in a given year for promoting the brand and effecting the acquisition of new franchisees. The unintended effect of this regulation would be to dramatically hinder the validation process, a key procedure necessary for prospective franchisees to evaluate a given franchise system.

Page 6 Section 2(4) states: “‘Franchise broker representative’ means any natural person other than a franchise broker who represents a franchise broker in effecting or attempting to effect offers or sales of franchises. A franchise broker representative can be an owner, officer, director, employee, or independent contractor of a franchise broker.” The franchise broker now must keep registrations updated with all franchise broker representatives, meaning all their employees, and independent contractors. If the Franchise Broker pays referral fees of \$600 or more during a tax year, the person must be provided a W9 and is considered a contractor. This is an incredibly onerous reporting requirement for the industry that is without precedent in any other business.

Page 10 Section 7(1) states: “A franchisor or subfranchisor that uses a franchise broker, or a franchise broker representative must file with the director a notice that identifies each franchise broker or franchise broker representative that will operate in this state before the franchise broker or the franchise broker representative directly or indirectly engages in the offer or sale of a franchise for the franchisor or subfranchisor. The notice must be prepared in a form the director prescribes by rule or otherwise.” In other words, every franchise broker would have to register with every state they do business with that adopts this Act. Again, this is an incredibly onerous and costly burden on the vast majority of franchise brokers who are sole practitioners operating on a national basis. The cost in both time and money of potentially registering in 50 states could drive many brokers from the business, or seriously harm the economic development of

smaller states as brokers limit their practices to the most lucrative markets.

I sincerely appreciate the opportunity to communicate my concerns to the committee. I share your desire to improve the industry but believe that some of the overly broad definitions and onerous regulations contained in your draft document could actually have a detrimental economic impact on not only the franchise industry but the small business environment as a whole. I hope you will take my observations into account when producing your final document.

Sincerely,

Keith P. Liscio

President

Excelsior Franchise Center

--



Keith Liscio
President

Phone [847-772-0525](tel:847-772-0525)

Email keith@excelsiorfranchisecenter.com

Website www.excelsiorfranchisecenter.com

Meet <https://meetings.hubspot.com/keith-liscio>



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.

The information contained in this message and any attachments is confidential and intended only for the named recipient(s). If you have received this message in error, you are prohibited from copying, distributing or using the information. Please contact the sender immediately by return email and delete the original message.

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.