

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification  
District of  
Columbia  
Official Code*

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To amend the Securities Act of 2000 to add definitions for the terms "accredited investors", "advertisement", and "Canadian broker-dealer"; to exempt from the definition of agent persons engaged in effecting transactions in certain securities permitted by the act; to repeal the exemption for depository institutions from the definition of broker-dealer; to provide for the regulation of depository institutions that are engaged in securities transactions in the District of Columbia; to clarify the definition of financial or institutional investor; to amend the definition of issuer to strike the exemption for issuers of certificates of interest or participation in oil, gas, and mining titles or leases; to provide an exemption from the licensing requirements for certain Canadian broker-dealers conducting securities transactions in the District of Columbia with Canadian residents who are preexisting clients of the Canadian broker-dealer; to amend the grounds for denial, suspension, or revocation to change the standard from insolvency to the financial responsibility requirements of the federal securities laws; to authorize the Commissioner to establish continuing education requirements for investment adviser representatives; to correct technical drafting errors in the act; to repeal an exemption from notice filing requirements for investment companies that are affiliated with a federally registered investment advisor; to add an exemption from the securities offerings registration requirements for sales of securities to accredited investors; to correct a drafting error in the limited offering transaction exemption; and to provide for electronic filings.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Securities Amendment Act of 2002".

Sec. 2. The Securities Act of 2000, effective October 26, 2000 (D.C. Law 13-203; D.C. Official Code § 31-5601.02 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 31-5601.02) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

“(1) “Accredited investor” shall have the same meaning as in section 2(a)(15) of the Securities Act of 1933, approved May 27, 1933 (48 Stat. 74; 15 U.S.C. § 77b(a)(15)), or

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§ 31-5601.02

any other person that the Securities and Exchange Commission may so designate by rule, regulation, or order.”.

(2) A new paragraph (1A) is added to read as follows:

“(1A) “Advertisement” means a publicly disseminated, written, or printed communication, including by radio, television, Internet, or other public media, used in connection with a sale or purchase, or an offer to sell or purchase, a security.”.

(3) Paragraph (3)(A)(ii) is amended by striking the phrase “(8) or (9);” and inserting the phrase “(8), (9), or (10);” in its place.

(4) Paragraph (4) is amended as follows:

(A) Subparagraph (C) is amended by striking the phrase “; or” and by inserting the phrase “to the extent that the depository institution is a bank under section 3(a)(4)(B) and (C) of the Securities Exchange Act of 1934, approved June 6, 1934 (48 Stat. 881; 15 U.S.C. § 78c(a)(4)(B) and (C)); or” in its place.

(B) Subparagraph (D) is amended as follows:

(i) Sub-subparagraph (i) is amended as follows:

(I) Strike the phrase “financial institution or institutional buyer” and insert the phrase “financial institution or institutional investor” in its place.

(II) Strike the word “and” at the end and insert the word “or” in its place.

(ii) Sub-subparagraph (ii) is amended by striking the phrase “and whose residence is not in the District”.

(5) A new paragraph (4A) is added to read as follows:

“(4A) “Canadian broker-dealer” means a broker-dealer that has its principal office in a province or territory of Canada.”.

(6) Paragraph 13 is amended as follows:

(A) Subparagraph (J) is amended by striking the phrase “; and” and inserting a period in its place.

(B) Subparagraph (K) is repealed.

(7) Paragraph (21) is amended as follows:

(A) Strike the phrase “security, except that: (A) with” and insert the phrase “security; provided, that with” in its place.

(B) Strike the phrase “; and” and insert a period in its place.

(C) Subparagraph (B) is repealed.

(b) Section 207(a) (D.C. Official Code § 31-5602.07(a)) is amended as follows:

(1) Paragraph (10) is amended to read as follows:

“(10) Never had or has failed to maintain the minimum net capital required by SEC Rule 15c3-1, 17 C.F.R. § 240.15c3-1.”.

(2) Paragraph (11) is amended by striking the phrase “established by the” and inserting the phrase “established by the New York Stock Exchange, other self-regulatory agency,

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or" in its place.

(c) A new section 210 is added to read as follows:

“Sec. 210. Limited registration of Canadian broker-dealers and agents.

New  
§ 31-5602.10

“(a) A Canadian broker-dealer may be licensed under this section if the broker-dealer:

“(1) Has its principal office located in a province or territory of Canada that provides at least equivalent registration for a broker-dealer that is resident in the United States;

“(2) Is resident in Canada and does not have an office or physical presence in the United States;

“(3) Files an application in the form required by the jurisdiction in which the broker-dealer has its principal office;

“(4) Files a written consent to service of process under section 706;

“(5) Is registered as a broker or dealer in good standing in the jurisdiction from which the broker-dealer is effecting transactions in the District and files evidence of the registration; and

“(6) Is a member of a self-regulating organization or stock exchange in Canada.

“(b) An agent may be licensed under this section if the agent represents a Canadian broker-dealer that is licensed under this section, and the agent:

“(1) Files an application in the form required by the jurisdiction in which the broker-dealer has its principal office;

“(2) Files a written consent to service of process under section 706; and

“(3) Is registered and files evidence of good standing in the jurisdiction from which the agent is effecting transactions into the District.

“(c) If no denial order is in effect and no proceeding is pending under section 207, the license shall become effective no later than noon on the 30th day after an application is filed. If the application is incomplete, the Commissioner may request additional information from the applicant and delay the effective date for 30 days from the date of receipt of the request for information.

“(d)(1) A broker-dealer licensed under this section may effect transactions in securities with or for or induce or attempt to induce the purchase or sale of a security by a person from Canada who is:

“(A) Temporarily resident in the District and with whom the Canadian broker-dealer had a bona fide broker-dealer-client relationship before the person entered the United States; or

“(B) A resident in the District and whose transactions are in a self-directed tax-advantaged retirement plan in Canada of which the person is the holder or contributor.

“(2) A Canadian broker-dealer or agent licensed under this section shall not effect transactions in the District unless it is:

“(A) Authorized in paragraph (1) of this subsection;

“(B) With or through:

“(i) The issuers of the securities involved in the transactions;

“(ii) Other broker-dealers; or

“(iii) Banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, approved August 22, 1946 (54 Stat. 789; 15 U.S.C. § 80a-1 *et seq.*), pension or profit-sharing trusts, or other financial institutions or institutional investor, whether acting for themselves or as trustees; or

“(C) As otherwise permitted by the Commissioner in any rule or order.

“(e) An agent licensed under this section may effect transactions in securities in the District of Columbia as permitted for the Canadian broker-dealer licensed under this section.

“(f) A Canadian broker-dealer licensed under this section shall:

“(1) Maintain provincial or territorial registration and membership in good standing in a self-regulating organization or stock exchange;

“(2) Provide the Commissioner on request with books and records relating to its business in the District as a broker-dealer;

“(3) Inform the Commissioner promptly of any criminal action taken against the broker-dealer or of any finding or sanction imposed on the broker-dealer as a result of regulatory action, including that of a self-regulating organization, involving fraud, theft, deceit, misrepresentation, or similar conduct; and

“(4) Disclose to its clients in the District that the broker-dealer and its agents are not subject to the full regulatory requirements of the District.

“(g) An agent of a Canadian broker-dealer licensed under this section shall:

“(1) Maintain provincial or territorial registration in good standing; and

“(2) Inform the Commissioner promptly of any criminal action taken against the agent or of any finding or sanction imposed on the broker-dealer or agent as a result of regulatory action, including that of a self-regulating organization, involving fraud, theft, deceit, misrepresentation, or similar conduct.

“(h) Renewal applications for Canadian broker-dealers and agents under this section shall be filed annually before December 1 and may be made by filing the most recent renewal application, if any, filed in the jurisdiction in which the broker-dealer has its principal office or, if a renewal application is not required, the most recent application filed under subsection (a)(1) or (b)(1) of this section.

“(i) An applicant for an initial license or renewal under this section shall pay the fee for broker-dealers and agents required by rules issued by the Commissioner.

“(j) A Canadian broker-dealer or agent licensed under this section and acting in accordance with the limitations in subsection (d) or (e) of this section shall be exempt from all of the requirements of this act, except the provisions of Titles V and VI.”

(d) A new section 211 is added to read as follows:

**ENROLLED ORIGINAL**

- “Sec. 211. Continuing education. New  
§ 31-5602.11
- “The Commissioner may, by rule or order, establish continuing education requirements for investment adviser representatives.”.
- (e) Section 302(b) is amended by striking the phrase “305(c)” and inserting the phrase “306(c)” in its place.
- (f) Section 303(b) is amended by striking the phrase “305(c)” and inserting the phrase “306(c)” in its place. Amend  
§ 31-5603.02
- (g) Section 304(b) is amended by striking the phrase “305(c)” and inserting the phrase “306(c)” in its place. Amend  
§ 31-5603.03
- (h) Section 305 is amended as follows:
- (1) Subsection (a) is amended by striking the word “open” and inserting the phrase “open-end” in its place. Amend  
§ 31-5603.04
- (2) Subsection (c)(3)(B)(iii) is amended by striking the phrase “(iii) If” and inserting the phrase “(C) If” in its place. Amend  
§ 31-5603.05
- (i) Section 401 (D.C. Official Code § 31-5604.01) is amended as follows:
- (1) Paragraph (10)(A) is amended by striking the phrase "general partners" and inserting the phrase “general partners, or” in its place. Amend  
§ 31-5604.01
- (2) Paragraph (11) is amended by striking the semi-colon at the end and inserting the phrase "; and" in its place. Amend  
§ 31-5604.01
- (3) Paragraph (12) is amended by striking the phrase "; and" and inserting a period in its place.
- (4) Paragraph (13) is repealed.
- (j) Section 402 (D.C. Official Code § 31-5604.02) is amended as follows:
- (1) Paragraph (11) is amended by striking the word "financial" and inserting the phrase “financial institution” in its place.
- (2) A new paragraph (11A) is added to read as follows: Amend  
§ 31-5604.02
- “(11A) An offer to sell, or the sale of a security, by an issuer to an accredited investor;”.
- (3) Paragraph (12)(A) is amended by striking the phrase "paragraph (2) of this subsection” and inserting the phrase "subparagraph (B) of this paragraph” in its place.
- (k) Section 602(b) (D.C. Official Code § 31-5606.02(b)) is amended by striking the phrase “, or his or her designee,”.
- (l) A new section 709 is added to read as follows:
- “Sec. 709. Electronic filings. Amend  
§ 31-5606.02
- “(a) The Commissioner may, by rule or order, prescribe acceptable methods for filing applications, forms, notices, prospectuses, registration statements, or other documents with the Department in electronic form. New  
§ 31-5607.09
- “(b) The Commissioner may, by rule or order, prescribe acceptable methods for executing electronic signatures or otherwise for documents filed with the Department in

electronic form.

“(c) An electronic signature used in connection with an electronic filing shall have the same legal effect as a manual signature.”.

(m) Section 803 (D.C. Official Code § 31-5608.03) is amended by striking the word “Mayor” wherever it appears and inserting the word “Commissioner” in its place.

**Sec. 3. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Amend  
§ 31-5608.03**

**Sec. 4. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia