

BARBARA K. CEGAVSKE
Secretary of State

STATE OF NEVADA



SCOTT W. ANDERSON
Chief Deputy Secretary of State

ERIN M. HOUSTON
*Deputy Secretary for Securities,
Securities Administrator*

**OFFICE OF THE
SECRETARY OF STATE**

January 19, 2023

NOTICE OF INTENT TO ACT UPON A REGULATION

**NOTICE OF ~~CANCELLED~~ HEARING FOR THE ADOPTION, AMENDMENT OR
REPEAL OF REGULATIONS OF NAC 90, AGENDA, AND SMALL BUSINESS IMPACT
STATEMENT
NEVADA SECRETARY OF STATE**

LCB FILE NO. R018-21RP2

The Secretary of State is proposing the adoption, amendment or repeal of regulations pertaining to Chapter 90 of the Nevada Administrative Code – Securities.

Members of the public are invited to listen and participate in the hearing. The hearing will take place as follows:

Date: ~~Friday, January 20, 2023~~ **CANCELLED**

Time: ~~10:00 a.m. Pacific Standard Time~~ **CANCELLED**

Location: ~~This meeting will be held remotely via Teams~~ **CANCELLED**

~~<https://teams.microsoft.com/l/meetup-join/19%3ameeting-NGQzODAwOTYtMmRiOS00YjJhLTk5MTItNDg1MmMyZjUyN2Iy%40th-read.v2/0?context=%7b%22id%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22oid%22%3a%226c648ae8-3758-4693-b417-40a951f7da5b%22%7d>~~

~~Meeting ID: 235 542 216 205~~

~~Passcode: eB5zhK~~

~~Or call in (audio only)~~

~~+1 775 321 6111, 605 438 312# - United States, Reno~~

~~Phone Conference ID: 605 438 312#~~

The purpose of the hearing is to receive comments from all interested parties regarding the adoption of regulations that pertain to Chapter 90 (Securities) of the Nevada Administrative Code. The following information is provided pursuant to the requirements of NRS 233B.060:

LAS VEGAS OFFICE
2250 Las Vegas Boulevard North, Suite 400
North Las Vegas, NV 89030
Telephone: (702) 486-2440
Fax: (702) 486-2452

Information Regarding Adoption

Purpose and need of the proposed regulations

NRS 90.750(1)-(2) provides the Administrator of the Office of the Secretary of State with the authority to adopt regulations further defining such words and terms as are necessary for an understanding of the provisions of chapter 90 as well as to keep regulations adopted by the Administrator in harmony with regulations adopted by the Securities and Exchange Commission under federal securities laws and to encourage uniformity with the regulations of securities agencies and administrators in other states.

Further, NRS 90.750(2) provides that the Securities Administrator shall take into consideration the regulations adopted by the Securities and Exchange Commission, the regulations of securities agencies and administrators in other states that enact a law comparable to this chapter, and any model rule, regulation, exemption or like provision adopted by the North American Securities Administrators Association (NASAA).

NRS 90.750(3) provides that a regulation or order may not be adopted or entered unless the Administrator determines from evidence obtained at a public hearing and entered in the record that the action is in the public interest and appropriate for the protection of investors and consistent with the purposes fairly intended by the provisions of this chapter. Furthermore, NRS 90.750(4) allows for the Administrator to use his or her own experience, technical competence, specialized knowledge, and judgment in the adoption of a regulation.

The purpose of the proposed regulations is to update and modernize the language of Chapter 90 of the Nevada Administrative Code and to adopt various NASAA model rules.

Estimated Economic Effect

- (a) Adverse effect: The proposed regulation poses no adverse economic effect to the public, and poses a minimal economic impact to the businesses which the proposed regulation regulates. The effect is minimal because the proposed regulations do not change fee structures for registration and licensing, which provisions are contained in Nevada Revised Statutes Chapter 90.
- (b) Beneficial effect: There is no beneficial economic effect under the proposed regulations to either the public or business which are to continue to be regulated by the proposed revised regulations as the proposed regulations do not add or revise fee structures for licensees or registrations.
- (c) Immediate effect: There is no immediate economic effect of the proposed regulations as fee structures affecting businesses regulated by the proposed regulations are not changed by way of regulation and are contained in NRS Chapter 90.

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- (d) Long-term effect: There is no long-term economic effect of the proposed regulations affecting the public or businesses that continue to be regulated by the proposed revised regulations as the fee structures for licensees and/or registrations of securities are contained in NRS Chapter 90.

Method used by the agency in determining the impact on a small business pursuant to NRS 233B.0608.

A Small Business Impact Statement was included in the posting of the Notice of Workshop to Solicit Comments on a Proposed Regulation held on August 2, 2022. The agenda for the workshop called for public comment on the Small Business Impact Statement. No comments were received specific to the Small Business Impact Statement either in written form or in person at the hearing.

Estimated cost to the agency for enforcement of the proposed regulation

The agency anticipates that there will be no additional costs incurred for the enforcement of the proposed regulation. The Division currently employs staff to continue enforcement of both NRS and NAC 90 and the proposed regulation does not add provisions that go beyond the current scope of enforcement or registration and licensing.

Duplication with other agencies

LCB File No. R018-21RP2 has no provisions which duplicate any other agency's jurisdiction or federal regulation. The regulation does not include provisions which are more stringent than a federal regulation that regulates the same activity.

NRS 233B.064 Statement

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Fee Established

LCB File No. R018.21RP2 does not establish new fees, although it does create the ability to notice file with the Division Regulation A, Tier 2 federally exempt securities for sale in the State of Nevada.

Comments and Written Submissions

Persons wishing to comment on the proposed action of the Secretary of State may appear at the scheduled public hearing on the adoption of the regulation, or may address their comments in written form to:

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Nevada Secretary of State
Attn: Erin Houston, Deputy Secretary of State for Securities/Securities Administrator
2250 Las Vegas Blvd. North, Suite 400
North Las Vegas, NV 89030
ehouston@sos.nv.gov

Written submissions must be received no later than January 19, 2023.

If no one appears who will be directly affected by the proposed regulation to make an oral presentation, the Secretary may proceed immediately to act upon any written submissions.

Copy of the Proposed Regulations

A copy of this Notice and the proposed regulation is available on the Secretary of State website at www.nvsos.gov. A print or electronic copy of the Notice and Proposed Regulation is available upon request by contacting Erin Houston, Deputy Secretary of State for Securities at (702) 486-6982 or ehouston@sos.nv.gov.

NOTICES FOR THIS MEETING HAVE BEEN ELECTRONICALLY POSTED IN ACCORDANCE WITH NRS 241 AS AMENDED BY ASSEMBLY BILL 253 (2021 LEGISLATIVE SESSION)

Secretary of State website: <http://nvsos.gov>
State of Nevada Public Notice website: <http://notice.nv.gov>
Legislative Counsel Bureau website: <https://leg.state.nv.us>

SMALL BUSINESS IMPACT STATEMENT

NOTE: Small Business is defined as a “business for profit which employs fewer than 150 full-time or part-time employees.” (NRS 233B.0382)

- 1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

ANSWER: The Division solicited feedback from possibly affected small businesses by individually sending an electronic copy of the proposed revised regulations to all interested parties, including all licensed Nevada-based Investment Advisers with up-to-date email addresses with the Division. The Division also posted or caused to be posted the proposed regulations at the Nevada Secretary of State’s Office, Main Lobby; the Nevada Secretary of State’s Office, Commercial Recordings Main Lobby, State of Nevada Website, Nevada Secretary of State’s Website, Investor Information Page; Nevada Secretary of State Website; and the website of the Nevada State Legislative Counsel Bureau. A Notice of Workshop to

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Solicit Written Comments on Proposed Regulations was posted along with the proposed regulations. The noticed Workshop was held via Zoom on October 21, 2021. **No representatives from small businesses were present at the workshop, nor were any written comments received from the same.** Similarly, no comment was received from any small businesses following an informal remote workshop held solely for the purpose of soliciting feedback held on March 25, 2021. This workshop was noticed as described above.

2. The manner in which the analysis was conducted.

ANSWER: The Nevada Securities Division (Division) considered the purpose and scope of the proposed revised regulations in Nevada Administrative Code 90 in order to determine whether the proposed changes will have an impact on the small businesses regulated by this code. Based on this review, the Division determined that these regulations will possibly have a direct adverse effect on a di minimis number of small businesses in the State of Nevada by requiring notice filing with the Division for Regulation A, Tier 2 offerings made in the state and requiring a small fee for the same. The fee for Regulation, Tier 2 offerings will be tied to the amount of money that is actually made by the registrant. Regulation A, Tier 2 Exemptions are originally filed with the Securities and Exchange Commission. For context, a search of the Security and Exchange Commission's EDGAR system revealed only twenty-three (23) total Regulation A, Tier 2 exemption filings made by businesses headquartered in the State of Nevada over the last five (5) years. It is not known how many, if any, of those filing entities qualify as small businesses within the meaning of NRS 233B.0382.

The Division determined that the proposed revised regulations do not have an adverse indirect effect on small businesses in Nevada. The Division determined that the revised regulations will possibly have a direct beneficial impact on small businesses in the State of Nevada by codifying exemptions to licensing that do not currently exist. Specifically, there may be exemptions to licensing certain branch office registration requirements following the adoption of the revised regulations.

3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation, both adverse and beneficial effects and both direct and indirect effects.

ANSWER: The Division anticipates that the proposed revised regulations will provide a minimal economic effect on small businesses because almost all of the proposed regulations contained in LCB File No. R018-21 have been implemented by the Division for many years because of language contained in NAC 90.321 adopting certain FINRA rules and NAC 90.3864 adopting the NASAA model rules by reference. Those FINRA and model rules are now being formally adopted by way of the revised regulations for purposes of clarity of Nevada rules.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

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ANSWER: The potential impact of the proposed regulations on businesses that are located within the State of Nevada is so minimal that there was no effort made to reduce the impact of the same. As described above, the vast majority of entities offering Regulation A, Tier 2 offerings in Nevada as set forth in federal law are located outside of the state.

5. The estimated cost to the agency for enforcement of the proposed regulation.

ANSWER: There is no out-of-pocket additional expense to the agency for enforcement of the proposed regulations as the proposed regulations do not create new regulatory schemes and notice filing for Regulation A, Tier 2 issuers can be accomplished through existing forms and processes within the Division.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

ANSWER: The only new fee set forth in the revised regulations is for notice filing for Regulation A, Tier 2 offerings made within the State. The Division cannot ascertain with certainty how much extra revenue to the state will be derived from those offerings as the filing fee is based on NRS 90.500 which describes a registration fee based on a percentage off the maximum aggregate offering price at which the securities are to be offered in this State in an amount up to \$5,000.00. All revenue received by the Division are deposited into the state general fund.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

ANSWER: The proposed regulations does not include any provisions which duplicate or are more stringent than existing federal, state, or local standards.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

ANSWER: The Division complied with NRS 233B.0608 by considering the scope and purpose of the revisions to NAC 90. The proposed revisions modernize the existing regulations contained in NAC 90 by formally adopting NASAA model rules and FINRA rules which have been changed and added over time, although those have been followed by the Division through the passive adoption language contained currently in NAC 90.321 and NAC 90.3864. Because these revisions have been followed implicitly for years, the Division anticipates no real impact on small businesses here in Nevada.

NRS 233B.064 Statement

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration argued against its adoption.

Based on the foregoing, it is hereby determined that R018-21RP2 does not pose a direct and significant economic burden upon small businesses operating in compliance with the law, and does not directly restrict the formation, operation or expansion of a small business.

I certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate.

/s/Erin M. Houston

Erin Houston, Esq.

Deputy Secretary of State for Securities

December 19, 2022

AGENDA

**CANCELLED HEARING FOR THE ADOPTION, AMENDMENT OR REPEAL OF
REGULATIONS OF SECURITIES NAC CHAPTER 90.**

LCB FILE NO. R018-21RP2

Date: ~~Friday, January 20, 2023~~ **CANCELLED**

Time: ~~10:00 a.m. Pacific Standard Time~~ **CANCELLED**

Location: ~~This meeting will be held remotely via Teams~~ **CANCELLED**

~~<https://teams.microsoft.com/l/meetup-join/19%3ameeting-NGQzODAwOTYtMmRiOS00YjJhLTk5MTItNDg1MmMyZjUyN2Iy%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2e%22Oid%22%3a%226e648ae8-3758-4693-b417-40a951f7da5b%22%7d>~~

Meeting ID: ~~235-542-216-205~~

Passcode: ~~eB5zhK~~

Or call in (audio only)

~~+1 775 321 6111, 605 438 312#~~ - United States, Reno

Phone Conference ID: ~~605-438-312#~~

1. Call to Order by Deputy Secretary of State for Securities Erin Houston
2. Public Comment on LCB File No. R018-21RP2. *Comments may be limited to three minutes per person.*
3. Comments on LCB File No. R018-21RP2
4. **For Possible Action: Adoption of Revised LCB File No. R018-21RP2 dated November 10, 2022.**
5. Public Comment on matters other than LCB File No. R018-21RP2. *Comments may be limited to three minutes per person.*
6. Adjourn

Public comment may be limited to three minutes per speaker on each section of the regulation. Members of the public are encouraged to submit written comments for the record.

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Materials for this Adoption Hearing are attached with this Agenda. Materials may also be requested from Erin Houston, Deputy Secretary of State for Securities, by calling (702) 486-6982 or by emailing ehouston@sos.nv.gov.

NOTICES FOR THIS MEETING HAVE BEEN ELECTRONICALLY POSTED IN ACCORDANCE WITH NRS 241 AS AMENDED BY ASSEMBLY BILL 253 (2021 LEGISLATIVE SESSION)

Secretary of State website: <http://nvsos.gov>

State of Nevada Public Notice website: <http://notice.nv.gov>

Legislative Counsel Bureau website: <https://leg.state.nv.us>

NOTE: The Nevada Secretary of State's Office, Securities Division may take the above matters out of order, may consolidate the above matters for consideration, and reserves the right to remove or delay any of the above matters on the Agenda. Commenters may be limited to three minutes. Members of the public are encouraged to submit written comments for record at ehouston@sos.nv.gov.

Respectfully,

/s/Erin M. Houston

Erin M. Houston

Deputy Secretary of State for Securities