

Supplemental Materials:
**Common Exemptions under the Kansas
Uniform Securities Act**

By Lynn Hammes

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SEC DIVISION OF CORPORATION FINANCE
COMPLIANCE AND DISCLOSURE INTERPRETATIONS

Question 141.03

Question: If an issuer plans to conduct an intrastate offering pursuant to the Section 3(a)(11) exemption, may the issuer engage in general advertising or a general solicitation?

Answer: Securities Act Rule 147 does not prohibit general advertising or general solicitation. Any such general advertising or solicitation, however, must be conducted in a manner consistent with the requirement that offers made in reliance on Section 3(a)(11) and Rule 147 be made only to persons resident within the state or territory of which the issuer is a resident. [April 10, 2014]

Question 141.04

Question: An issuer plans to use a third-party Internet portal to promote an offering to residents of a single state in accordance with a state statute or regulation intended to enable securities crowdfunding within that state. Assuming the issuer met the other conditions of Rule 147, could it rely on Rule 147 for an exemption from Securities Act registration for the offering, or would use of an Internet portal necessarily entail making offers to persons outside the relevant state or territory?

Answer: Use of the Internet would not be incompatible with a claim of exemption under Rule 147 if the portal implements adequate measures so that offers of securities are made only to persons resident in the relevant state or territory. In the context of an offering conducted in accordance with state crowdfunding requirements, such measures would include, at a minimum, disclaimers and restrictive legends making it clear that the offering is limited to residents of the relevant state under applicable law, and limiting access to information about specific investment opportunities to persons who confirm they are residents of the relevant state (for example, by providing a representation as to residence or in-state residence information, such as a zip code or residence address). Of course, any issuer seeking to rely on Rule 147 for the offering also would have to meet all the other conditions of Rule 147. [April 10, 2014]

Question 141.05

Question: Can an issuer use its own website or social media presence to offer securities in a manner consistent with Rule 147?

Answer: Issuers generally use their websites and social media presence to advertise their market presence in a broad, indiscriminate manner. Although whether a particular communication is an "offer" of securities will depend on all of the facts and circumstances, using such established Internet presence to convey information about specific investment opportunities would likely involve offers to residents outside the particular state in which the issuer did business. [April 10, 2014]



**BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF KANSAS**

In re:)
)
Modifications of "IKE", the Invest Kansas)
Exemption under K.A.R. 81-5-21)
_____)

Docket No. 13E024

**Special Order – Authorizing Certain Modifications of Conditions
for the Invest Kansas Exemption, "IKE", Under K.A.R. 81-5-21**

WHEREAS, the Invest Kansas Exemption, "IKE", as specified by K.A.R. 81-5-21 was adopted by the Office of the Securities Commissioner of Kansas effective August 12, 2011 in order to remove certain regulatory requirements for Kansas companies to raise capital in Kansas; and

WHEREAS, staff in the Office of the Securities Commissioner of Kansas have recommended, and the Commissioner concurs, that it would be in the public interest to enhance the usefulness of IKE for Kansas businesses to raise capital without registration of community-based offerings of securities to Kansas residents by modifying certain limitations specified for IKE under K.A.R. 81-5-21; and

WHEREAS, the Commissioner and the Commissioner's staff believe that investor protection will not be adversely affected by modifications to IKE; and

WHEREAS, benefits to businesses organized under Kansas law and thereby to the Kansas economy are expected to be enhanced by such modifications to IKE; and

WHEREAS, K.S.A. 17-12a203, and amendments thereto, grants the Securities Commissioner authority by a rule adopted or order issued under the Kansas Uniform Securities Act (the Act) to exempt a security, transaction, or offer of securities from

registration requirements under K.S.A. 17-12a301 through 17-12a306, and amendments thereto; and

WHEREAS, it is deemed appropriate for this order to modify the exemption conditions specified under K.A.R. 81-5-21 for an offer of securities under that exemption as authorized by K.S.A. 17-12a203, and amendments thereto; and

WHEREAS, K.S.A. 17-12a605, and amendments thereto, grants the Securities Commissioner the authority to issue special orders as necessary or appropriate in the public interest to carry out and to be consistent with the purposes of the Act.

IT IS, THEREFORE, ORDERED BY THE COMMISSIONER that the limitation on the amount an issuer can accept from a purchaser of securities who is not an accredited investor in an IKE offering as specified by K.A.R. 81-5-21(a)(4) is hereby increased from \$1,000 to \$5,000.

IT IS FURTHER ORDERED that K.A.R. 81-5-21(b) is revised to specify as follows: "Interaction with other exemptions and offers and sales to controlling persons. This exemption shall not be used in conjunction with any other exemption under these regulations or an exemption specified by a subsection other than subsections (13) through (15) under K.S.A. 17-12a202, and amendments thereto. Sales to controlling persons shall not count toward the limitation in paragraph (a)(3)."

IT IS FURTHER ORDERED that the exemption provided by K.A.R. 81-5-21 shall not be available to an issuer unless all persons responsible for management of the operations or property of the issuer are residents of Kansas.

IT IS FURTHER ORDERED that this order shall be effective on the date indicated below and that it shall be automatically vacated upon the adoption of any future amendment to K.A.R. 81-5-21.

IT IS SO ORDERED.

Entered at Topeka, Kansas, on this 21st day of June, 2013.



Joshua A. Ney
Interim Commissioner