

SECURITIES ACT POLICY STATEMENT- 03

RE: RCW 21.20.240 - USE OF PRELIMINARY OR RED HERRING PROSPECTUSES IN QUALIFICATION FILINGS

Question Presented:

Under what circumstances will the Securities Administrator allow the use of a preliminary or "red herring" offering circular in filings for registration by qualification under RCW 21.20.210?

Statute:

RCW 21.20.240 allows the Securities Administrator to "permit the omission of any item . . . from any registration statement."

Discussion:

The Securities Administrator finds that in the circumstances set forth below, use of a preliminary offering circular by applicants for registration by qualification may be permissible.

1. The offering is firmly underwritten and made only through Washington-registered broker-dealers.
2. The purchaser must receive a final copy of the offering circular and be made aware of the specific material changes, if any, from the preliminary offering circular.
3. The preliminary offering circular shall contain the following legend (a "sticker" is permissible):

PRELIMINARY OFFERING CIRCULAR

REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE WASHINGTON STATE SECURITIES DIVISION, BUT IT IS SUBJECT TO COMPLETION AND/OR AMENDMENT. THESE SECURITIES MAY NOT BE SOLD NOR MAY OFFERS TO BUY BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION STATEMENT BECOMES EFFECTIVE. THIS OFFERING CIRCULAR SHALL NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY.

4. Prior authorization for use of a preliminary offering circular must be requested in writing from the Administrator. The Administrator retains the discretion to deny the use of a preliminary prospectus in the public interest.

Conclusion:

In registrations by qualification, the Administrator may allow the use of a preliminary offering circular if certain circumstances are present.

Adopted: January 1, 1991

Replaces: Statement of Policy 81 - 9

Jack L. Beyers, Securities Administrator

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