

**TITLE 660. DEPARTMENT OF SECURITIES
CHAPTER 11. OKLAHOMA UNIFORM SECURITIES ACT OF 2004**

**SUBCHAPTER 11. EXEMPTIONS FROM SECURITIES REGISTRATION
PART 5. EXEMPT TRANSACTIONS**

660:11-11-40. Manual exemption [AMENDED]

(a) **Recognized securities manuals.** The publications which shall be recognized by the Administrator for purposes of the exemption from registration set forth in Section 1-202.2.d of the Securities Act shall be as follows:

- (1) Best's Insurance Reports, Life-Health
- (2) Mergent's Industrial Manual
- (3) Mergent's International Manual
- (4) Standard & Poor's Corporation Records OTC Markets Group Inc. with respect to securities included in the OTCQX and OTCQB markets.

(b) **Additional requirements.** To be eligible for the exemption from registration provided by Section 1-202.2.d of the Securities Act, the following additional conditions must be met:

- (1) All information specified as required to be contained in the recognized securities manuals pursuant to Section 1-202.2.d of the Securities Act must be given to the purchaser with the confirmation by providing the purchaser with a copy of either:
 - (A) the information contained in the manual listing; or
 - (B) the information maintained by the broker-dealer effecting the transaction that is required to be kept by such broker-dealer pursuant to the requirements of SEC Rule 15c2-11 promulgated under the provisions of the 1934 Act.
- (2) The information required under (1) of this subsection must be reasonably current in all material respects. The time for determining whether the information is current is at the date of the particular sale not the date the manual listing is published. For purposes of this paragraph, the term "reasonably current" shall have the meaning set forth in SEC Rule 15c2-11.
- (3) The financial statements of the issuer required pursuant to Section 1-202.2.d of the Securities Act must be audited by an independent public accountant in accordance with generally accepted auditing standards, presenting fairly, in all material respects, the financial condition of the issuer; provided, if the issuer is an entity formed and operating under the laws of a foreign jurisdiction, the financial statements shall be audited in accordance with the auditing standards applicable in its jurisdiction of formation and operation.
- (4) The issuer of the security, including any predecessors, has either:
 - (A) been in continuous business or operations for at least two (2) years, unless the issuer is an insurance company in which event it shall have been in business for at least five (5) years; or
 - (B) had a class of equity securities registered under Section 1-301 of the Securities Act within the past five (5) years.
 - (C) As used in this paragraph, "business or operations" means actual activities related to its current business or operations and shall not include merely holding funds or assets for future use.
- (5) Sales must be made by a broker-dealer, either as principal or agent, who is registered under the provisions of Section 1-401 of the Securities Act.

(6) The securities must be offered or sold at a price reasonably related to the current market price of such securities.

(7) The securities must be issued and outstanding. The exemption is not available for issuer transactions. For purposes of this paragraph, "issuer" shall include all officers, directors and controlling (5% or more) shareholders of the issuer.

(8) The security does not constitute the whole or any part of an unsold allotment to, or subscription or participation by, the broker-dealer as an underwriter of the security.

(c) **Restriction for promotional or developmental stage companies.** This exemption may not be used to evade the registration requirements of Section 1-301 of the Securities Act. Accordingly, transactions in reliance on this exemption for the securities of an issuer which is a promotional or developmental stage company as defined in 660:11-1-3, involving securities that have not been registered for offer or sale in the state of Oklahoma and which securities would not have met the requirements for registration set forth in Sections 1-303 or 1-304 of the Securities Act and the rules promulgated thereunder, had the securities been filed for registration pursuant to such sections of the Securities Act, may be deemed to have violated this requirement unless proven otherwise.

(d) **Exemption.** The requirements of (b)(1) of this section, shall not apply to the sale of the securities of an issuer who has net tangible assets in excess of \$10,000,000.00 (U.S.) as determined by its most recent audited financial statements. For foreign issuers, the net tangible asset value may be determined by applying the exchange rate in effect as of the date of the financial statement relied upon unless there has been a material change in such exchange rate after the date of the financial statement that would reduce by greater than 20% the value in U.S. dollars. In that event, the exchange rate applied should be the rate effective as of the last day of the preceding month. Nothing in this Section shall release the broker-dealer effecting the transaction from its obligation to maintain the information required by SEC Rule 15c2-11 and to deliver any such information to any person involved in a transaction effected in the security, upon request by such person.