

Kansas Administrative Regulations

Department of Insurance Assistant Commissioner, Securities Division

Article 10.—Advertising

81-10-1. Advertising.

(a) Definitions. For purposes of this regulation, the following definitions shall apply:

(1) "Sales and advertising literature" shall mean the following, if intended for distribution to prospective investors:

(A) Any advertisement, pamphlet, circular, brochure, form letter, or other written or electronic sales literature or material; and

(B) any script for an oral advertisement or promotional effort.

(2) "Tombstone advertisement" shall mean sales and advertising literature in which the content is limited to the information specified in subsection (a) of SEC rule 134, as adopted by reference in K.A.R. 81-2-1.

(b) Filing requirement. Except as provided in subsection (d), all sales and advertising literature proposed to be used in connection with the sale of securities in Kansas shall be filed with the administrator at least five days before its proposed use.

(c) False or misleading advertisements. Sales and advertising literature shall not contain any statement that is false or misleading in a material respect or that is inconsistent with information contained in a registration statement or offering document. In addition, the sales and advertising literature shall not omit to state any material fact necessary to make a statement made, in the light of the circumstances under which the statement was made, not false or misleading. Sales and advertising literature shall be deemed to be false and misleading if it contains any exaggerated statements, emphasizes positive information while minimizing negative information, or compares alternative investments without disclosing all material differences between the investments, including expenses, liquidity, safety, and tax features.

(d) Exception. A tombstone advertisement placed in a newspaper, periodical, or other medium shall not be subject to the requirements of subsection (b) if the tombstone advertisement contains the following information:

(1) A statement that the advertisement does not constitute an offer to sell or the solicitation of an offer to buy a security; and

(2) the name and address of a person from whom a written prospectus can be obtained.

(Authorized by K.S.A. 2005 Supp. 17-12a504 and 17-12a605(a); implementing K.S.A. 2005 Supp. 17-12a504 and 17-12a505; effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended Jan. 19, 2007.)

***** Authenticated Kansas Administrative Regulation *****