



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Joseph Baker**, Director

### Business Impact Analysis

**Agency, Board, or Commission Name:** Department of Commerce – Division of Securities

**Rule Contact Name and Contact Information:**

Roger Lee Patrick, Jr., Division Counsel, 614-644-4859 or email at roger.patrick@com.ohio.gov

**Regulation/Package Title (a general description of the rules' substantive content):**  
1301:6-3-01 Definitions - Amended

**Rule Number(s):** 1301:6-3-01

**Date of Submission for CSI Review:** 2/8/2024

**Public Comment Period End Date:** 2/23/2024

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_)

X Amended/\_1\_ rules (FYR? Y)

Rescinded/\_\_\_ rules (FYR? \_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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### **Reason for Submission**

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- a. ☐ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. **Please briefly describe the draft regulation in plain language.**

***Please include the key provisions of the regulation as well as any proposed amendments.***

This is ministerial, corrective filing to strike outdated references in a definitional rule of the Division of Securities. The Division proposes to revise this rule by deleting references to paragraph (K)(2)(b)(i) of rule 1301:6-3-15 of the Administrative Code and (C)(2)(d) of rule 1301:6-3-15 of the Administrative Code. Deleting reference of this rules is necessary as these portions of the rule no longer exist.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Authorized by Ohio Revised Code Section 1707.20 and amplified by RC 1707.01.

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

***If yes, please briefly explain the source and substance of the federal requirement.***

No; this is a ministerial, corrective filing to strike outdated references to rules that no longer exist.

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

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Not applicable.

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

Certain terms used in the Revised Code require definition or clarification for the sake of uniformity and notice, even if regularly used in the securities industry. Eliminating references to rules that are no longer in effect allows for increased clarity and promotes uniformity throughout the rules making it easier for individuals within the industry to comply.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Division interacts with members of the industry and other regulators on a regular basis, including at the annual Securities Conference, email and telephone inquiries. Feedback from that interaction provides information for review and revision of rules, as has been the case over the multiple decades these rules have been in existence. In addition, changes in federal securities laws may require changes to Division rules and federal law will be monitored. The rules are considered successful because they achieve the dual missions of the Division: investor protection and fostering capital formation.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

**The following Stakeholders were notified by email on February XXXX, 2024**

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**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

No input was provided by stakeholders; this is a ministerial, corrective filing to strike references to rules that no longer exist.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

No scientific data was used; this is a ministerial, corrective filing to strike references to rules that no longer exist.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***

No other regulations were considered; this is a ministerial, corrective filing to strike references to rules that no longer exist.

**13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The Division is the only Ohio agency regulating in this area. All statutes and rules governing, or enforced by, the Division were reviewed to ensure there were no duplications or conflicts.

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**14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

While this updates an existing rule, this rule has been in place for many years. The Division does not anticipate any change in applying the rules in a consistent and predictable manner. The industry and the Bar will have access to the Division's rules to promote compliance and the Division regularly receives, and responds to, phone and written questions seeking guidance. The Division's Ohio Securities Conference annually encourages interactions between the Division, the industry, and the Bar.

**Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and**  
Securities issuers and the securities Bar.
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**  
*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

This rule does not impose fines or penalties. This rule amendment clarifies definitions by removing references to sections of the OAC that no longer exist

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

Simplifying the rule by removing references to rule sections that no longer exist promotes clarity and compliance.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

Striking the outdated references to rules that no longer exist should not create any adverse impact to the regulated business community. Failure to strike the outdated reference, however, could create unintended confusion and unnecessary cost.

**Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No.

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**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

There are no fines or civil penalties for paperwork violation of this rule.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The Division regularly responds to phone or personal inquiries, for small or large businesses or their counsel. Division forms provide instructions for filers. Generally, counsel is retained because of the inherent civil liabilities in securities offerings. In addition to the rules being readily available, the Division publishes a quarterly Bulletin, available to anyone on our web page, discussing relevant issues.