



## Ohio Revised Code

### Section 1707.058 Issuers-disqualification from registration exemption.

Effective: March 31, 2021

Legislation: House Bill 312 - 133rd General Assembly

---

(A) As used in this section, "affiliated party" means any of the following:

- (1) Any predecessor to the issuer;
- (2) Any affiliated issuer;
- (3) Any director, executive officer, other officer participating in the offering, general partner, or managing member of the issuer;
- (4) Any beneficial owner of twenty per cent or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power;
- (5) Any promoter connected with the issuer in any capacity at the time of the sale;
- (6) Any investment manager of an issuer that is a pooled investment fund;
- (7) Any general partner or managing member of any investment manager participating in the offering;
- (8) Any director, executive officer, or other officer participating in the offering of any investment manager or general partner or managing member of the investment manager participating in the offering.

(B) The exemption from registration provided under section 1707.051 of the Revised Code is not available with respect to an offer, sale, and issuance of securities if the issuer of the securities or any affiliated party:

- (1) Has been convicted, within ten years before the offering of any felony or misdemeanor:



- (a) In connection with the purchase or sale of any security;
  - (b) Involving the making of any false filing with the securities and exchange commission or a state securities commissioner; or
  - (c) Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of securities.
- (2) Is subject to any order, judgment, or decree of any court of competent jurisdiction, entered within five years before the sale, that, at the time of the sale, restrains or enjoins the person from engaging or continuing to engage in any conduct or practice:
- (a) In connection with the purchase or sale of any security;
  - (b) Involving the making of any false filing with the securities and exchange commission or a state securities commissioner; or
  - (c) Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of securities.
- (3) Is subject to a final order of the securities and exchange commission; a state securities commission or an agency or officer of a state performing like functions; a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission or an agency or officer of a state performing like functions; an appropriate federal banking agency; the United States commodity futures trading commission; or the national credit union administration that:
- (a) At the time of the offering, bars the person from associating with an entity regulated by the commission, authority, agency, or officer; engaging in the business of securities, insurance, or banking; or engaging in savings association or credit union activities; or
  - (b) Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent,



manipulative, or deceptive conduct entered within ten years before the offering.

(4) Is subject to an order of the securities and exchange commission entered pursuant to 15 U.S.C. 78o(b), 78o-4(c), 80b-3(e), or 80b-3(f), or an order of a state securities commission or an agency or officer of a state performing like functions, that, at the time of the offering, does any of the following:

(a) Suspends or revokes the person's license or registration as a broker, dealer, municipal securities dealer, or investment adviser;

(b) Places limitations on the activities, functions, or operations of the person;

(c) Bars the person from being associated with any entity or from participating in the offering of any penny stock.

(5) Is subject to any order of the securities exchange commission, or an order of a state securities commission or an agency or officer of a state performing like functions, entered within ten years before the sale, that, at the time of the sale, orders the person to cease and desist from committing or causing a violation or future violation of any of the following:

(a) Any scienter-based antifraud provision of the federal securities laws, including, but not limited to, 15 U.S.C. 77q(a)(1), 78j(b), 78o(c)(1), and 80b-6(1), and 17 C.F.R. 240.10b-5 or any other regulation adopted thereunder;

(b) 15 U.S.C. 77e, division (C)(1) of section 1707.44 of the Revised Code, or any state securities law that requires the registration of securities;

(c) Any state securities law requiring state registration as a broker dealer, investment adviser, agent, salesperson, investment adviser, or OhioInvests portal;

(d) Any state securities law involving fraudulent, manipulative, or deceptive conduct.

(6) Is suspended or expelled from membership in, or suspended or barred from association with a



member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

(7) Has filed as a registrant or issuer, or was or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the securities and exchange commission or a state securities commissioner that, within five years before the sale, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption;

(8) Is, at the time of the sale, the subject of an investigation or proceeding to determine whether a stop order or a suspension order of the type described in division (B)(7) of this section should be issued;

(9) Is subject to a United States postal service false representation order entered within five years before the offering;

(10) Is, at the time of the offering, subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States postal service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

(C) Division (B) of this section does not apply:

(1) With respect to any conviction, order, judgment, decree, suspension, expulsion, or bar that occurred or was issued before the effective date of this section;

(2) Upon a showing of good cause and without prejudice to any other action by the securities and exchange commission or a state securities commissioner, if the division determines that it is not necessary under the circumstance that an exemption be denied;

(3) If, before the relevant offering, the court of regulatory authority that entered the relevant order, judgment, or decree advises in writing that the disqualification under division (B) of this section should not arise as a consequence of the order, judgment, or decree, whether the advice is contained in the relevant judgment, order, or decree or separately to the securities and exchange commission or



a state securities commissioner or their staff; or

(4) If the issuer establishes to the division that it did not know and, in the exercise of reasonable care, could not have known that a disqualification existed under division (B) of this section.

(D) For purposes of division (B) of this section, events relating to any affiliated issuer that occurred before the affiliation arose will not be considered disqualifying if the affiliated entity is not either of the following:

(1) In control of the issuer;

(2) Under common control with the issuer by a third party that was in control of the affiliated entity at the time of the events.