
EMERGENCY RULE

TITLE 15 – ELECTED OFFICIALS
Division 30 – Secretary of State
Chapter 51 – Broker-Dealers, Agents, Investment
Advisers, and Investment Adviser Representatives

EMERGENCY AMENDMENT

15 CSR 30-51.169 Fraudulent Practices of Broker-Dealers and Agents. The secretary is revising the purpose statement and amending section (1).

PURPOSE: This emergency amendment amends the rule to be in compliance with a federal court order.

*EMERGENCY STATEMENT: The Secretary of State finds that an immediate danger to the public welfare requires this emergency action and is necessary to preserve a compelling government interest in that a federal court determined certain elements of the original rule were invalid. The Secretary of State is filing this amendment in order to prevent confusion and uncertainty in the industry. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Secretary of State believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency amendment was filed October 23, 2024, becomes effective November 6, 2024, and expires May 4, 2025.*

*PURPOSE: This rule identifies practices in the [securities business which] **brokerage industry that** are generally associated with [schemes to manipulate] **acts that deceive and defraud**.*

(1) A broker-dealer or agent who engaged in one (1) or more of the following practices shall be deemed to have engaged in an “act, practice or course of business which operates or would operate as a fraud” as used in section 409.5-501 of the Missouri Securities Act of 2003 (the Act). This rule is not intended to be all inclusive and acts or practices not enumerated in this rule may also be deemed **deceitful or fraudulent**:

(G) Effecting any transaction in, or inducing the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance including, but not limited to, the use of boiler-room tactics or use of fictitious or nominee accounts; *[and]*

(H) Failure to comply with any prospectus delivery requirement promulgated under federal law~~[/]; and~~

(I) Effecting any transaction with an investment objective that the customer has not authorized at or prior to the time such transaction is effected;

1. As used in this section (I), the following terms mean:

A. “Effecting any transaction” means having effected a discretionary purchase or sale of a security for a retail customer’s account; solicited or recommended, or otherwise provided advice, to a retail customer to buy or sell a security; or solicited, recommended, or otherwise advised, a retail customer regarding the selection of a third-party manager or subadviser to manage the investments in such customer’s account;

B. “Retail customer” means any person other than an institutional investor, regardless of whether the person has an account with the broker-dealer;

C. “Institutional investor,” the same meaning as under section 409.1-102, RSMo;

D. “Broker-dealer,” the same meaning as under

section 409.1-102, RSMo; and

E. “Person,” the same meaning as under section 409.1-102, RSMo.

2. Nothing in this subsection (I) shall require broker-dealers or their agents to create or retain any record memorializing the required customer authorization.

3. If any portion of this subsection (I) is adjudicated to be invalid or unenforceable for any reason or in any application, the intent of the Commissioner is that this application shall be severable and the remainder of the subsection (I) in its other applications shall be enforced.

*AUTHORITY: sections 409.2-201, [409.4-412,] 409.5-501, and 409.6-605, RSMo [Supp. 2003] 2016, and section 409.4-412, RSMo Supp. 2024. Original rule filed March 27, 1989, effective June 12, 1989. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Oct. 23, 2024, effective Nov. 6, 2024, expires May 4, 2025. An emergency amendment and proposed amendment covering the same material will be published in the Dec. 2, 2024, issue of the **Missouri Register**.*

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.