**Invest Kansas Exemption**

**KAR 81/5/21**

**[81-5-21](http://www.securities.state.ks.us/index.aspx?NID=175" \t "_self)**. **Invest Kansas exemption.**
See modifications to K.A.R. 81-5-21 by [Special Order dated June 21, 2013](http://www.securities.state.ks.us/DocumentCenter/View/227%22%20%5Ct%20%22_blank).

    (a) Exemption from registration requirements. The offer or sale of a security by an issuer shall be exempt from the requirements of K.S.A. 17-12a301 through 17-12a306 and K.S.A. 17-12a504, and amendments thereto, and each individual who represents an issuer in an offer or sale shall be exempt from the requirements of K.S.A. 17-12a402(a), and amendments thereto, if the offer or sale is conducted in accordance with each of the following requirements:

    (1) The issuer of the security shall be a business or organization formed under the laws of the state of Kansas and registered with the secretary of state.

    (2) The transaction shall meet the requirements of the federal exemption for intrastate offerings in section 3(a)(11) of the securities act of 1933, 15 U.S.C. § 77c(a)(11), and SEC rule 147, 17 C.F.R. 230.147, as adopted by reference in K.A.R. 81-2-1.

    (3) The sum of all cash and other consideration to be received for all sales of the security in reliance upon this exemption shall not exceed $1,000,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption.

    (4) The issuer shall not accept more than $1,000 from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 C.F.R. 230.501, as adopted by reference in K.A.R. 81-2-1.

    (5) A commission or other remuneration shall not be paid or given, directly or indirectly, for any person’s participation in the offer or sale of securities for the issuer unless the person is registered as a broker-dealer or agent under the act.

    (6) All funds received from investors shall be deposited into a bank or depository institution authorized to do business in Kansas, and all the funds shall be used in accordance with representations made to investors.

    (7) Before the use of any general solicitation or the twenty-fifth sale of the security, whichever occurs first, the issuer shall provide a notice to the administrator in writing or in electronic form. The notice shall specify that the issuer is conducting an offering in reliance upon this exemption and shall contain the names and addresses of the following persons:

    (A) The issuer;

    (B) all persons who will be involved in the offer or sale of securities on behalf of the issuer; and

    (C) the bank or other depository institution in which investor funds will be deposited.

    (8) The issuer shall not be, either before or as a result of the offering, an investment company as defined in section 3 of the investment company act of 1940, 15 U.S.C. § 80a-3, or subject to the reporting requirements of section 13 or 15(d) of the securities exchange act of 1934, 15 U.S.C. § 78m and 78o(d), as adopted by reference in K.A.R. 81-2-1.

    (9) The issuer shall inform all purchasers that the securities have not been registered under the act and, therefore, cannot be resold unless the securities are registered or qualify for an exemption from registration under K.S.A. 17-12a202 and amendments thereto, K.A.R. 81-5-3, or another regulation. In addition, the issuer shall make the disclosures required by subsection (f) of SEC rule 147, 17 C.F.R. 230.147(f), as adopted by reference in K.A.R. 81-2-1.

    (b) Offers and sales to controlling persons. This exemption shall not be used in conjunction with any other exemption under these regulations or K.S.A. 17-12a202 and amendments thereto, except for offers and sales to controlling persons of the issuer. Sales to controlling persons shall not count toward the limitation in paragraph (a)(3).

    (c) Disqualifications. This exemption shall not be available if the issuer is subject to a disqualifying event specified in K.A.R. 81-5-13(b), except as permitted under K.A.R. 81-5-13(c).

(Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a203 and 17-12a402(b)(9); effective Aug. 12, 2011.)