

18 NCAC 06A .2003 DEFINITIONS

Except as otherwise provided, the following definitions apply to G.S. 78A-17.1 and this Section:

- (1) The definitions in:
 - (a) G.S. 78A-2;
 - (b) Rule .1104 of this Subchapter; and
 - (c) 18 NCAC 06B .0102.
- (2) "Bank" means:
 - (a) a banking institution organized under the laws of the United States;
 - (b) a member bank of the Federal Reserve System;
 - (c) any other banking institution, whether incorporated or not:
 - (i) doing business under laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency pursuant to the first section of Public Law 87-722 (12 U.S.C. 92a);
 - (ii) which is supervised and examined by a state or federal agency having supervision over banks; and
 - (iii) which is not operated for the purpose of evading the North Carolina Securities Act.
- (3) "Blank check company" means a development stage company that has no specific business plan or that has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies.
- (4) "Blind pool" means a company that sells securities without specifying how invested money will be spent.
- (5) "Commodity pool" means an investment trust, syndicate, or similar form of enterprise operated for the purpose of trading commodity futures, option contracts, or other securities.
- (6) "Dealer", "Registered dealer" or "registered dealer or salesman" means a dealer or salesman registered in North Carolina pursuant to G.S. 78A-36.
- (7) "Depository institution" means a bank, savings institution, trust company or credit union that is:
 - (a) organized or chartered under the laws of a State or of the United States;
 - (b) authorized to receive deposits; and
 - (c) supervised and examined by an official or agency of a State or the United States if its deposits or share accounts are insured by the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Share Insurance Fund (NCUSIF) or a successor authorized by federal law.
- (8) "Document" or "documents" means originals, copies, and attachments to, correspondence, memoranda, notes, drafts, records, agreements, meeting agendas, reports, legal or financial instruments, e-mail, instant messages, records of social media postings, and any mode of representing words, letters, and numbers. It includes all forms and formats, including writing, print, typing, drawing, audio, and other recording, electronically, magnetically or mechanically stored, tape-recording, computerized, photographed, digital, or stored as voice mail, website, archived information, and backups of information.
- (9) "Escrow account" means an account that holds investor funds pursuant to an escrow agreement.
- (10) "Escrow agent" means a person that administers an escrow account by means of an escrow agreement in connection with the Exemption. The following persons may act as an escrow agent:
 - (a) a bank or depository institution;
 - (b) a registered dealer; or
 - (c) a lawyer.
- (11) The "Exemption" means the exemption allowed by G.S. 78A-17(20) in connection with an offering of a security made by an issuer in reliance on a federal intrastate offering exemption in compliance with the Securities Act of 1933.
- (12) "Holding company" means an entity whose principal purpose is owning stock in, or supervising the management of, other companies.
- (13) "Internet Web site" means a North Carolina Intrastate Funding Portal except as used in G.S. 78A-17.1(c).

- (14) "Lawyer" means a licensed lawyer who is an active member of the North Carolina State Bar in good standing and who has at least one law office physically located in North Carolina.
- (15) "Legal identity" means:
 - (a) the legal name of an entity on file with the business registry in its state of formation;
 - (b) a name assumed by a foreign entity pursuant to G.S. 55-15-03(a)(1), G.S. 55A-15-03(a)(1), or G.S. 57D-7-03(a)(1); and
 - (c) any assumed names filed by the entity in North Carolina pursuant to G.S. 66-71.4.
- (16) "Minimum offering amount" means an amount of funds equal to or below the target offering amount that is set by the issuer and that shall not be less than 20 percent of the target offering amount.
- (17) "North Carolina Intrastate Funding Portal" or "funding portal" means any person that:
 - (a) is not a registered dealer or salesman pursuant to G.S. 78A-36; and
 - (b) is in the business of acting as an intermediary in transactions involving the offer or sale of securities for or on behalf of an issuer pursuant to the Exemption.
- (18) "Platform" means a program or application accessible via the Internet or other similar electronic communication medium where information is provided and where prospective investors, investors, and issuers publicly communicate with each other online.
- (19) "Registered with the Secretary of State" means:
 - (a) a domestic entity that is formed under North Carolina law and is in "current/active status" with the Department; or
 - (b) a foreign entity that:
 - (i) has obtained a Certificate of Authority to transact business in North Carolina from the Department; and
 - (ii) is "current/active" with the Department and in good standing in its state of formation.
- (20) "Target date" means the date set by the issuer by which it expects to reach the minimum offering amount. The target date shall not exceed 12 months from the date of the Administrator's notice of compliance required by Rule .2015 of this Section.
- (21) "Target offering amount" is the total amount of funds that the issuer intends to raise by offering the securities to investors. The target offering amount for a single offering shall not exceed two million dollars (\$2,000,000).

History Note: Authority G.S. 78A-17.1(a)(5); 78A-17.1(f); 78A-49(a); 78A-49(d); 78A-64; S.L. 2016-103, s.4.(a);
Eff. April 1, 2017.