

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 678
93RD GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, April 11, 2005, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0645S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 351.107, 351.180, 351.182, 351.295, and 409.2-202, RSMo, and to enact in lieu thereof five new sections relating to corporations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 351.107, 351.180, 351.182, 351.295, and 409.2-202, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 351.107,
3 351.180, 351.182, 351.295, and 409.2-202, to read as follows:

351.107. The articles of incorporation may be amended at the time of restatement
2 of the articles of incorporation, in the following manner:

3 (1) The procedure required by this chapter for effecting an amendment to the
4 articles of incorporation may be carried out concurrently with the procedure for
5 restatement so that the proposed amendment and the restated articles may be presented
6 to the same meetings of directors and shareholders;

7 (2) Such amendment and restatement, upon adoption by that percentage vote of
8 shareholders required for that particular amendment, and on being set forth in a single
9 certificate of amendment and restatement, in the manner required by this chapter, may
10 then be filed in the office of the secretary of state **and shall not become effective**
11 unless and until such amendment has become effective in the manner provided in this
12 chapter.

351.180. 1. Every corporation may issue one or more classes of stock or one or
2 more series of stock within any class thereof, any or all of which classes may be of stock
3 with par value or stock without par value and which classes or series may have such
4 voting powers, full or limited, or no voting powers, and such designations, preferences
5 and relative, participating, optional or other special rights, and qualifications,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

6 limitations or restrictions thereof, as shall be stated and expressed in the articles of
7 incorporation or any amendment thereto, or in the resolution or resolutions providing
8 for the issue of such stock adopted by the board of directors pursuant to authority
9 expressly vested in it by the provisions of its articles of incorporation. Any of the voting
10 powers, designations, preferences, rights and qualifications, limitations or restrictions
11 of any such class or series of stock may be made dependent upon facts ascertainable
12 outside the articles of incorporation or of any amendment thereto, or outside the
13 resolution or resolutions providing for the issue of such stock adopted by the board of
14 directors pursuant to authority expressly vested in it by its articles of incorporation,
15 provided that the manner in which such facts shall operate upon the voting powers,
16 designations, preferences, rights and qualifications, limitations or restrictions of such
17 class or series of stock is clearly and expressly set forth in the articles of incorporation
18 or in the resolution or resolutions providing for the issue of such stock adopted by the
19 board of directors. The power to increase or decrease or otherwise adjust the capital
20 stock as provided in this chapter shall apply to all or any such classes of stock.

21 2. (1) Subject to the provisions of section 351.200, the stock of any class or series
22 may be made subject to redemption by the corporation at its option or at the option of
23 the holders of such stock or upon the happening of a specified event; provided, that at
24 the time of such redemption the corporation shall have outstanding shares of at least one
25 class or series of stock with full voting powers which shall not be subject to
26 redemption. Notwithstanding the limitation stated in the foregoing provision:

27 (a) Any stock of a regulated investment company registered under the Investment
28 Company Act of 1940, as amended, may be made subject to redemption by the
29 corporation at its option or at the option of the holders of such stock;

30 (b) Any stock of a corporation which holds, directly or indirectly, a license,
31 franchise, or contract from a governmental agency to conduct its business or is a member
32 of a national securities exchange, which license, franchise, contract, or membership is
33 conditioned upon some or all of the holders of its stock possessing the prescribed
34 qualifications, may be made subject to redemption by the corporation to the extent
35 necessary to prevent the loss of such license, franchise or membership or to reinstate it;

36 (2) Any stock which may be redeemable under this section may be redeemed for
37 cash, property or rights, including securities of the same or another corporation, at such
38 time or times, price or prices, or rate or rates, and with such adjustments, as shall be
39 stated in the articles of incorporation or in the resolution or resolutions providing for the
40 issue of such stock adopted by the board of directors as hereinabove provided.

41 3. The holders of preferred or special stock of any class or of any series thereof

42 shall be entitled to receive dividends at such rates, on such conditions and at such times
43 as shall be stated in the articles of incorporation or in the resolution or resolutions
44 providing for the issue of such stock adopted by the board of directors as hereinabove
45 provided, payable in preference to, or in such relation to, the dividends payable on any
46 other class or classes or of any other series of stock, and cumulative or noncumulative
47 as shall be so stated and expressed. When dividends upon the preferred and special
48 stocks, if any, to the extent of the preference to which such stocks are entitled, have been
49 paid or declared and set apart for payment, a dividend on the remaining class or classes
50 or series of stock may then be paid out of the remaining assets of the corporation
51 available for dividends as is provided elsewhere in this chapter.

52 4. The holders of the preferred or special stock of any class or of any series
53 thereof are entitled to such rights upon the dissolution of, or upon any distribution of the
54 assets of, the corporation as is stated in the articles of incorporation or in the resolution
55 or resolutions providing for the issue of such stock adopted by the board of directors as
56 hereinabove provided.

57 5. Any stock of any class or of any series thereof may be made convertible into,
58 or exchangeable for, at the option of either the holder or the corporation or upon the
59 happening of a specified event, shares of any other class or classes or any other series
60 of the same or any other class or classes of stock of the corporation, at such price or
61 prices or at such rate or rates of exchange and with such adjustments as is stated in the
62 articles of incorporation or in the resolution or resolutions providing for the issue of such
63 stock adopted by the board of directors as hereinabove provided.

64 6. If any corporation is authorized to issue more than one class of stock or more
65 than one series of any class, the powers, designations, preferences and relative,
66 participating, optional or other special rights of each class of stock or series thereof and
67 the qualifications, limitations or restrictions of such preferences and/or rights shall be
68 set forth in full or summarized on the face or back of the certificate which the
69 corporation issues to represent such class or series of stock **in the case of shares**
70 **represented by a certificate**; but, in lieu of the foregoing requirements, there may be
71 set forth on the face or back of the certificate which the corporation issues to represent
72 such class or series of stock, a statement that the corporation will furnish without charge
73 to each stockholder who so requests the powers, designations, preferences and relative,
74 participating, optional or other special rights of each class of stock or series thereof and
75 the qualifications, limitations or restrictions of such preferences and/or rights. **The**
76 **corporation shall also furnish such information upon request to holders of**
77 **uncertified shares.**

78 7. When any corporation desires to issue any shares of stock of any class or of
79 any series of any class of which the powers, designations, preferences and relative,
80 participating, optional or other rights, if any, or the qualifications, limitations or
81 restrictions thereof, if any, have not been set forth in the articles of incorporation or in
82 any amendment thereto, but are provided for in a resolution or resolutions adopted by
83 the board of directors pursuant to authority expressly vested in it by the provisions of
84 the articles of incorporation or any amendment thereto, a certificate of designations
85 setting forth a copy of such resolution or resolutions and the number of shares of stock
86 of such class or series as to which the resolution or resolutions apply shall be executed
87 by the president or any vice president and filed by the corporation with the secretary of
88 state. Unless otherwise provided in any such resolution or resolutions, the number of
89 shares of stock of any such class or series to which such resolution or resolutions apply
90 may be increased, but not above the number of shares of the class authorized by the
91 articles of incorporation with respect to which the powers, designations, preferences and
92 rights have not been set forth, or decreased, but not below the number of shares thereof
93 then outstanding, by a certificate likewise executed and filed setting forth a statement
94 that a specified increase or decrease therein had been authorized and directed by a
95 resolution or resolutions likewise adopted by the board of directors. In case the number
96 of such shares shall be decreased, the number of shares so specified in the certificate
97 shall resume their status which they had prior to the adoption of the resolution or
98 resolutions creating such shares. When no shares of any such class or series are
99 outstanding, either because none were issued or because no issued shares of any such
100 class or series remain outstanding, a certificate setting forth a resolution or resolutions
101 adopted by the board of directors that none of the authorized shares of such class or
102 series are outstanding, and that none will be issued subject to the certificate of
103 designations previously filed with respect to such class or series, may be executed by the
104 president or any vice president and filed by the corporation with the secretary of state
105 and, when such certificate becomes effective, it shall have the effect of eliminating from
106 the articles of incorporation all reference to such class or series of stock. When shares
107 of stock of any class or of any series of any class of which the powers, designations,
108 preferences, and relative, participating, optional or other rights, if any, or the
109 qualifications, limitations or restrictions thereof, if any, have not been set forth in the
110 articles of incorporation or in any amendment thereto, but are provided in a resolution
111 or resolutions adopted by the board of directors pursuant to authority expressly vested
112 in it by the provisions of the articles of incorporation or any amendment thereto, the
113 board of directors may, by resolution or resolutions adopted by the board of directors,

114 amend the powers, designations, preferences and relative, participating, optional or other
115 rights, if any, or the qualifications, limitations or restrictions thereof, if any, of any such
116 class or series by filing an amended certificate of designations setting forth a copy of
117 such resolution or resolutions, which shall include the terms and conditions of such
118 amendment, executed by the president or any vice president and filed by the corporation
119 with the secretary of state. Provided, however, that if any shares of any such class or
120 series shall be issued and outstanding at the time of such filing, such amendment, if it
121 adversely affects the holders thereof, shall not become effective unless as to any such
122 class or series, a majority of the holders thereof, or such greater vote as the articles of
123 incorporation or any amendment thereto require, adopts such amendment, and the
124 certificate of designations shall state that such approval has been obtained. When any
125 certificate is filed under this subsection, it shall have the effect of amending the articles
126 of incorporation and shall become effective as provided in subsection 1 of section 351.105.

351.182. 1. Subject to any provisions in the articles of incorporation, every
2 corporation may create and issue, whether or not in connection with the issue and sale
3 of any shares of stock or other securities of the corporation, rights or options entitling
4 the holders thereof to purchase from the corporation any shares of its capital stock of any
5 class or classes, such rights or options to be evidenced by or in such instrument or
6 instruments as [is] **are** approved by the board of directors, **including resolutions of**
7 **such board**. If at the time the corporation issues rights or options, there is insufficient
8 authorized and unissued shares to provide the shares needed if and when the rights or
9 options are exercised, the granting of the rights or options shall not be invalid solely by
10 reason of the lack of sufficient authorized but unissued shares.

11 2. The terms upon which any such shares may be purchased from the corporation
12 upon the exercise of any such right or option shall be as stated in the articles of
13 incorporation, or in a resolution adopted by the board of directors providing for the
14 creation and issue of such rights or options, and, in every case, shall be set forth or
15 incorporated by reference in [the] **any** instrument or instruments evidencing such rights
16 or options. Such terms may include, but not be limited to:

- 17 (1) The duration of such rights or options, which may be limited or unlimited;
- 18 (2) The price or prices at which any such shares may be purchased from the
19 corporation upon the exercise of any such right or option;
- 20 (3) The holders by whom such rights or options may be exercised;
- 21 (4) The conditions to or which may preclude or limit the exercise, transfer or
22 receipt of such rights or options, or which may invalidate or void such rights or options,
23 including without limitation conditions based upon a specified number or percentage of

24 outstanding shares, rights, options, convertible securities, or obligations of the
25 corporation as to which any person or persons or their transferees own or offer to
26 acquire; and

27 (5) The conditions upon which such rights or options may be redeemed.

28 Such terms may be made dependent upon facts ascertainable outside the documents
29 evidencing the rights, or the resolution providing for the issue of the rights or options
30 adopted by the board of directors, if the manner in which the facts shall operate upon
31 the exercise of the rights or options is clearly and expressly set forth in the document
32 evidencing the rights or options, or in the resolution. In the absence of actual fraud in
33 the transaction, the judgment of the directors as to the consideration for the issuance of
34 such rights or options and the sufficiency thereof and the terms of such rights or options
35 shall be conclusive. In case the shares of stock of the corporation to be issued upon the
36 exercise of such rights or options shall be shares having a par value, the price or prices
37 so to be received therefor shall not be less than the par value thereof. In case the shares
38 of stock so to be issued shall be shares of stock without par value, the consideration
39 therefor shall be determined in the manner provided in section 351.185. Nothing
40 contained in subsection 1 of section 351.180 shall be deemed to limit the authority of the
41 board of directors to determine, in its sole discretion, the terms of the rights or options
42 issuable pursuant to this section.

43 3. The board of directors may, by a resolution adopted by the board, authorize
44 one or more officers of the corporation to do one or both of the following:

45 (1) Designate officers and employees of the corporation or of any of its
46 subsidiaries to be recipients of such rights or options created by the corporation;

47 (2) Determine the number of such rights or options to be received by such officers
48 and employees;

49 provided, however, that the resolution so authorizing such officer or officers shall specify
50 the total number of rights or options such officer or officers may so award. The board
51 of directors may not authorize an officer to designate himself or herself as a recipient of
52 any such rights or options.

351.295. 1. [Except as otherwise provided in the articles of incorporation or
2 bylaws,] The shares of a corporation shall be represented by certificates, **provided that**
3 **the articles of incorporation or bylaws, or a resolution or resolutions of the**
4 **board of directors of the corporation, may provide that some or all of any or**
5 **all classes or series of its stock shall be uncertificated shares. Any such**
6 **provision of the articles of incorporation or bylaws or resolution of the board**
7 **of directors shall not apply to shares represented by a certificate until such**

8 **certificate is surrendered to the corporation. Notwithstanding such a**
9 **provision of the articles of incorporation or bylaws, or the adoption of such**
10 **a resolution by the board of directors, every holder of stock represented by**
11 **certificates shall be entitled to have a certificate** signed by the president or a vice
12 president and by the secretary or an assistant secretary or the treasurer or an assistant
13 treasurer of such corporation and sealed with the seal of the corporation. Any or all the
14 signatures on the certificate may be a facsimile and the seal may be facsimile, engraved
15 or printed. In case any officer, transfer agent or registrar who has signed or whose
16 facsimile signature has been placed on a certificate shall have ceased to be such officer,
17 transfer agent or registrar before such certificate is issued, the certificate may
18 nevertheless be issued by the corporation with the same effect as if the person were an
19 officer, transfer agent or registrar at the date of issue. **Every holder of**
20 **uncertificated shares is entitled to receive a statement of holdings as**
21 **evidence of share ownership.**

22 2. Every certificate for shares without par value shall have plainly stated upon
23 its face the number of shares which it represents, and no certificate shall express any
24 par value for such shares or a rate of dividend to which such shares shall be entitled in
25 terms of percentage of any par or other value.

409.2-202. The following transactions are exempt from the requirements of
2 sections 409.3-301 to 409.3-306 and 409.5-504:

3 (1) An isolated nonissuer transaction, whether effected by or through a
4 broker-dealer or not;

5 (2) A nonissuer transaction by or through a broker-dealer registered, or exempt
6 from registration under this act, and a resale transaction by a sponsor of a unit
7 investment trust registered under the Investment Company Act of 1940, in a security of
8 a class that has been outstanding in the hands of the public for at least ninety days, if,
9 at the date of the transaction:

10 (A) The issuer of the security is engaged in business, the issuer is not in the
11 organizational stage or in bankruptcy or receivership, and the issuer is not a blank
12 check, blind pool, or shell company that has no specific business plan or purpose or has
13 indicated that its primary business plan is to engage in a merger or combination of the
14 business with, or an acquisition of, an unidentified person;

15 (B) The security is sold at a price reasonably related to its current market price;

16 (C) The security does not constitute the whole or part of an unsold allotment to,
17 or a subscription or participation by, the broker-dealer as an underwriter of the security
18 or a redistribution; and

19 (D) A nationally recognized securities manual or its electronic equivalent
20 designated by rule adopted or order issued under this act or a record filed with the
21 Securities and Exchange Commission that is publicly available contains:

22 (i) A description of the business and operations of the issuer;

23 (ii) The names of the issuer's executive officers and the names of the issuer's
24 directors, if any;

25 (iii) An audited balance sheet of the issuer as of a date within eighteen months
26 before the date of the transaction or, in the case of a reorganization or merger when the
27 parties to the reorganization or merger each had an audited balance sheet, a pro forma
28 balance sheet for the combined organization; and

29 (iv) An audited income statement for each of the issuer's two immediately
30 previous fiscal years or for the period of existence of the issuer, whichever is shorter, or,
31 in the case of a reorganization or merger when each party to the reorganization or
32 merger had audited income statements, a pro forma income statement; or

33 (E) The issuer of the security has a class of equity securities listed on a national
34 securities exchange registered under the Securities Exchange Act of 1934 or designated
35 for trading on the National Association of Securities Dealers Automated Quotation
36 System, unless the issuer of the security is a unit investment trust registered under the
37 Investment Company Act of 1940; or the issuer of the security, including its
38 predecessors, has been engaged in continuous business for at least three years; or the
39 issuer of the security has total assets of at least two million dollars based on an audited
40 balance sheet as of a date within eighteen months before the date of the transaction or,
41 in the case of a reorganization or merger when the parties to the reorganization or
42 merger each had the audited balance sheet, a pro forma balance sheet for the combined
43 organization;

44 (3) A nonissuer transaction by or through a broker-dealer registered or exempt
45 from registration under this act in a security of a foreign issuer that is a margin security
46 defined in regulations or rules adopted by the Board of Governors of the Federal Reserve
47 System;

48 (4) A nonissuer transaction by or through a broker-dealer registered or exempt
49 from registration under this act in an outstanding security if the guarantor of the
50 security files reports with the Securities and Exchange Commission under the reporting
51 requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.
52 78m or 78o(d));

53 (5) A nonissuer transaction by or through a broker-dealer registered or exempt
54 from registration under this act in a security that:

55 (A) Is rated at the time of the transaction by a nationally recognized statistical
56 rating organization in one of its four highest rating categories; or

57 (B) Has a fixed maturity or a fixed interest or dividend, if:

58 (i) A default has not occurred during the current fiscal year or within the three
59 previous fiscal years or during the existence of the issuer and any predecessor if less
60 than three fiscal years, in the payment of principal, interest, or dividends on the
61 security; and

62 (ii) The issuer is engaged in business, is not in the organizational stage or in
63 bankruptcy or receivership, and is not and has not been within the previous twelve
64 months a blank check, blind pool, or shell company that has no specific business plan or
65 purpose or has indicated that its primary business plan is to engage in a merger or
66 combination of the business with, or an acquisition of, an unidentified person;

67 (6) A nonissuer transaction by or through a broker-dealer registered or exempt
68 from registration under this act effecting an unsolicited order or offer to purchase;

69 (7) A nonissuer transaction executed by a bona fide pledgee without the purpose
70 of evading this act;

71 (8) A nonissuer transaction by a federal covered investment adviser with
72 investments under management in excess of one hundred million dollars acting in the
73 exercise of discretionary authority in a signed record for the account of others;

74 (9) A transaction in a security, whether or not the security or transaction is
75 otherwise exempt, in exchange for one or more bona fide outstanding securities, claims,
76 or property interests, or partly in such exchange and partly for cash, if the terms and
77 conditions of the issuance and exchange or the delivery and exchange and the fairness
78 of the terms and conditions have been approved by the commissioner after a hearing;

79 (10) A transaction between the issuer or other person on whose behalf the
80 offering is made and an underwriter, or among underwriters;

81 (11) A transaction in a note, bond, debenture, or other evidence of indebtedness
82 secured by a mortgage or other security agreement if:

83 (A) The note, bond, debenture, or other evidence of indebtedness is offered and
84 sold with the mortgage or other security agreement as a unit;

85 (B) A general solicitation or general advertisement of the transaction is not
86 made; and

87 (C) A commission or other remuneration is not paid or given, directly or
88 indirectly, to a person not registered under this act as a broker-dealer or as an agent;

89 (12) A transaction by an executor, commissioner of an estate, sheriff, marshal,
90 receiver, trustee in bankruptcy, guardian, or conservator;

- 91 (13) A sale or offer to sell to:
- 92 (A) An institutional investor;
- 93 (B) A federal covered investment adviser; or
- 94 (C) Any other person exempted by rule adopted or order issued under this act;
- 95 (14) A sale or an offer to sell securities of an issuer, if part of a single issue in
- 96 which:
- 97 (A) Not more than twenty-five purchasers are present in this state during any
- 98 twelve consecutive months, other than those designated in paragraph (13);
- 99 (B) A general solicitation or general advertising is not made in connection with
- 100 the offer to sell or sale of the securities;
- 101 (C) A commission or other remuneration is not paid or given, directly or
- 102 indirectly, to a person other than a broker-dealer registered under this act or an agent
- 103 registered under this act for soliciting a prospective purchaser in this state; and
- 104 (D) The issuer reasonably believes that all the purchasers in this state, other
- 105 than those designated in paragraph (13), are purchasing for investment;
- 106 (15) A transaction under an offer to existing security holders of the issuer,
- 107 including persons that at the date of the transaction are holders of convertible securities,
- 108 options, or warrants, if a commission or other remuneration, other than a standby
- 109 commission, is not paid or given, directly or indirectly, for soliciting a security holder in
- 110 this state;
- 111 (16) An offer to sell, but not a sale, of a security not exempt from registration
- 112 under the Securities Act of 1933 if:
- 113 (A) A registration or offering statement or similar record as required under the
- 114 Securities Act of 1933 has been filed, but is not effective, or the offer is made in
- 115 compliance with Rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165);
- 116 and
- 117 (B) A stop order of which the offeror is aware has not been issued against the
- 118 offeror by the commissioner or the Securities and Exchange Commission, and an audit,
- 119 inspection, or proceeding that is public and that may culminate in a stop order is not
- 120 known by the offeror to be pending;
- 121 (17) An offer to sell, but not a sale, of a security exempt from registration under
- 122 the Securities Act of 1933 if:
- 123 (A) A registration statement has been filed under this act, but is not effective;
- 124 (B) A solicitation of interest is provided in a record to offerees in compliance with
- 125 a rule adopted by the commissioner under this act; and
- 126 (C) A stop order of which the offeror is aware has not been issued by the

127 commissioner under this act and an audit, inspection, or proceeding that may culminate
128 in a stop order is not known by the offeror to be pending;

129 (18) A transaction involving the distribution of the securities of an issuer to the
130 security holders of another person in connection with a merger, consolidation, exchange
131 of securities, sale of assets, or other reorganization to which the issuer, or its parent or
132 subsidiary and the other person, or its parent or subsidiary, are parties;

133 (19) A rescission offer, sale, or purchase under section 409.5-510;

134 (20) An offer or sale of a security to a person not a resident of this state and not
135 present in this state if the offer or sale does not constitute a violation of the laws of the
136 state or foreign jurisdiction in which the offeree or purchaser is present and is not part
137 of an unlawful plan or scheme to evade this act;

138 (21) Employees' stock purchase, savings, option, profit-sharing, pension, or
139 similar employees' benefit plan, including any securities, plan interests, and guarantees
140 issued under a compensatory benefit plan or compensation contract, contained in a
141 record, established by the issuer, its parents, its majority-owned subsidiaries, or the
142 majority-owned subsidiaries of the issuer's parent for the participation of their employees
143 including offers or sales of such securities to:

144 (A) Directors; general partners; trustees, if the issuer is a business trust; officers;
145 consultants; and advisors;

146 (B) Family members who acquire such securities from those persons through gifts
147 or domestic relations orders;

148 (C) Former employees, **current employees**, directors, general partners,
149 trustees, officers, consultants, and advisors if those individuals were employed by or
150 providing services to the issuer when the securities were offered; and

151 (D) Insurance agents who are exclusive insurance agents of the issuer, or the
152 issuer's subsidiaries or parents, or who derive more than fifty percent of their annual
153 income from those organizations;

154 (22) A transaction involving:

155 (A) A stock dividend or equivalent equity distribution, whether the corporation
156 or other business organization distributing the dividend or equivalent equity distribution
157 is the issuer or not, if nothing of value is given by stockholders or other equity holders
158 for the dividend or equivalent equity distribution other than the surrender of a right to
159 a cash or property dividend if each stockholder or other equity holder may elect to take
160 the dividend or equivalent equity distribution in cash, property, or stock;

161 (B) An act incident to a judicially approved reorganization in which a security
162 is issued in exchange for one or more outstanding securities, claims, or property

163 interests, or partly in such exchange and partly for cash; or

164 (C) The solicitation of tenders of securities by an offeror in a tender offer in
165 compliance with Rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162);
166 or

167 (23) A nonissuer transaction in an outstanding security by or through a
168 broker-dealer registered or exempt from registration under this act, if the issuer is a
169 reporting issuer in a foreign jurisdiction designated by this paragraph or by rule adopted
170 or order issued under this act; has been subject to continuous reporting requirements in
171 the foreign jurisdiction for not less than one hundred eighty days before the transaction;
172 and the security is listed on the foreign jurisdiction's securities exchange that has been
173 designated by this paragraph or by rule adopted or order issued under this act, or is a
174 security of the same issuer that is of senior or substantially equal rank to the listed
175 security or is a warrant or right to purchase or subscribe to any of the foregoing. For
176 purposes of this paragraph, Canada, together with its provinces and territories, is a
177 designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated
178 securities exchange. After an administrative hearing in compliance with chapter 536,
179 RSMo, the commissioner, by rule adopted or order issued under this act, may revoke the
180 designation of a securities exchange under this paragraph, if the commissioner finds that
181 revocation is necessary or appropriate in the public interest and for the protection of
182 investors.

✓