

**Subpart D. FRAUDULENT AND PROHIBITED PRACTICES**

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**Cross References**

This subpart cited in 10 Pa. Code § 202.091 (relating to shares of professional corporations); 10 Pa. Code § 202.093 (relating to charitable contributions to pooled income funds exempt); 10 Pa. Code § 202.095 (relating to charitable gift annuities); and 10 Pa. Code § 203.201 (relating to accredited investor exemption).

**CHAPTER 401. SALES AND PURCHASES**

- Sec. 401.010. [Reserved].
- 401.020. Professional responsibility.
- 401.030. Underwriting commitment letters and letters of intent.
- 401.040. [Reserved].

**§ 401.010. [Reserved].**

**Source**

The provisions of this § 401.010 adopted May 31, 1974, effective June 1, 1974, 4 Pa.B. 1085; reserved December 18, 1981, effective December 19, 1981, 11 Pa.B. 4310; transferred and renumbered from 64 Pa. Code § 401.010, December 14, 2012, effective December 15, 2012, 42 Pa.B. 7533. Immediately preceding text appears at serial page (317633).

**§ 401.020. Professional responsibility.**

For the purposes of any action or proceeding initiated by the Department, under 2 Pa.C.S. § 503 (relating to discipline), 1 Pa. Code § 31.28 (relating to suspension and disbarment) or under any other applicable rules of practice adopted by the Department, the phrase “act, practice or course of business” as used in this chapter shall include a statement, opinion, report or service by an attorney, accountant, engineer, appraiser or other professional person who examines, gives or produces a statement, opinion, report or service if the professional person knew or in the exercise of reasonable care should have known that the statement, opinion, report or service materially aided or abetted a violation of the act or the regulations adopted thereunder.

**Authority**

The provisions of this § 401.020 amended under section 202.C of the Department of Banking and Securities Code (71 P.S. § 733-202.C); section 609(a) of the Pennsylvania Securities Act of 1972 (70 P.S. § 1-609(a)); and section 9(b) of the Takeover Disclosure Law (70 P.S. § 79(b)).

**Source**

The provisions of this § 401.020 adopted April 26, 1975, effective April 27, 1975, 5 Pa.B. 980; transferred and renumbered from 64 Pa. Code § 401.020, December 14, 2012, effective December 15, 2012, 42 Pa.B. 7533; amended January 12, 2018, effective January 13, 2018, 48 Pa.B. 389. Immediately preceding text appears at serial pages (364781) to (364782).

**Cross References**

This section cited in 10 Pa. Code § 609.010 (relating to use of prospective financial statements).

**§ 401.030. Underwriting commitment letters and letters of intent.**

(a) It shall be unlawful for any person to circulate, quote, present, publish or otherwise use any underwriting commitment letter, letter of intent to underwrite, or other document evidencing the present or future intent of any person to underwrite or otherwise conduct a public offering of securities, whether presently or in the future, on behalf of any issuer when such circulation, quotation, presentation, publication or other use is intended to fraudulently induce prospective public investors to purchase the securities of that issuer or any related issuer, except that this section shall not be applicable to customary disclosures to institutional investors or to the employees of a commercial bank or other financial institution for the purpose of the issuer's obtaining financing from such institution or to disclosures among underwriters or prospective members of an underwriting group.

(b) Nothing in subsection (a) shall be deemed to prevent the normal disclosure of an underwriting agreement in a prospectus issued pursuant to a registration statement under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77z-3), or this act.

**Source**

The provisions of this § 401.030 adopted March 29, 1974, effective March 30, 1974, 4 Pa.B. 584; transferred and renumbered from 64 Pa. Code § 401.030, December 14, 2012, effective December 15, 2012, 42 Pa.B. 7533. Immediately preceding text appears at serial page (317634).

**§ 401.040. [Reserved].****Source**

The provisions of this § 401.040 adopted March 14, 1975, effective March 15, 1975, 5 Pa.B. 480; reserved December 18, 1981, effective December 19, 1981, 11 Pa.B. 4310; transferred and renumbered from 64 Pa. Code § 401.040, December 14, 2012, effective December 15, 2012, 42 Pa.B. 7533. Immediately preceding text appears at serial page (317634).

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