

SECOND REGULAR SESSION

# HOUSE BILL NO. 2799

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE O'DONNELL.

5834H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapter 409, RSMo, by adding thereto one new section relating to investment disclosures.

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

Section A. Chapter 409, RSMo, is amended by adding thereto one new section, to be known as section 409.115, to read as follows:

**409.115. 1. As used in this section, the following terms mean:**

(1) "Broker-dealer", the same meaning as under section 409.1-102;

(2) "Incorporates a social objective", the consideration of socially responsible criteria in the investment or commitment of client funds for the purpose of obtaining an effect other than a maximized financial return to the client;

(3) "Investment adviser" or "adviser", the same meaning as under section 409.1-102;

(4) "Investment adviser representative" or "representative", the same meaning as under section 409.1-102;

(5) "Socially responsible criteria", any criteria that are intended to further or are branded, advertised, or otherwise publicly described by the investment adviser, the adviser's investment adviser representative, or the broker-dealer as furthering any of the following:

(a) International, domestic, or industry agreements relating to environmental or social goals;

(b) Corporate governance structures based on social characteristics; or

(c) Social or environmental goals.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18           **2. An investment adviser, an adviser's investment adviser representative, or a**  
19 **broker-dealer fails to disclose a material fact to clients or prospective clients if the**  
20 **adviser, the adviser's representative, or the broker-dealer incorporates a social objective**  
21 **or a nonfinancial objective into the adviser's, adviser's representative's, or the broker-**  
22 **dealer's recommendations and solicitations to clients for the purchase or sale of a**  
23 **security or commodity or the selection by the adviser, the adviser's representative, or the**  
24 **broker-dealer, or the recommendation or advice by the adviser, the adviser's**  
25 **representative, or the broker-dealer to the adviser's, adviser's representative's, or**  
26 **broker-dealer's clients regarding the selection, of a third-party manager or subadviser**  
27 **to manage the investments in the adviser's, the adviser's representative's, or the broker-**  
28 **dealer's clients' accounts.**

29           **3. The disclosure obligation under subsection 2 of this section is satisfied by**  
30 **providing prior disclosure and obtaining written consent and acknowledgment from the**  
31 **client. Written consent shall be obtained:**

32           **(1) At the establishment of the advisory relationship; and**

33           **(2) Prior to:**

34           **(a) Effecting any discretionary investment;**

35           **(b) Providing any recommendation or advice regarding the purchase or sale of a**  
36 **security or commodity in a client's account; or**

37           **(c) Selecting, or recommending or advising on the selection, of a third-party**  
38 **manager or subadviser to manage the investments in a client's account.**

39           **4. Written consent required under subsection 3 of this section shall contain**  
40 **language that is substantially similar to the following:**

41           **"I, (NAME OF CLIENT), consent to my adviser, adviser's representative, or**  
42 **broker-dealer incorporating a social objective or nonfinancial objective into any**  
43 **discretionary investment decision my adviser, adviser's representative, or broker-dealer**  
44 **makes for my account; any recommendation or advice my adviser, my adviser's**  
45 **representative, or my broker-dealer makes to me for the purchase or sale of a security**  
46 **or commodity; or the selection my adviser, my adviser's representative, or my broker-**  
47 **dealer makes, or recommendation or advice my adviser, my adviser's representative, or**  
48 **my broker-dealer makes to me regarding the selection, of a third-party manager or**  
49 **subadviser to manage the investments in my account. Also, I acknowledge and**  
50 **understand that incorporating a social objective or nonfinancial objective into**  
51 **investment decisions, recommendations, advice, and/or the selection of a third-party**  
52 **manager or subadviser to manage the investments in my account will result in**  
53 **investments and recommendations/advice that are not solely focused on maximizing a**  
54 **financial return for me or my account."**

55           **5. The conduct set forth in this section is not inclusive. Engaging in conduct such**  
56 **as nondisclosure or incomplete disclosure of material fact or other deceptive practices is**  
57 **dishonest or unethical business practice.**

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