

1 14-4310. [“Security”]; defined.¹

2 A “security” is any [ownership right] [right to an ownership position] [or] [creditor
3 relationship] and includes any:²

4 [bond. A “bond” is any [~~interest-bearing~~interest-bearing instrument that obligates the
5 issuer to pay the bondholder a specified sum of money, usually at specified intervals, and to repay
6 the principal amount of the loan at maturity.]

7 [collateral-trust certificate. A “collateral-trust certificate” is a corporate debt instrument
8 which is used to back collateral-trust bonds held by a bank or other trustee.]

9 [certificate of interest or participation in a security] [[temporary or interim certificate for]
10 [receipt for] [guarantee of]² the right to purchase a security.]

11 [warrant or right to subscribe to or purchase any security. A “warrant” or “subscription
12 warrant” is a type of security which is usually issued together with a bond³ or preferred stock,⁴ that
13 entitles the holder to buy a proportionate amount of stock, bonds₂ or debentures at a specified price,
14 usually higher than the market price at the time of issuance, for a period of years or to perpetuity.]

15 [right to subscribe to or purchase any security. A “right” or a “subscription right” is a
16 privilege granted to existing shareholders of a corporation to subscribe to shares of a new issue of
17 stock, bonds₂ or debentures before it is offered to the public, which normally has a life of two to
18 four weeks, is freely transferable and entitles the holder to buy the new stock, bonds₂ or debentures
19 below the public offering price.]

20 [debenture. A “debenture” is an unsecured general debt obligation or loan backed only by
21 the integrity of the borrower and usually documented by an agreement known as an
22 “indenture[?].”]

1 [draft. A “draft” is a signed, written order by which one party (drawer) instructs another
2 party (drawee) to pay a specified sum to a third party (payee). The payee and drawer are usually
3 the same person. A sight draft is payable on demand. A time draft is payable either on a definite
4 date or at a fixed time after sight or demand.]

5 [evidence of indebtedness]

6 [interest or instrument commonly known as a security]

7 [investment contract. An “investment contract” means a contract:

- 8 1. where an individual invests [his] money;
- 9 2. in an undertaking or venture of two or more people or entities;
- 10 3. with an expectation of profit;
- 11 4. based primarily on the efforts of others.

12 An “investment” is the use of capital or money to create more money.]

13 [limited partnership interest. A “limited partnership” is an organization made up of a
14 general partner, who manages a project, and limited partners, who invest money but have limited
15 liability.]

16 [note. A “note” is a written promise to pay a specified amount to a certain person or entity
17 on demand or on a specified date.]

18 [interest in oil, gas or other mineral rights other than a landowner royalty interest in the
19 production of oil, gas or other minerals created through the execution of a lease of the lessor’s
20 mineral interest.]

21 [promissory note. A “promissory note” is a written promise committing the maker to pay
22 the payee a specified sum of money either on demand or at a fixed or determined future date, with
23 or without interest.]

1 1978, Section 58-13C-102(DD) of the Act, the court may draft an appropriate definition for the
2 jury.

3 2. Use only the applicable alternatives.

4 3. The definition of “bond” as set forth in this instruction should also be given with
5 this definition.

6 4. The definition of “stock” as set forth in this instruction should also be given with
7 this definition.

8 5. The definitions of “put[?],” “call[?],” “call option[?],” “option[?],” and
9 “certificate” are set forth in UJI 14-4311 [~~NMRA~~] and should be given when any of these terms
10 are used.

11 6. [~~See also~~] See also the definitions of “subscription rights” and “subscription
12 warrants” set forth above.

13 [Approved, effective September 1, 1988; as amended by Supreme Court Order No. 21-8300-009,
14 effective for all cases filed or pending on or after December 31, 2021; as amended by Supreme
15 Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after
16 December 31, 2025.]

17 **Committee commentary.** — The question of whether a specific instrument is a "security" is a
18 mixed question of law and fact. *See* committee commentary to UJI 14-4301; Modern Federal Jury
19 Instructions, Section 57.10; *United States v. Austin*, 462 F.2d 724 (10th Cir. 1972) and *Roe v.*
20 *United States*, 287 F.2d 435 (5th Cir. 1961) (*cert. denied* 368 U.S. 824, 82 S. Ct. 43, 7 L. Ed. 2d
21 29 (1961)). There are numerous cases which state that the question of whether a specific
22 instrument is a security is a matter of fact for the jury to determine. These are usually cases
23 involving an investment contract or a unique or novel type of instrument. *See State v. Shade* and

1 *State v. Vincent*, 104 N.M. 710, 726 P.2d 864 (Ct. App. 1986) (sale of time-share memberships -
2 question whether a time-share contract was an investment contract).

3 As a general rule, if the jury requests an instruction on the definition of a term used in UJI Criminal,
4 the judge is to give a Webster's Dictionary definition of the term, however, the committee believed
5 that because of the technical nature of many of the types of securities, definitions should be
6 prepared by the committee for the more commonly used terms. In preparing the definitions found
7 in UJI 14-4310, the committee relied upon numerous sources, including Barron's, Dictionary of
8 Finance and Investment Terms, Barron's, Finance and Investment Handbook and securities
9 decisions.