

Chapter SEC 3

REGISTRATION REQUIREMENTS AND PROCEDURES

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**SEC 3.01 Commissions and expenses.** (1) The aggregate amount of underwriters' and sellers' discounts, commissions and other compensation shall be reasonable, and except for issuers specified in sub. (2), is presumed reasonable if it does not exceed 10% of the aggregate selling price of the securities or if, when added to the other expenses paid or payable in connection with the offering and sales of the securities, the total of commissions and other expenses does not exceed 15% of the aggregate selling price of the securities. For corporate equity offerings of less than \$5 million in aggregate proceeds, if the aggregate amount of underwriters' and sellers' discounts, commissions and other compensation does not exceed 12% of the aggregate selling price of the securities, the total of commissions and other offering expenses is not subject to limitation.

(2) With respect to redeemable securities of investment companies registered under the investment company act of 1940, the maximum selling commission or discount is presumed reasonable if it does not exceed 9% of the selling price of the securities, including the percentage amount of any redemption fee payable upon redemption of the securities.

(3) With respect to investment company shares or face amount certificates sold pursuant to a contractual plan or program payable in installments, the selling commission may be deemed unreasonable if more than a pro rata portion of the total selling commission payable over the period of the contract is payable in connection with any installment payment, or if any charge or penalty is assessed for failure to make any installment payment.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; r. and recr. Register, August, 1972, No. 200, eff. 9-1-72; am. (1), Register, December, 1982, No. 324, eff. 1-1-83; am. (1), Register, December, 1985, No. 360, eff. 1-1-86.

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**SEC 3.02 Offering price.** The offering price of any security shall be fair and equitable to purchasers. With respect to common stock, unless the offering is made pursuant to a firm commitment underwriting by a broker-dealer that is not affiliated with the issuer by means of direct or indirect common control and where the offering price of the common stock is at least \$5 per share, the offering price shall be reasonably related to the existing public market for the stock or to the net earnings of the issuer as stated in the prospectus.

(1) With respect to common stock of issuers not in the promotional or developmental stage, the offering price may be deemed unfair or inequitable to purchasers unless it meets the requirements of par. (a), (b) or (c) of this subsection.

(a) The price for the stock does not exceed 25 times the issuer's net earnings per share for the last fiscal year, or does not exceed 25 times its average annual net earnings per share for the last 3 years prior to the proposed offering date, or does not exceed such other multiple of net earnings as the commissioner may prescribe.

(b) Information is filed with the commissioner showing there exists an adequate public market for the stock, provided that a public market will be presumed adequate if:

1. The stock is traded on a national or regional stock exchange registered under the securities exchange act of 1934;

2. The stock is quoted on the national association of securities dealers automated quotation system; or

3. Each of the criteria in this subdivision are met, consisting of there having been at least 500 holders of the stock at the beginning and end of the 6-month period preceding the date of the filing, at least 200,000 shares of the stock are publicly outstanding (exclusive of shares held by officers, directors, or 5% shareholders), at least 2 broker-dealers regularly make a market in the stock, at least one financial publication regularly quotes the market price, and trading of the issuer's stock in the 6-month period preceding the date of the filing averaged at least 100 transactions or at least 5% of the outstanding shares (not including shares held by officers, directors or 5% shareholders) per month.

(c) If no adequate public market exists, information satisfactory to the commissioner is filed justifying the proposed offering price-earnings ratio in relation to price-earnings ratios of companies comparable to the issuer in terms of size, history of operations, industry and products, and other relevant factors; such information may be contained in an underwriter's memorandum on the issuer prepared in connection with the proposed offering.

(2) With respect to common stock of issuers in the promotional or developmental stage as defined in sub. (3), the offering price shall be reasonably related to the price paid for the stock by promoters or controlling persons of the issuer in transactions effected prior to the public offering, except as permitted under s. SEC 3.04.

am. (1), renum. (4) to be (4) (a) and am., cr. (4) (b), Register, December, 1982, No. 324, eff. 1-1-83; am. (5), Register, December, 1985, No. 360, eff. 1-1-86.

**SEC 3.04 Promotional or cheap stock.** (1) The offer or sale of equity securities or securities convertible into equity securities may be deemed unfair and inequitable to purchasers and to involve unreasonable amounts of promoters' profits or participations if the issuer has issued promotional or cheap stock that fails to comply with the provisions of the North American Securities Administrators Association Statement of Policy on Promotional Shares, adopted September 3, 1987. Copies of the Statement of Policy are available from the commissioner's office for a prepaid fee of \$4.

**Note:** The Statement of Policy is published in CCH NASAA Reports published by Commerce Clearing House and is on file at the offices of the Wisconsin secretary of state and the revisor of statutes.

**History:** Cr. Register, December, 1969, No. 168, eff. 1-1-70; am. (2) and (4), Register, August, 1972, No. 200, eff. 9-1-72; am. (1), (3) (c) and (4), Register, December, 1977, No. 264, eff. 1-1-78; am. (2), (3) (a) and (b), (4) (intro.), (a) 2., (b) (intro.), (d) and (e), Register, December, 1980, No. 300, eff. 1-1-81; r. and recr. Register, December, 1983, No. 336, eff. 1-1-84; am. Register, December, 1988, No. 396, eff. 1-1-89.

**SEC 3.05 Promoters' investment.** The offer or sale of securities of an issuer in the promotional or developmental stage may be deemed unfair and inequitable to purchasers unless the offering complies with the provisions of the North American Securities Administrators Association Statement of Policy on Existing Capitalization, adopted April 23, 1983, as amended effective January 1, 1988. Copies of the Statement of Policy are available from the commissioner's office for a prepaid fee of \$4.

**Note:** The Statement of Policy is published in CCH NASAA Reports published by Commerce Clearing House and is on file at the offices of the Wisconsin secretary of state and the revisor of statutes.

**History:** Cr. Register, December, 1969, No. 168, eff. 1-1-70; am. (2) (a) and (3), Register, August, 1972, No. 200, eff. 9-1-72; am. (1), (2) (a) and (6), r. (3), Register, December, 1977, No. 264, eff. 1-1-78; am. (1), (2) (intro.) and (2) (a), Register, December, 1980, No. 300, eff. 1-1-81; r. and recr. Register, December, 1983, No. 336, eff. 1-1-84; am. Register, December, 1988, No. 396, eff. 1-1-89.

**SEC 3.06 Preferred stock and debt securities.** (1) The offer or sale of preferred stock of an issuer may be deemed unfair and inequitable to purchasers unless the net earnings of the issuer, for its last fiscal year prior to the offering and for the average of its last 3 fiscal years prior to the offering, are sufficient to cover the dividends on the preferred stock proposed to be offered. Net earnings shall be determined exclusive of non-recurring items and shall be adjusted for any preferred stock to be redeemed with the proceeds of the offering, less applicable income tax effects. The commissioner may waive the requirement under this subsection upon evidence showing a sufficient future net earnings capability including, but not limited to, evidence set forth in a financial forecast examined by an independent certified public accountant in accordance with the Guide for Prospective Financial Statements as promulgated by the American Institute of Certified Public Accountants.

(2) The offer or sale of debt securities of an issuer may be deemed unfair and inequitable to purchasers unless the net earnings of the issuer, for its last fiscal year prior to the offering and for the average of its last 3 fiscal years prior to the offering, are sufficient to cover the interest requirements on all debt securities issued subsequent to its last fiscal year, including the securities proposed to be offered. Net earnings shall be determined before income taxes, depreciation and extraordinary items, and

shall be adjusted for any debt securities to be redeemed with the proceeds of the offering. The commissioner may waive the requirement under this subsection upon evidence showing a sufficient future net earnings capability including, but not limited to, evidence set forth in a financial forecast examined by an independent certified public accountant in accordance with the Guide for Prospective Financial Statements as promulgated by the American Institute of Certified Public Accountants.

(3) If the issuer has made or proposes to make any material acquisitions subsequent to the last year specified in sub. (1) or (2), the earnings for the year shall be restated on a pro forma basis to reflect the acquisitions.

(4) The offer or sale of preferred stock or debentures by an issuer in the promotional or developmental stage is deemed unfair and inequitable to purchasers unless justified by the issuer or registrant under sub. (1) or (2).

(5) This rule does not apply to the offer or sale of:

(a) Debt securities by a nonprofit issuer under s. 551.23 (15), Stats.;

(b) Securities issued pursuant to a voluntary or involuntary corporate reorganization; or

(c) Securities of an issuer, the issuance of whose securities is regulated by a federal or state governmental authority.

(6) The offer or sale of debt securities may be deemed unfair and inequitable to purchasers if the issuer offers to repurchase the securities at the request of the holder prior to maturity (except pursuant to sinking fund provisions or optional redemption provisions on specified dates) unless made in compliance with the following provisions:

(a) *Threshold test.* Subject to par. (b), an issuer may repurchase its debt securities at the request of the holders if its aggregate net earnings for the 3 preceding years and in the year immediately preceding the year of repurchase equalled or exceeded its aggregate fixed charges, as evidenced by a written statement of an independent certified public accountant, in connection with the annual examination of the issuer's financial statements, filed with the commissioner, as to whether or not the accountant has obtained knowledge of any failure of the issuer to meet this test. In this paragraph:

1. "Net earnings" means income before income taxes, extraordinary items and interest expense.

2. "Fixed charges" means interest on all debt, and dividends on other fixed obligation securities such as preferred stock.

(b) *Conditions of repurchase.* 1. Order of repurchase. Subject to the limitation in subd. 2., securities shall be repurchased on a first-come, first-served basis, except that no repurchases may be made from any person controlling, controlled by, or under common control with the issuer until all other pending requests for repurchase have been satisfied.

2. Limit on repurchases from one person. The issuer may not, in any 6-month period, repurchase from any person, including all joint, common and beneficial owners with the person, more than one percent of the publicly-held debt securities outstanding at the time repurchase is made un-

**SEC 3.09 Open-end investment companies.** The offer or sale of redeemable securities of an open-end management investment company, as defined in the investment company act of 1940, may be deemed unfair and inequitable to the purchasers thereof unless its prospectus, advisory contract, or organizational instruments include provisions satisfying the following requirements:

(1) The investments of the company shall be restricted in the following respects:

(a) At least 75% of the value of the total assets of a diversified investment company shall be in cash or cash items including receivables, government securities, securities of other investment companies, and other securities, and for each single issuer within the 75%, the investment may not exceed 5% of the value of the total assets of the diversified investment company and may not exceed 10% of the outstanding voting securities of the issuer.

(b) 1. No investment company, other than an investment company that invests more than 80% of its assets in debt securities, may purchase any securities of the classes specified in this subsection, if by reason thereof the value of its aggregate investment in those classes of securities will exceed: 10% of its total assets in securities of issuers which the company is restricted from selling to the public without registration under the securities act of 1933; 10% of its total assets in the securities of one or more real estate investment trusts or in one or more investment companies; 5% of its total assets in securities of unseasoned issuers, including their predecessors, which have been in operation for less than 3 years, and equity securities of issuers which are not readily marketable. 2. An investment company may not invest in options, financial futures or stock index futures, other than hedging positions or positions that are covered by cash or securities, if as a result thereof, more than 5% of its assets would be so invested.

(c) No investment company may invest any part of the total assets in real estate or interests in real estate, excluding readily marketable securities; commodities, other than precious metals not to exceed 10% of the investment company's total assets; commodity futures contracts or options thereon other than as permitted by investment companies qualifying for an exemption from the definition of commodity pool operator under 17 CFR 4.5 (c) (2) (i); or interests in commodity pools or oil, gas or other mineral exploration or development programs.

(d) The fundamental investment policies of the company shall be stated in the prospectus in reasonable detail, except that fundamental investment policies which will involve 5% or less of the company's assets may be disclosed in the Statement of Additional Information prepared by the company under the investment company act of 1940. The fundamental investment policies of the company may not be materially changed in any respect unless authorized by the vote of a majority of the outstanding voting securities of the company.

(2) The policy stated or followed by any investment company, other than one that invests 80% or more of its assets in debt securities, of engaging in any material respect in any of the following or related speculative activities, whether individually or in combination, and the relatively greater risks or costs involved in those activities, shall be disclosed

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or clearly referred to in bold face type on the cover of the prospectus or on a prospectus supplement satisfactory in form to the commissioner:

- (a) Borrowing money for investment in securities, excluding borrowing for temporary purposes;
  - (b) Purchasing securities for short-term trading, other than securities issued by the U.S. government;
  - (c) Purchasing restricted securities as specified in this section;
  - (d) Purchasing put or call options or combinations thereof; or
  - (e) Short selling of securities, excluding short selling against the box.
- (3) The net assets of an investment company, upon completion of the initial public offering of its securities or within a period of 2 years after the commencement thereof or such additional period as the commissioner may permit, shall not be less than one million.

(4) All payments by an investment company upon redemption of securities of which it is the issuer shall be made in cash or in kind. The redemption fee payable by any shareholder may not exceed 1% of the amount receivable upon redemption of his or her shares, except that if the shares of a company are sold without sales commission, the redemption fee may not exceed 2% of the amount, subject to such conditions as the commissioner may prescribe.

(5) An investment company shall not effect any brokerage transactions in its portfolio securities with any broker-dealer affiliated directly or indirectly with its investment adviser or manager, unless the transactions, including the frequency thereof, the receipt of commissions payable in connection therewith, and the selection of the affiliated broker-dealer effecting the transactions, are not unfair or unreasonable to the shareholders of the company. The commissioner may require the company to file periodic reports concerning all such brokerage transactions.

(6) Each registered investment company shall notify the commissioner promptly when it is not in compliance with this section, and its registration statements shall be subject to revocation or suspension.

*History:* Cr. Register, August, 1972, No. 200, eff. 9-1-72; renum. from SEC 3.11, am. (intro.) and (3), Register, December, 1977, No. 264, eff. 1-1-78; r. (3), renum. (4) to (7) to be (3) to (6), Register, December, 1979, No. 288, eff. 1-1-80; am. (1) (a), (b) and (c), (2) (intro.) and (c), (4) to (6), Register, December, 1980, No. 300, eff. 1-1-81; am. (1) (b) and (c), (2) (intro.) and (b), Register, December, 1985, No. 360, eff. 1-1-86; r. and recr. (1) (a), am. (1) (d) and (4), Register, December, 1987, No. 384, eff. 1-1-88.

**SEC 3.10 Closed-end investment companies.** The offer or sale of securities of a closed-end management investment company, as defined in the Investment Company Act of 1940, may be deemed unfair and inequitable to the purchasers thereof unless its prospectus, advisory contract, or organizational instruments include provisions satisfying the following requirements:

(1) The company shall not at the time of purchase, as to its total assets:

(a) Invest more than 30% in restricted debt securities, unless permitted by the commissioner upon proper justification;

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for payment, of the reasonable expenses of mailing, unless within 5 days after the copy of the material to be mailed, a written statement to the effect that, in the opinion of the trustee, the mailing would be contrary to the best interests of the bondholders or would be in violation of applicable law. The written statement shall specify the basis of the trustee's opinion.

History: Cr. Register, December, 1986, No. 372, eff. 1-1-87.

**SEC 3.15 Finance company debt securities.** The offer or sale by a finance company of its debt securities may be deemed unfair and inequitable to purchasers unless the offering complies with the provisions of the Central Securities Administrators Council Statement of Policy on Finance Company Debt Securities, adopted August 12, 1976. Copies of the Statement of Policy are available from the commissioner's office for a prepaid fee of \$4. The Statement of Policy is published in Volume 1 of the Commerce Clearing House Blue Sky Law Reporter and is on file at the offices of the Wisconsin secretary of state and the revisor of statutes.

History: Cr. Register, December, 1980, No. 300, eff. 1-1-81.

**SEC 3.16 Transactions with affiliates.** (1) The offer or sale of securities by an issuer that has engaged or has a policy to engage in transactions with officials of the issuer, its controlling persons or affiliates, may be deemed by the commissioner to be unfair and inequitable to purchasers unless the terms of the transactions comply with one or more of the requirements in pars. (a) to (c) of this subsection that are applicable to the facts and circumstances of the transactions, where the transactions are required to be disclosed under sub. (2):

(a) Each transaction, other than a loan transaction, involving officials of the issuer, its controlling persons or affiliates, shall have been authorized at the time of the transaction or shall be subsequently ratified by a majority of the issuer's disinterested directors and shall contain terms no less favorable to the issuer than could have been realized by the issuer in an arm's-length transaction with unaffiliated persons.

(b) 1. For an issuer that is primarily engaged in the business of making loans, each loan transaction involving officials of the issuer, its controlling persons or affiliates shall either:

a. Have been authorized at the time of the transaction or subsequently ratified by vote of a majority of the issuer's disinterested independent outside directors; or

b. Have been made in the ordinary course of the issuer's business, be on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with unaffiliated persons, and in the opinion of management not involve more than the normal risk of collectibility.

2. For any issuer not included under subd. 1., each loan transaction other than primarily for short-term advances for travel, business expense, relocation, and similar ordinary operating expenditures, involving an official of the issuer, its controlling persons or affiliates shall either:

a. Have been authorized at the time of the transaction or subsequently ratified by vote of a majority of the disinterested independent outside directors of the issuer; or

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b. Provide in the loan or loan guarantee agreement that it may not be extended or renewed and shall be repaid or retired not later than one year from the date of effectiveness of the registration statement for the offering.

(c) If any of the securities that are the subject of the offering are owned directly or beneficially by a person who has a loan or loan guarantee subject to this section, the disclosure document for the offering shall disclose that the proceeds from the offering inuring to that person shall be used to repay the loan.

(2) (a) If the issuer has engaged in transactions subject to the provisions of sub. (1) with officials of the issuer, its controlling persons or affiliates, the disclosure document for the offering shall contain a description of each of those transactions that are material, including any resolution of issues subject to the provisions of sub. (1).

(b) If the issuer has had in effect prior to the offering a written policy regarding making loans, the disclosure document for the offering shall disclose the terms and conditions of that policy and any changes contemplated in that policy, unless otherwise permitted by the commissioner.

(3) For purposes of this section:

(a) "Affiliate" means any person who is a partner, officer or director of the issuer, or a person occupying a similar status or performing similar functions, or directly or indirectly in control of, controlled by, or under common control with, the issuer. Control may be presumed by ownership of, or the power to vote, more than 10% of the outstanding voting securities of the issuer, either alone or pursuant to an agreement, arrangement or understanding with one or more other persons.

(b) "Controlling person" means any person who directly or indirectly has the power to direct or cause the direction of the management and policies of an issuer, whether through the ownership of voting securities, by contract or by other similar means, or any affiliate of such persons.

(c) "Disinterested director" means a member of the issuer's board of directors who will not receive a direct financial benefit in the outcome of a vote by the board regarding a specific transaction.

(d) "Disinterested independent outside director" means a person who is not employed by the issuer other than in the capacity as director and who will not receive a direct financial benefit in the outcome of a vote by the board regarding a specific transaction.

(e) "Official of the issuer" means an officer, director, or any person performing similar functions, either of the issuer or an affiliate of the issuer.

(f) "Transaction" means an act, including but not limited to, loans, leases, or contractual arrangements which has transpired or may transpire between an issuer and an official of the issuer, its controlling persons, or affiliates.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; r. and recr. Register, December, 1983, No. 336, eff. 1-1-84; am. (2) (a), Register, December, 1985, No. 360, eff. 1-1-86.

**SEC 3.17 Real estate investment trusts.** The offer or sale of securities of a corporation, trust or association, other than a real estate syndication, engaged primarily in investing in equity interests in real estate, including Register, December, 1988, No. 396



or statement) which is used in connection with the registration statement;

(p) A balance sheet of the issuer as of the end of its most recent fiscal year, and a comparative statement of income and changes in financial position and analysis of surplus for each of the 3 most recent fiscal years (or for the period of the issuer's and any predecessor's existence if less than 3 years), all meeting the requirements of s. SEC 7.06; provided that if the date of any of the financial statements specified in this paragraph is more than 120 days (180 days with respect to a corporation organized and operated not for private profit but exclusively for religious, educational, benevolent or charitable purposes) prior to the date of effectiveness of the registration statement, the statements shall be updated (which may be done without audit) to within the 120-day or 180-day requirement specified in this paragraph; and provided that if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements shall be filed which would be required if that business were the registrant; and

(q) Such additional information as the commissioner may require.

(2) The commissioner may permit the omission of the filing of any information or document specified in sub. (1) if the commissioner determines that the information or document is not required for the protection of investors.

(3) Any information specified in sub. (1) may be included in a prospectus meeting the requirements of s. SEC 3.23, if a cross-reference table is filed showing where the information appears in the prospectus.

**History:** Renum. from SEC 2.05, am. (1) (c) and (g) and (3), and r. and recr. (1) (p), Register, December, 1977, No. 264, eff. 1-1-78; emerg. am. (1)(h), eff. 6-19-78; am. (1)(h), Register, September, 1978, No. 273, eff. 10-1-78; am. (1) (intro.), Register, December, 1979, No. 288, eff. 1-1-80; am. (1) (b) to (g), (n) to (p), (2) and (3), Register, December, 1980, No. 300, eff. 1-1-81; am. (1) (c) and (m), Register, December, 1982, No. 324, eff. 1-1-83.

**SEC 3.23 Prospectus requirements.** (1) As a condition of registration, a prospectus, offering circular, or similar document meeting the requirements of subs. (2), (3) and (4) shall be sent or given to each person to whom an offer is made by or for the account of the issuer or any other person on whose behalf the offering is made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription as a participant in the distribution. The document shall be sent or given either before or concurrently with the earlier of any of the following:

(a) Any written offer made to the person, otherwise than by means of public advertisement;

(b) Confirmation of any sale to the person;

(c) Payment pursuant to any sale to the person; or

(d) Delivery of the security pursuant to any sale to the person.

(2) The outside front cover of the prospectus, unless otherwise permitted by the commissioner, shall meet the requirements of any form under the securities act of 1933 or shall contain substantially the following information:

(a) Name and location of issuer and its type of organization;

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- (b) Designation of securities offered;
- (c) Per share or unit and aggregate public offering price, underwriting or selling commissions and discounts and net proceeds to offeror;
- (d) Name of managing underwriter or broker-dealer or statement that the securities are being offered by the issuer;
- (e) A statement describing the anticipated secondary market for the securities being offered, including the identity of anticipated market makers;
- (f) Date of prospectus;
- (g) If the offering is the subject of a registration statement under the securities act of 1933, the following statements in bold-face type:

**THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.;**

- (h) If the offering is exempt under section (3) (a) (11) of the Securities Act of 1933, the following statement in bold-face type:

**THESE SECURITIES ARE OFFERED ONLY TO BONA FIDE RESIDENTS OF THE STATE OF WISCONSIN PURCHASING FOR INVESTMENT AND NOT FOR RESALE.;** and

- (i) If the offering is exempt under section 4 (2) of the securities act of 1933, the following statements in bold-face type:

**IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

**THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.;** and

- (j) Such other information as the commissioner may permit or require.

(3) The prospectus shall contain a full disclosure of all material facts relating to the issuer and the offering and sale of the registered securities. A prospectus meeting the requirements of form S-1 under the Securities Act of 1933 that receives full review by the U.S. securities and exchange commission is deemed to satisfy the requirements of this subsection. If the offering is being made for federal purposes pursuant to use of either Rule 504 of Regulation D under the Securities Act of 1933 or Rule 147 under Section 3 (a) (11) of the Securities Act of 1933, a disclosure document in compliance with the North American Securities Administrators Association, Inc. form U-7 is deemed to satisfy the requirements of this subsection.

(4) Unless otherwise permitted by the commissioner, the body of the prospectus and all notes to financial statements and other tabular data included therein shall be in roman or gothic type at least as large and as legible as 10-point modern type, except that financial statements and other tabular data, including tabular data in notes, may be in roman or gothic type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

(5) At the end of each period of not more than one year from the effectiveness of the registration statement, or in the event of any material change relating to the issuer or the securities subsequent to the filing of a prospectus, an amended prospectus shall be filed reflecting any such changes, and a current disclosure of all material facts relating to the issuer and the securities, including financial statements. No further solicitations or sales of the securities may be made thereafter until such amended prospectus has been filed with the commissioner.

**History:** Cr. Register, December, 1969, No. 168, eff. 1-1-70; renum. from SEC 2.06, r. and recr. (1), r. (2), renum. (3) and (4) to be (2) and (3), renum. (2) (e) to (h) to be (2) (f) to (i), cr. (2) (e) and (4), Register, December, 1977, No. 264, eff. 1-1-78; am. (1) (a) to (d) and (5) (3), Register, December, 1980, No. 300, eff. 1-1-81; am. (3), Register, December, 1985, No. 360, eff. 1-1-86; am. (2) (g) and (3), renum. (2) (i) to be (2) (j), cr. (2) (i), Register, December, 1989, No. 408, eff. 1-1-90.

**SEC 3.24 Trust indenture requirements.** Trust indentures required under ch. 551, Stats., and chs. SEC 1 to 9, shall meet the requirements of the trust indenture act of 1939, whether or not exempt under that act, unless the commissioner otherwise permits or requires.

**History:** Cr. Register, December, 1969, No. 168, eff. 1-1-70; cr. (3), Register, August, 1972, No. 200, eff. 9-1-72; renum. from SEC 2.07, am. (1) and r. (2) and (3), Register, December, 1977, No. 264, eff. 1-1-78.

**SEC 3.25 Registration proceedings.** (1) If any information is reasonably required by the commissioner prior to the effective date of a registration statement filed under s. 551.25 or 551.26, Stats., in connection with the examination of such registration statement, the registration statement is deemed filed when the information so required is filed with the commissioner.

(2) Any registration statement which a registrant fails to complete or withdraw within one year from the date of filing shall be deemed materially incomplete under s. 551.28 (1) (a), Stats., and the commissioner may issue a stop order denying effectiveness to such registration statement.

(3) The commissioner may institute a proceeding under s. 551.28, Stats., and may issue a stop order suspending or revoking the effectiveness of any registration statement filed under s. 551.25 or 551.26, Stats.,

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at any time during the period that the registration statement is effective and within one year thereafter.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; r. and recr. Register, August, 1972, No. 200, eff. 9-1-72; renum. from SEC 2.11 and SEC 3.09, Register, December, 1977, No. 264, eff. 1-1-78.

**SEC 3.26 Amendment of registration statements.** (1) All applications for amendment of a registration statement shall be filed in the form prescribed by the commissioner.

(2) A registration statement relating to securities issued by a finance company licensed under s. 138.09, Stats., may be amended after its effective date so as to increase the specified amount of securities proposed to be offered in this state.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; renum. from SEC 2.10, am. (2), Register, December, 1977, No. 264, eff. 1-1-78; am. (2), Register, September, 1978, No. 273, eff. 10-1-78; am. (1), Register, December, 1979, No. 288, eff. 1-1-80.

**SEC 3.27 Extension of registration statements.** (1) Application for an extension of the offering period of a registration statement, except one relating to redeemable securities issued by an open-end management company or a face amount certificate company as defined in the investment company act of 1940, or securities of a finance company licensed under s. 138.09, Stats., shall be filed in the form prescribed by the commissioner not less than 30 days prior to the end of one year from the effective date of the registration statement or an order of extension, whichever is most recent. The application shall be accompanied by a prospectus updated in accordance with s. SEC 3.23 (5), a balance sheet of the issuer as of the end of its most recent fiscal year, and a comparative statement of income and changes in financial position and analysis of surplus for each of the 3 most recent fiscal years (or for the period of the issuer's and any predecessor's existence if less than 3 years), all meeting the requirements of s. SEC 7.06, provided that if the date of any of the above financial statements is more than 120 days (180 days with respect to a corporation organized and operated not for private profit but exclusively for religious, educational, benevolent or charitable purposes) prior to the date of the extension of the registration statement, the statements shall be updated (which may be done without audit) to within the 120-day or 180-day requirement above. Any extension of the offering period of a registration statement shall be by order of the commissioner, subject to such conditions as may be prescribed.

(2) A registration statement relating to redeemable securities issued by an open-end management company or a face amount certificate company as defined in the investment company act of 1940, or securities of a finance company licensed under s. 138.09, Stats., is deemed to include an application for the continuous offering of the securities. The offering period of the registration statement is automatically extended until it is permitted to be withdrawn or the commissioner issues a stop order suspending or revoking its effectiveness pursuant to s. 551.28, Stats., if the issuer complies with s. 551.52 (1) (b), Stats., which may involve the filing of form RS-IC as referred to in s. SEC 9.01, and if the issuer files with the commissioner not less than annually during the offering period, within 120 days of the end of its fiscal year, a prospectus updated in accordance with s. SEC 3.23 (5), a balance sheet of the issuer as of the end of the fiscal year, and a statement of income and change in financial position

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and analysis of surplus of the issuer for the fiscal year meeting the requirements of s. SEC 7.06.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; r. and recr. Register, August, 1972, No. 200, eff. 9-1-72; am. Register, October, 1974, No. 226, eff. 11-1-74; renum. from SEC 2.08, am. (1) and (2), Register, December, 1977, No. 264, eff. 1-1-78; emerg. am. eff. 6-19-78; am. Register, September, 1978, No. 273, eff. 10-1-78; am. (1) and (2), Register, December, 1980, No. 300, eff. 1-1-81; am. (2), Register, December, 1984, No. 348, eff. 1-1-85; am. Register, December, 1985, No. 360, eff. 1-1-86; am. (2), Register, December, 1989, No. 408, eff. 1-1-90.

**SEC 3.28 Periodic reports.** (1) Each finance company licensed under s. 138.09, Stats., issuing securities registered in this state shall file with the commissioner within 45 days following the end of each calendar quarter, a report on a form prescribed by the commissioner specifying the number of shares or units of securities sold in this state or the aggregate selling price thereof during the quarter.

(2) Each issuer or registrant of securities registered under s. 551.26, Stats., shall file with the commissioner such additional reports of sales and financial statements as may be specified by order, and shall furnish the commissioner with written notice within 30 days after the happening of any material event affecting the issuer or the securities registered.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; am. (2), Register, October, 1974, No. 226, eff. 11-1-74; renum. from SEC 2.09, and am. (1) and (2), Register, December, 1977, No. 264, eff. 1-1-78; emerg. renum. (2) and (3) to be (3) and (4), cr. (2) and am. (3), eff. 6-19-78; renum. (2) and (3) to be (3) and (4) and am. (3), cr. (2), Register, September, 1978, No. 273, eff. 10-1-78; am. (1), Register, December, 1979, No. 288, eff. 1-1-80; am. (1), Register, December, 1981, No. 312, eff. 1-1-82; r. (1), renum. (2), (3) and (4) to be (1), (2) and (3), Register, December, 1983, No. 336, eff. 1-1-84; am. (1), Register, December, 1984, No. 348, eff. 7-1-85; r. (1), renum. (2) and (3) to be (1) and (2), Register, December, 1988, No. 396, eff. 1-1-89.