

2001 DRAFTING REQUEST

Bill

Received: 09/28/2000

Received By: rmarchan

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: Geisler

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Alt. Drafters:

Subject: Fin. Inst. - securities

Extra Copies:

Pre Topic:

DOA:.....Geisler -

Topic:

Investment adviser registration depository

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|-----------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /? | rmarchan 09/29/2000 | gilfokm 09/29/2000 | | _____ | | | |
| /1 | | | jfrantze 10/02/2000 | _____ | gretskl 10/02/2000 | | |

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 09/28/2000

Received By: rmarchan

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: geisler

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Alt. Drafters:

Subject: Fin. Inst. - securities

Extra Copies:

Pre Topic:

DOA:.....[✓]geisler -

Topic:

Investment adviser registration depository

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-----------------|--------------|--------------------|------------------|-----------------|-----------------|
| 1/1 | rmarchan | 1-2/29 King | 7/6 10/2 | 7/6 / Self 10/2 | | | |

FE Sent For:

<END>

DFI ITEM 7

DIVISION OF SECURITIES
DEPARTMENT OF FINANCIAL INSTITUTIONS

PROPOSED SECURITIES LAW STATUTE REVISIONS FOR BUDGET BILL

Section ___ 551.32(1)(a) and (1m)(a) of the statutes are amended to read:

551.32 Licensing and notice filing procedure. (1)(a) A broker-dealer, agent, investment adviser or investment adviser representative may obtain an initial or renewal license by filing with the division, or an organization which the division by rule designates, an application together with a consent to service of process under s. 551.65(1), the fee prescribed under s. 551.52(2), and payment of any reasonable costs charged by the designated organization for processing the filing .

(1m)(a) If required under s. 551.31(4m), a federal covered adviser shall file with the division, or an organization which the division by rule designates, a notice filing together with the fee prescribed under s. 551.52(2). The notice filing shall consist either of a notice filing form prescribed by the division by rule or a copy of those documents that have been filed with the federal securities and exchange commission as the division, by rule or order, may require, together with payment of any reasonable costs charged by the designated organization for processing the filing .

Section ___ 551.32(10) of the statutes is created to read:

551.32(10) Any person required to pay a fee under s. 551.32, Stats., or s. 551.52(2), Stats., may transmit through any organization designated by rule of the division, any fee required by this section or rules promulgated under this section.

ANALYSIS: These amendments to the securities licensing and notice filing provisions in s. 551.32, Stats., dealing with the procedures for making such filings, do the following:

- (1) Particularize in s. 551.32(1)(a), Stats., that for license applicants making electronic filings with the organizations designated, or to be designated, by rule of the Division (namely, the Central Registration Depository for broker-dealers and agents, as designated in rule DFI-Sec 4.01(1)(b), and the Investment Adviser Registration Depository for investment advisers and their representatives), the applicant is responsible for payment of the reasonable costs charged by the designated organization for processing such filings. The amendments to sub. (1)(a) also include a cross-reference to the statute section in s. 551.52(2), Stats., that sets forth the various licensing filing fees prescribed for each category of license applicant.
- (2) Provide in s. 551.32(1m)(a), Stats., that filings by federal covered advisers may be made electronically with the same designated organization (the IARD) used by investment advisers seeking state licensure in Wisconsin. The amendments to that subsection likewise provide that the person/entity making the filing is responsible for payment of the reasonable costs charged by the designated organization for processing such filings.
- (3) Expressly provide in a companion provision [s. 551.32(10), Stats.] to the above sections that any Wisconsin license application or notice filing required to be accompanied by a fee under s. 551.32, Stats., may have such fee payment made to any organization designated by rule of the Division.

* * * * *

BUDGET

RMWR
QUOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

DOA - BUD

→ Fix Request Sheet

- DON'T GEN. CAT*
- 1 AN ACT *...; relating to:* filing, licensing, and notice requirements applicable to
 - 2 certain securities broker-dealers, agents, investment advisers, and investment
 - 3 adviser representatives and granting rule-making authority.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT
COMMERCE

DFI

Under current law, with certain exceptions, a person acting as a securities broker-dealer, agent, investment adviser, or investment adviser representative in this state must obtain a license from the division of securities in the department of financial institutions (division). To obtain a license, a person must pay a fee and must file an application, a consent to service of process, and certain information relating to the person's business and personal history. Current law permits the division to designate by rule an organization to receive these filings.

In addition, under current law, certain federally registered investment advisers must complete a notice filing and pay a fee before transacting business in this state. Current law does not permit the division to designate an organization to receive this notice filing.

Current law also contains numerous provisions generally relating to documents filed with the division or with an organization designated by the division. These provisions, for example, establish the effective date and confidentiality of filings.

This bill permits the division to designate by rule an organization to receive any notice filing that is required of federally registered investment advisers. The bill also

expands the scope of the provisions that generally relate to filed documents to ensure that the provisions govern documents filed by federally registered investment advisers with a designated organization.

In addition, this bill requires a person applying for a license as a securities broker-dealer, agent, investment adviser, or investment adviser representative, or making a notice filing, to pay any reasonable processing charge imposed by an organization designated to receive the application or filing. The bill also allows the person to transmit any fee owing to the division through the designated organization.

For further information see the ~~state fiscal estimate, which will be printed as an appendix to this bill.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 551.31 (4m) (c) of the statutes is amended to read:

2 551.31 (4m) (c) The federal covered adviser has complied with the notice filing
3 and fee payment provisions under s. 551.32 (1m).

4 **SECTION 2.** 551.32 (1) (a) of the statutes is amended to read:

5 551.32 (1) (a) A broker-dealer, agent, investment adviser, or investment
6 adviser representative may obtain an initial or renewal license by filing with the
7 division, or with an organization which the division by rule designates, an
8 application ~~together with~~ and a consent to service of process under s. 551.65 (1), by
9 paying the fee prescribed under s. 551.52 (2), and, if the filing is made with an
10 organization designated by the division, by paying any reasonable fee charged by the
11 organization for processing the filing. If the filing is made with an organization
12 designated by the division, the broker-dealer, agent, investment adviser, or
13 investment adviser representative may transmit the fee prescribed under s. 551.52
14 (2) to the division through the organization.

15 **SECTION 3.** 551.32 (1m) (a) of the statutes is amended to read:

1 551.32 (1m) (a) ~~If required under s. 551.31 (4m), a~~ A federal covered adviser
2 shall file with the division ~~a, or with an organization which the division by rule~~
3 designates, any notice filing together with required under s. 551.31 (4m) and shall
4 pay the fee prescribed under s. 551.52 (2) and, if the notice filing is made with an
5 organization designated by the division, any reasonable fee charged by the
6 organization for processing the notice filing. The notice filing shall consist either of
7 a notice filing form prescribed by the division by rule or a copy of those documents
8 that have been filed with the federal securities and exchange commission as the
9 division, by rule or order, may require. If the notice filing is made with an
10 organization designated by the division, the federal covered adviser may transmit
11 the fee prescribed under s. 551.52 (2) to the division through the organization.

12 **SECTION 4.** 551.32 (1m) (b) of the statutes is amended to read:

13 551.32 (1m) (b) An initial notice filing is effective upon receipt by the division,
14 or by an organization designated by the division under par. (a), of the documents and
15 fee fees required in par. (a). A renewal notice filing is effective upon the expiration
16 under sub. (8) (a) of the prior notice filing, or upon receipt by the division, or by an
17 organization designated by the division under par. (a), of the documents and fee fees
18 required under par. (a), whichever is later.

19 **SECTION 5.** 551.32 (9) (b) of the statutes is amended to read:

20 551.32 (9) (b) Termination of a notice filing under ~~s. 551.32 sub. (1m)~~ sub. (1m) is effective
21 upon receipt by the division, or by an organization designated by the division under
22 sub. (1m) (a), of written notification of termination.

23 **SECTION 6.** 551.33 (3) of the statutes is amended to read:

24 551.33 (3) If the information contained in any application for a license or other
25 document filed with the division or an organization designated under s. 551.32 (1)

1 (a) or (1m) (a) is or becomes inaccurate or incomplete in any material respect, the
2 licensee person filing the application or document shall promptly file a correcting
3 amendment, except that a federal covered adviser shall file a correcting amendment
4 when it is required to be filed with the securities and exchange commission, unless
5 notification of the correction has been given under s. 551.32 (9) (a).

6 **SECTION 7.** 551.51 (2) of the statutes is amended to read:

7 551.51 (2) It is unlawful for the division or any officers or employees of the
8 division to use for personal benefit any information which is filed with or obtained
9 by the division or an organization designated under s. 551.32 (1) (a) or (1m) (a) and
10 which is not generally available to the public. Nothing in this chapter authorizes the
11 division or any officers or employees of the division to disclose any confidential
12 information except among themselves or to other securities administrators or
13 regulatory authorities or when necessary or appropriate in a proceeding or
14 investigation under this chapter. No provision of this chapter either creates or
15 derogates from any privilege which exists at common law or otherwise when
16 documentary or other evidence is sought under a subpoena directed to the division
17 or any officers or employees of the division.

18 **SECTION 8.** 551.52 (4) of the statutes is amended to read:

19 551.52 (4) The division may by rule require the payment of prescribed fees for
20 delinquent or materially deficient filings of information or documents required
21 under this chapter to be filed with the division or an organization designated under
22 s. 551.32 (1) (a) or (1m) (a).

23 **SECTION 9.** 551.54 of the statutes is amended to read:

24 **551.54 Misleading filings.** It is unlawful for any person to make or cause to
25 be made, in any document filed with the division, or filed under s. 551.32 (1) (a) or

1 (1m) (a) with an organization designated by the division, or in any proceeding under
2 this chapter, any statement which is, at the time and in the light of the circumstances
3 under which it is made, false or misleading in any material respect or, in connection
4 with such statement, to omit to state a material fact necessary in order to make the
5 statements made, in the light of the circumstances under which they are made, not
6 misleading.

7 **SECTION 10.** 551.64 (1) of the statutes is amended to read:

8 551.64 (1) A document is filed when it is received by the division or, if
9 authorized under s. 551.32 (1) (a) or (1m) (a), an organization designated by the
10 division.

11 **SECTION 11.** 551.65 (1) of the statutes is amended to read:

12 551.65 (1) Every applicant for license or registration under this chapter, every
13 person filing a notice filing under this chapter, and every issuer that proposes to offer
14 a security in this state through any person acting as agent shall file with the division,
15 ~~or, if applying for a license, with the~~ any organization designated by the division
16 under s. 551.32 (1) (a) or (1m) (a) to receive the applicable notice filing or application,
17 an irrevocable consent appointing the division to be his or her attorney to receive
18 service of any lawful process in any noncriminal suit, action, or proceeding against
19 him or her or a successor, executor, or administrator that arises under this chapter
20 or any rule or order under this chapter after the consent has been filed, with the same
21 validity as if served personally on the person filing the consent. The consent shall
22 be in the form the division by rule prescribes. The consent need not be filed by a
23 person who has filed a consent in connection with a previous registration or notice
24 filing or license that is then in effect. Service may be made by leaving a copy of the
25 process at the office of the division, but it is not effective unless the plaintiff, who may

1 be the division in a suit, action, or proceeding instituted by the division, promptly
2 sends notice of the service and a copy of the process by registered or certified mail to
3 the defendant or respondent at the person's last address on file with the division, and
4 the plaintiff's affidavit of compliance with this subsection is filed in the case on or
5 before the return day of the process, or within such time as the court allows.

6

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0251/P1dr 0593/ldu
RJM:kmg:jf
↑

September 20, 2000

Geisler
Jeff Geisler:

Please review this draft carefully to ensure that it is consistent with your intent.

I treated a number of provisions that generally relate to documents filed with the division or with a designated organization to ensure that the provisions apply to notice filings made by federal covered advisers with designated organizations. I also treated s. 551.32 (9) (b), stats., regarding the termination of a notice filing. Please let me know if you have any questions.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0593/1dn
RJM:kmg:jf

October 2, 2000

Jeff Geisler:

Please review this draft carefully to ensure that it is consistent with your intent.

I treated a number of provisions that generally relate to documents filed with the division or with a designated organization to ensure that the provisions apply to notice filings made by federal covered advisers with designated organizations. I also treated s. 551.32 (9) (b), stats., regarding the termination of a notice filing. Please let me know if you have any questions.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0593/1
RJM:kmg:jf

DOA:.....Geisler – Investment adviser registration depository

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** filing, licensing, and notice requirements applicable to
2 certain securities broker-dealers, agents, investment advisers, and investment
3 adviser representatives and granting rule-making authority.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT
COMMERCE

Under current law, with certain exceptions, a person acting as a securities broker-dealer, agent, investment adviser, or investment adviser representative in this state must obtain a license from the division of securities in DFI (division). To obtain a license, a person must pay a fee and must file an application, a consent to service of process, and certain information relating to the person's business and personal history. Current law permits the division to designate by rule an organization to receive these filings.

In addition, under current law, certain federally registered investment advisers must complete a notice filing and pay a fee before transacting business in this state. Current law does not permit the division to designate an organization to receive this notice filing.

Current law also contains numerous provisions generally relating to documents filed with the division or with an organization designated by the division. These provisions, for example, establish the effective date and confidentiality of filings.

This bill permits the division to designate by rule an organization to receive any notice filing that is required of federally registered investment advisers. The bill also expands the scope of the provisions that generally relate to filed documents to ensure that the provisions govern documents filed by federally registered investment advisers with a designated organization.

In addition, this bill requires a person applying for a license as a securities broker-dealer, agent, investment adviser, or investment adviser representative, or making a notice filing, to pay any reasonable processing charge imposed by an organization designated to receive the application or filing. The bill also allows the person to transmit any fee owing to the division through the designated organization.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 551.31 (4m) (c) of the statutes is amended to read:

2 551.31 (4m) (c) The federal covered adviser has complied with the notice filing
3 and fee payment provisions under s. 551.32 (1m).

4 **SECTION 2.** 551.32 (1) (a) of the statutes is amended to read:

5 551.32 (1) (a) A broker-dealer, agent, investment adviser, or investment
6 adviser representative may obtain an initial or renewal license by filing with the
7 division, or with an organization which the division by rule designates, an
8 application ~~together with~~ and a consent to service of process under s. 551.65 (1), by
9 paying the fee prescribed under s. 551.52 (2), and, if the filing is made with an
10 organization designated by the division, by paying any reasonable fee charged by the
11 organization for processing the filing. If the filing is made with an organization
12 designated by the division, the broker-dealer, agent, investment adviser, or
13 investment adviser representative may transmit the fee prescribed under s. 551.52
14 (2) to the division through the organization.

15 **SECTION 3.** 551.32 (1m) (a) of the statutes is amended to read:

1 551.32 (1m) (a) ~~If required under s. 551.31 (4m), a~~ A federal covered adviser
2 shall file with the division ~~a, or with an organization which the division by rule~~
3 designates, any notice filing together with required under s. 551.31 (4m) and shall
4 pay the fee prescribed under s. 551.52 (2) and, if the notice filing is made with an
5 organization designated by the division, any reasonable fee charged by the
6 organization for processing the notice filing. The notice filing shall consist either of
7 a notice filing form prescribed by the division by rule or a copy of those documents
8 that have been filed with the federal securities and exchange commission as the
9 division, by rule or order, may require. If the notice filing is made with an
10 organization designated by the division, the federal covered adviser may transmit
11 the fee prescribed under s. 551.52 (2) to the division through the organization.

12 **SECTION 4.** 551.32 (1m) (b) of the statutes is amended to read:

13 551.32 (1m) (b) An initial notice filing is effective upon receipt by the division,
14 or by an organization designated by the division under par. (a), of the documents and
15 fee fees required in par. (a). A renewal notice filing is effective upon the expiration
16 under sub. (8) (a) of the prior notice filing, or upon receipt by the division, or by an
17 organization designated by the division under par. (a), of the documents and fee fees
18 required under par. (a), whichever is later.

19 **SECTION 5.** 551.32 (9) (b) of the statutes is amended to read:

20 551.32 (9) (b) Termination of a notice filing under ~~s. 551.32 sub. (1m)~~ sub. (1m) is effective
21 upon receipt by the division, or by an organization designated by the division under
22 sub. (1m) (a), of written notification of termination.

23 **SECTION 6.** 551.33 (3) of the statutes is amended to read:

24 551.33 (3) If the information contained in any application for a license or other
25 document filed with the division or an organization designated under s. 551.32 (1)

1 (a) or (1m) (a) is or becomes inaccurate or incomplete in any material respect, the
2 licensee person filing the application or document shall promptly file a correcting
3 amendment, except that a federal covered adviser shall file a correcting amendment
4 when it is required to be filed with the securities and exchange commission, unless
5 notification of the correction has been given under s. 551.32 (9) (a).

6 **SECTION 7.** 551.51 (2) of the statutes is amended to read:

7 551.51 (2) It is unlawful for the division or any officers or employees of the
8 division to use for personal benefit any information which is filed with or obtained
9 by the division or an organization designated under s. 551.32 (1) (a) or (1m) (a) and
10 which is not generally available to the public. Nothing in this chapter authorizes the
11 division or any officers or employees of the division to disclose any confidential
12 information except among themselves or to other securities administrators or
13 regulatory authorities or when necessary or appropriate in a proceeding or
14 investigation under this chapter. No provision of this chapter either creates or
15 derogates from any privilege which exists at common law or otherwise when
16 documentary or other evidence is sought under a subpoena directed to the division
17 or any officers or employees of the division.

18 **SECTION 8.** 551.52 (4) of the statutes is amended to read:

19 551.52 (4) The division may by rule require the payment of prescribed fees for
20 delinquent or materially deficient filings of information or documents required
21 under this chapter to be filed with the division or an organization designated under
22 s. 551.32 (1) (a) or (1m) (a).

23 **SECTION 9.** 551.54 of the statutes is amended to read:

24 **551.54 Misleading filings.** It is unlawful for any person to make or cause to
25 be made, in any document filed with the division, or filed under s. 551.32 (1) (a) or

1 (1m)(a) with an organization designated by the division, or in any proceeding under
2 this chapter, any statement which is, at the time and in the light of the circumstances
3 under which it is made, false or misleading in any material respect or, in connection
4 with such statement, to omit to state a material fact necessary in order to make the
5 statements made, in the light of the circumstances under which they are made, not
6 misleading.

7 **SECTION 10.** 551.64 (1) of the statutes is amended to read:

8 551.64 (1) A document is filed when it is received by the division or, if
9 authorized under s. 551.32 (1) (a) or (1m) (a), an organization designated by the
10 division.

11 **SECTION 11.** 551.65 (1) of the statutes is amended to read:

12 551.65 (1) Every applicant for license or registration under this chapter, every
13 person filing a notice filing under this chapter, and every issuer that proposes to offer
14 a security in this state through any person acting as agent shall file with the division,
15 ~~or, if applying for a license, with the~~ any organization designated by the division
16 under s. 551.32 (1) (a) or (1m) (a) to receive the applicable notice filing or application,
17 an irrevocable consent appointing the division to be his or her attorney to receive
18 service of any lawful process in any noncriminal suit, action, or proceeding against
19 him or her or a successor, executor, or administrator that arises under this chapter
20 or any rule or order under this chapter after the consent has been filed, with the same
21 validity as if served personally on the person filing the consent. The consent shall
22 be in the form the division by rule prescribes. The consent need not be filed by a
23 person who has filed a consent in connection with a previous registration or notice
24 filing or license that is then in effect. Service may be made by leaving a copy of the
25 process at the office of the division, but it is not effective unless the plaintiff, who may

1 be the division in a suit, action, or proceeding instituted by the division, promptly
2 sends notice of the service and a copy of the process by registered or certified mail to
3 the defendant or respondent at the person's last address on file with the division, and
4 the plaintiff's affidavit of compliance with this subsection is filed in the case on or
5 before the return day of the process, or within such time as the court allows.

6 (END)