

Chapter DFI-Sec 3

REGISTRATION REQUIREMENTS AND PROCEDURES

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Note: Chapter SEC 3 was renumbered chapter DFI-Sec 3 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, December, 1996, No. 492.

DFI-Sec 3.01 Registration by coordination. A registration statement under s. 551.303, Stats., shall be submitted on Form U-1, shall contain the following information and be accompanied by the following documents in addition to the information specified in ss. 551.303 (2) and 551.305, Stats.:

(1) (a) If the security to be registered is a note, bond, debenture or other evidence of indebtedness, a trust indenture meeting the requirements of s. DFI-Sec 3.04, unless the requirement to furnish a trust indenture relating to the securities is waived by the division for good cause shown; and

(b) Any other information or copies of any documents required to be filed under form U-1.

(2) In any offering for which a registration statement on U.S. securities and exchange commission Form F-7, F-8, F-9 or F-10 has been filed by coordination with the division, the requirement in s. 551.303 (3) (b), Stats., that a registration statement be on file with the division for at least 10 days is reduced to a requirement that the registration statement be on file with the division for at least 7 days.

History: Renum. from SEC 2.04 and am. Register, December, 1977, No. 264, eff. 1-1-78; am. (intro.), Register, December, 1979, No. 288, eff. 1-1-80; cr. (3), Register, December, 1980, No. 300, eff. 1-1-81; renum. (1) to be (1) (a) and am., renum. (2) and (3) to be (1) (b) and (2), Register, December, 1982, No. 324, eff. 1-1-83; cr. (3), Register, December, 1991, No. 432, eff. 1-1-92; renum. from SEC 3.21, Register, December, 1996, No. 492, eff. 1-1-97; am. (1) (a), r. (2), Register, December, 1998, No. 516, eff. 1-1-99; correction made under s. 13.93 (2m) (b) 1., Stats., Register, December, 1998, No. 516; CR 08-077: am. (intro.), (1) (a) and (2) Register December 2008 No. 636, eff. 1-1-09.

DFI-Sec 3.02 Registration by qualification. (1) A registration statement under s. 551.304 (2), Stats., shall be submitted on Form U-1, shall contain the information prescribed in ss. 551.304 (2) and 551.305, Stats., and if the security to be registered is a note, bond, debenture or other evidence of indebtedness, a trust indenture meeting the requirements of s. DFI-Sec 3.04, unless the requirement to furnish a trust indenture relating to the securities is waived by the division for good cause shown.

(2) The division may permit the omission of the filing of any information or document required under s. 551.304 (2), Stats., if the division determines that the information or document is not required for the protection of investors.

(3) Any information required under sub. (1) may be included in a prospectus meeting the requirements of s. DFI-Sec 3.03, 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; renum. from SEC 3.22, Register, December, 1996, No. 492, eff. 1-1-97; am. (1) (h), (m), Register, December, 1998, No. 516, eff. 1-1-99; CR 08-077: renum. (1) (intro.) to be (1) and am., r. (1) (a) to (q), am. (2) and (3) Register December 2008 No. 636, eff. 1-1-09.

DFI-Sec 3.03 Prospectus requirements. (1) As a condition of registration, a prospectus, offering circular, or similar document meeting the requirements of subs. (2), (3), (4) and (5)

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 may be sent or given in hard copy form, or may be provided in compliance with applicable federal requirements for electronic delivery of prospectuses. 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 division, 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;

(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) (2), 3. (a) (4), 3. (a) (11) or 4 (2) of the securities act of 1933, and a filing is required to be made under s. 551.304, 551.201 (1) (b) or 551.201 (7), Stats., or rules promulgated thereunder, each of the following 2 statements in bold-face type, as applicable to the offering:

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.

(i) Such other information as the division 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 under the securities act of 1933 that receives full review by the U.S. securities and exchange commission, shall not be subject to disclosure adequacy review or comment by the division. If the offering is being made pursuant to use of either Regulation A or 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, the form U-7 disclosure document as adopted in amended form on September 28, 1999 by the North American Securities Administrators Association, Inc. may be used.

Note: The Form U-7 disclosure document is available for review at, and a copy may be downloaded at no charge from, the NASAA Internet Website at www.nasaa.org.

(4) The disclosure-related provisions of the following guidelines or statements of policy of the North American Securities Administrators Association or other state securities organization listed, may be used by the division for purposes of reviewing the adequacy of disclosure in the prospectus filed with the registration application:

(a) The North American Securities Administrators Statement of Policy Regarding Selling Expenses and Selling Security Holders, as adopted effective September 14, 1989, and amended effective October 24, 1991.

(b) The North American Securities Administrators Association Statement of Policy Regarding Options and Warrants, as adopted effective October 24, 1992.

(c) The North American Securities Administrators Association Statement of Policy on Promotional Shares, adopted September 3, 1987.

(d) The North American Securities Administrators Association Statement of Policy Regarding Unequal Voting Rights, as adopted October 24, 1991.

(e) The North American Securities Administrators Association Statement of Policy regarding real estate programs, adopted April 15, 1980, as amended through August 27, 1990, including comments.

(f) The North American Securities Administrators Association Guidelines for the Registration of Oil and Gas Programs, adopted September 22, 1976, as amended through April 27, 1984.

(g) The North American Securities Administrators Association Guidelines for the Registration of Publicly Offered Cattle Feeding Programs, adopted September 17, 1980.

(h) The North American Securities Administrators Association Statement of Policy Regarding Church Bonds, adopted April 14, 2002.

(i) The North American Securities Administrators Association Health Care Facility Statement of Policy, adopted April 5, 1985.

(j) The Central Securities Administrators Council Statement of Policy on Finance Company Debt Securities, adopted August 12, 1976.

(k) The North American Securities Administrators Association Statement of Policy Regarding Affiliated Transactions, as adopted effective September 14, 1989, and amended effective October 24, 1991.

(L) The North American Securities Administrators Association Statement of Policy on Real Estate Investment Trusts, as adopted April 28, 1981, and amended through September 29, 1993.

(m) The North American Securities Administrators Association Statement of Policy on Registration of Commodity Pool Programs, adopted September 21, 1983, as amended effective August 30, 1990.

(n) The North American Securities Administrators Association Statement of Policy for Equipment Programs, adopted September 21, 1983, as amended April 22, 1988.

(o) The North American Securities Administrators Association Mortgage Program Guidelines, adopted September 10, 1996.

(p) The North American Securities Administrators Association Omnibus Guidelines, adopted March 29, 1992.

(q) The North American Securities Administrators Association Guidelines For General Obligation Financing by Religious Denominations, adopted April 17, 1994.

Note: All of the NASAA Guidelines are published in CCH NASAA Reports published by Commerce Clearing House and are on file at the offices of the Wisconsin secretary of state and the legislative reference bureau.

(5) Unless otherwise permitted by the division, 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.

(6) 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 division.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; renum. from DFI-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; r. (2) (h), renum. (2) (i) and (j) to be (2) (h) and (i) and am. (2) (h), Register, December, 1990, No. 420, eff. 1-1-91; am. (2) (h), Register, December, 1992, No. 444, eff. 1-1-93; am. (2) (h), (3), Register, December, 1994, No. 468, eff. 1-1-95; am. (3), Register, May, 1995, No. 473, eff. 6-1-95; am. (3), Register, December, 1995, No. 480, eff. 1-1-96; renum. from SEC 3.23, renum. (4) and (5) to be (5) and (6), am. (3), cr. (4), Register, December, 1996, No. 492, eff. 1-1-97; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1997, No. 495; am. (3), Register, December, 1998, No. 516, eff. 1-1-99; am. (3), Register, December, 1999, No. 528, eff. 1-1-00; am. (3), Register, December 2000, No. 540, eff. 1-1-01; CR 02-102: am. (4) (h), cr. (4) (o) to (q), Register December 2002 No. 564, eff. 1-1-03; CR 08-077: am. (2) (h) (intro.) Register December 2008 No. 636, eff. 1-1-09; CR 09-056: am. (1) (intro.) Register December 2009 No. 648, eff. 1-1-10.

DFI-Sec 3.04 Trust indenture requirements. Trust indentures required under ch. 551, Stats., and chs. DFI-Sec 1 to 9, shall meet the requirements of the trust indenture act of 1939, whether or not exempt under that act, unless the division 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; renum. from SEC 3.24, Register, December, 1996, No. 492, eff. 1-1-97.

DFI-Sec 3.05 Registration proceedings. (1) If any information is reasonably required by the division prior to the effective date of a registration statement filed under s. 551.303 or 551.304, 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 division.

(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. 551.306 (1) (a), Stats., and the division may issue a stop order denying effectiveness to such registration statement.

(3) The division may institute a proceeding under s. 551.306, Stats., and may issue a stop order suspending or revoking the effectiveness of any registration statement filed under s. 551.303 or 551.304, Stats., 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; renum. from SEC 3.25, Register, December, 1996, No. 492, eff. 1-1-97; CR 08-077: am. Register December 2008 No. 636, eff. 1-1-09.

DFI-Sec 3.06 Amendment of registration statements. (1) All applications for amendment of a registration statement shall be filed in the form prescribed by the division.

(2) A registration statement relating to securities issued by a finance company registered 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; renum. from SEC 3.26, Register, December, 1996, No. 492, eff. 1-1-97; CR 08-077: am. (2) Register December 2008 No. 636, eff. 1-1-09.

DFI-Sec 3.07 Extension of registration statements.

(1) Application for an extension of the offering period of a registration statement, except one relating to securities of a finance company registered under s. 138.09, Stats., shall be filed in the form prescribed by the division not less than 30 days prior to the end of one year from the effective date of the registration statement or an extended period of effectiveness for the registration statement, whichever is most recent. The application shall be accompanied by a prospectus updated in accordance with s. DFI-Sec 3.03 (6), 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. DFI-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. If no order specifying a different effectiveness period is in effect, renewal of the registration statement becomes effective on the day on which the prior registration statement expires or at such earlier time as the division determines.

(2) A registration statement relating to securities of a finance company registered [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 division issues a stop order suspending or revoking its effectiveness pursuant to s. 551.306, Stats., if the issuer files with the division 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. DFI-Sec 3.03 (6), a balance sheet of the issuer as of the end of the fiscal year, and a statement of income and change in financial position and analysis of surplus of the issuer for the fiscal year meeting the requirements of s. DFI-Sec 7.06.

Note: The correct word is shown in brackets.

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; am. (1), Register, December, 1994, No. 468, eff. 1-1-95; renum. from SEC 3.27, Register, December, 1996, No. 492, eff. 1-1-97; am. Register, December, 1998, No. 516, eff. 1-1-99; CR 08-077: am. Register December 2008 No. 636, eff. 1-1-09.

DFI-Sec 3.08 Periodic reports. Each issuer or registrant of securities registered under s. 551.304, Stats., shall file with the division such additional reports of sales and financial statements as may be specified by order, and shall furnish the division 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; renum. from SEC 3.28, r. (1), renum. (2), Register, December, 1996, No. 492, eff. 1-1-97; CR 08-077: am. Register December 2008 No. 636, eff. 1-1-09.