

SEC 168

STATE OF WISCONSIN
Office of the
COMMISSIONER OF SECURITIES

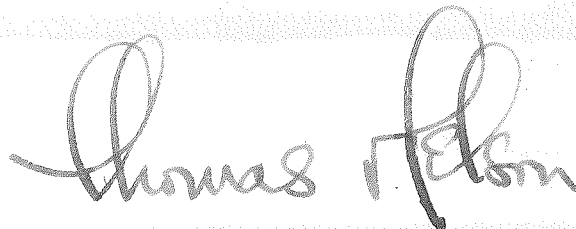
CERTIFICATE

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Thomas Nelson, Commissioner of Securities and custodian of the official records of said agency, hereby certify that the annexed rules, relating to state regulation of securities, were duly approved and adopted by this agency on November 17, 1969.

I further certify that said copy has been compared by me with the original on file in this agency and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the agency at Madison, Wisconsin, this 18th day of November, A.D. 1969.



COMMISSIONER OF SECURITIES

(SEAL)

Filed November 18, 1969
4. PM.

ORDER OF THE COMMISSIONER OF SECURITIES
ADOPTING AND REPEALING RULES

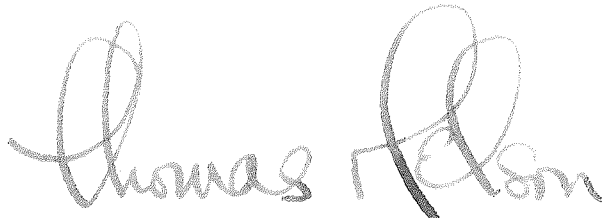
Pursuant to authority vested in the Commissioner of Securities by Section 189.17(2) of the Wisconsin Statutes and by Section 551.63(1) and (2) of the Wisconsin Statutes, as created by Chapter 71 of the Wisconsin Laws of 1969, the Commissioner of Securities hereby finds it is necessary and appropriate in the public interest and for the protection of investors to repeal and adopt rules as follows, and hereby repeals and adopts rules as follows:

Chapters SEC 1 through 8, inclusive, of the Wisconsin Administrative Code are repealed.

Chapters SEC 1 through 8, inclusive, of the Wisconsin Administrative Code are adopted in the form annexed hereto and made a part hereof.

The rules annexed hereto and repeals contained herein shall take effect on January 1, 1970, as provided in Section 227.026(1) of the Wisconsin Statutes.

Dated at Madison, Wisconsin, this 17th day of November, 1969.



COMMISSIONER OF SECURITIES

(SEAL)

RULES OF THE
COMMISSIONER OF SECURITIES
STATE OF WISCONSIN

Effective January 1, 1970

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Chapter SEC 1

TITLE AND DEFINITIONS

SEC 1.01 Short title. These rules shall be known and may be cited as the "Rules of the Commissioner of Securities."

SEC 1.02 Definitions. "Broker-dealer" as defined in section 551.02(3), Wis. Stats., does not include:

(1) A pension or profit sharing trust, when effecting transactions for its own account; or

(2) a licensed investment adviser when placing orders for the accounts of its clients in accordance with rules prescribed by the commissioner, provided that no commission or other remuneration is received by such investment adviser solely for placing such orders.

Chapter SEC 2

REGISTRATION OF SECURITIES

SEC 2.01 Exempt securities. (1) Any security listed, or approved for listing upon notice of issuance, on the New York Stock Exchange, is exempted under section 551.22(7), Wis. Stats., as is any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved, or any warrant or right to purchase or subscribe to any of the foregoing; provided that any such security offered in exchange for securities of any other issuer is exempted only if there is filed with the commissioner a notice of the proposed offering, a copy of any prospectus to be used in connection therewith and such additional information as he may require, and the commissioner does not by order disallow the exemption within 10 days.

(2) Any evidence of debt issued by a domestic non-profit corporation to persons other than members thereof is exempted under section 551.22(8), Wis. Stats., if there is filed with the commissioner a notice of the proposed issuance on a form prescribed by the commissioner; a copy of a trust indenture meeting the requirements of section SEC 2.07(2) under which such evidence of debt is proposed to be issued; a copy of a

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prospectus describing the issuer, trust indenture and evidence of debt proposed to be issued, which shall be given or sent to each person to whom an offer of such evidence of debt is made at the time or times specified in section SEC 2.06(1); and such additional information as the commissioner may require; and the commissioner does not by order disallow the exemption within 10 days or such shorter period as he may permit.

(3) Any security issued by a licensed broker-dealer to its officers, partners or employees is exempted under section 551.22(14), Wis. Stats., if there is filed with the commissioner a notice of the proposed issuance and such additional information as he may require, and the commissioner does not by order disallow the exemption within 10 days.

SEC 2.02 Exempt transactions. (1) An "isolated nonissuer transaction" under section 551.23(1) includes:

(a) Any sale of an outstanding security by or on behalf of a person not in control of the issuer or controlled by the issuer or under common control with the issuer; and not involving a distribution; and

(b) any sale of an outstanding security by or on behalf of a person in control of the issuer or controlled by the issuer or under common control with the issuer if such sale is

effected pursuant to brokers' transactions in accordance with section 4(4) of the securities act of 1933 and rules thereunder,

(2) In any nonissuer transaction effected by or through a licensed broker-dealer under section 551.23(2), Wis. Stats., pursuant to an unsolicited order or offer to purchase, the broker-dealer shall obtain from the purchaser a written acknowledgment that such purchase was unsolicited, or the confirmation delivered to the purchaser or a memorandum delivered in connection therewith shall confirm that such purchase was unsolicited by the broker-dealer or any agent of the broker-dealer. This exemption includes only transactions between a broker-dealer and a purchaser of a security.

(3) Any sale of an outstanding security is exempted under section 551.23(3), Wis. Stats., provided that:

(a) With respect to a security qualifying under sub. (3)(c) thereof, there is filed with the commissioner by the issuer or a licensed broker-dealer: a notice of the proposed sale on a form prescribed by the commissioner and the latest form of prospectus filed under the securities act of 1933 describing the securities proposed to be sold. Such exemption, unless disallowed by order of the commissioner within 10 days, is effective so long as the issuer is filing periodic

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information, documents and reports under section 15(d) of the securities exchange act of 1934.

(b) With respect to a security qualifying under sub. (3)(d) thereof, there is filed with the commissioner by the issuer: a notice of the proposed sale on a form prescribed by the commissioner, the prospectus used in the most recent offering of the securities proposed to be sold, any information specified in the prospectus requirements of the commissioner and not contained in the filed prospectus, the trust indenture, if any, under which the securities proposed to be sold are issued, a balance sheet of the issuer as of the end of the last fiscal year of the issuer preceding the date of filing and an income statement and analysis of surplus for such fiscal year meeting the requirements of section SEC 6.07, an undertaking to file with the commissioner within 120 days after the end of each fiscal year of the issuer comparable financial statements of the issuer for each such fiscal year, and an undertaking to furnish the commissioner with a written report within 30 days after the happening of any material event affecting the issuer or the securities proposed to be sold. Such exemption, unless disallowed by order of the commissioner within 10 days, is

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effective so long as the information required to be furnished is kept current. Such filing may be made by a licensed broker-dealer if the issuer fails to consent to such filing and there is a public market for the security, in which case such filing shall include such information as is known by such broker-dealer or can be furnished by it without unreasonable effort or expense.

(4) Any offer or sale of a security to the following financial institutions and institutional investors, in addition to those specified under section 551.23(8), Wis. Stats., is exempted under that section:

(a) An endowment or trust fund of a charitable organization specified in section 170(b)(1)(A) of the internal revenue code;

(b) an issuer which has any class of securities registered under section 12 of the securities exchange act of 1934; and

(c) any other corporation or partnership which has been in existence for 10 years or whose net assets exceed \$250,000, and whose principal purpose as stated in its articles, by-laws or other organizational instrument is the purchasing and holding of securities, provided that any broker-dealer obtains

records confirming such facts prior to effecting transactions with any such investor.

(5) With respect to an offer or sale of a security exempted under sections 551.23(10) or (11), Wis. Stats.:

(a) Any issuer or other person effecting sales of securities of any issuer shall file with the commissioner written reports of such sales on forms prescribed by him within 10 days after the aggregate amount of such sales in this state exceeds \$100,000 or sales are effected to an aggregate of 30 persons in this state within a 3 year period.

(b) Issuers related by reason of direct or indirect control by any such issuer over the other issuers or by reason of direct or indirect common control of such issuers by any other person or persons are deemed to be a single issuer.

(c) A reasonable commission or fee may be paid to a licensed broker-dealer for services rendered in connection with a sale of securities effected under these sections.

(6) Notice of an offer to existing security holders exempted under section 551.23(12), Wis. Stats., shall be filed on a form prescribed by the commissioner and shall be accompanied by any prospectus, circular or other document to be delivered to the offerees in connection with such transaction.

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(7) The term "class vote" as used in section 551.23(13), Wis. Stats., includes any vote pursuant to the articles of incorporation or the applicable corporation statute, of the stockholders of a corporation voting as one class, and any stockholder vote taken in accordance with the provisions of section 180.52, Wis. Stats., or comparable provisions of the articles of incorporation or of an applicable corporation statute of another state.

(8) Notice of an offer of an evidence of debt of a non-profit corporation exempted under section 551.23(15), Wis. Stats., shall be on a form prescribed by the commissioner and shall be accompanied by a copy of the trust indenture meeting the requirements of section SEC 2.07(2) under which the evidence of debt is proposed to be issued; a copy of a prospectus describing the issuer, trust indenture and evidence of debt proposed to be issued, which shall be given or sent to each person to whom an offer of such evidence of debt is made at the time or times specified in section SEC 2.06(1); such additional information as the commissioner may require; and

(a) with respect to an offer qualifying under sub. (15)(a), a signed or conformed copy of an opinion of counsel for the issuer or other evidence satisfactory to the commissioner with respect to the validity and rank of the lien of the mortgage or

deed of trust and evidence satisfactory to the commissioner that the total amount of the securities proposed to be offered does not exceed 50% of the then fair market value of the land and buildings included in such mortgage or deed of trust, less the amount of any unpaid special assessment taxes; or

(b) with respect to an offer qualifying under sub. (15)(b), an income statement and an analysis of surplus of the issuer for its 3 immediately preceding fiscal years and a balance sheet of the issuer as of the close of each such fiscal year meeting the requirements of section SEC 6.07.

(9) The following transactions are exempted under section 551.23(18), Wis. Stats., without limiting the commissioner's authority thereunder:

(a) Any isolated issuer transaction relating to redeemable securities of an investment company registered under the investment company act of 1940, effected through a licensed broker-dealer pursuant to an unsolicited order or offer to purchase, provided that the broker-dealer obtains from the purchaser a written acknowledgment that such purchase was unsolicited, or the confirmation delivered to the purchaser or memorandum delivered in connection therewith confirms that such purchase was unsolicited by the broker-dealer or any agent of the broker-dealer.

(b) The issuance of securities by a corporation in a transaction meeting the requirements of section 368(a)(1)(B) of the internal revenue code if there is filed with the commissioner a copy of the reorganization agreement and plan pursuant to which such securities are proposed to be issued; together with such additional information as the commissioner may require, and the commissioner does not by order disallow the exemption within 10 days.

(c) Any sale of securities pursuant to a transaction not involving a public offering under the securities act of 1933 which the commissioner may by order exempt and which is effected in compliance with such conditions as the commissioner may prescribe for the protection of investors.

SEC 2.03 Exemption proceedings. If any information is reasonably required by the commissioner prior to the effective date of an exemption, in connection with the examination of any notice filed pursuant to sections 551.22 or 551.23, Wis. Stats., the filing of such notice is made when the information so required is filed with the commissioner.

SEC 2.04 Registration by coordination. (1) A registration statement under section 551.25, Wis. Stats., shall contain the

following information and be accompanied by the following documents, in addition to the information specified in section 551.27(2), Wis. Stats., and the consent to service of process required by section 551.65(1), Wis. Stats.:

(a) Three copies of the latest form of prospectus filed under the securities act of 1933;

(b) a copy of the articles of incorporation and by-laws or their substantial equivalents currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen copy of the security;

(c) any other information or copies of any documents required to be filed under form U-1; and

(d) an undertaking to forward all future amendments to the federal prospectus, other than an amendment which merely delays the effective date of the registration statement, not later than the first business day after they are forwarded to or filed with the securities and exchange commission or such longer period as the commissioner permits.

(2) Registration of securities by coordination shall be by order of the commissioner, but the failure to issue an

order shall not delay the effectiveness of a registration statement meeting the requirements of section 551.25(3), Wis. Stats.

SEC 2.05 Registration by qualification. (1) A registration statement under section 551.26, Wis. Stats., shall contain the following information and be accompanied by the following documents, in addition to the information specified in section 551.27(2), Wis. Stats., and the consent to service of process required by section 551.65(1), Wis. Stats.:

(a) With respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; a description of the business done or intended to be done by the issuer, and the location and history of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;

(b) with respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past 5 years; the amount of securities of the issuer held by him, of record or beneficially, as of a

specified date within 30 days of the filing of the registration statement; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past 3 years or proposed to be effected;

(c) with respect to persons covered by sub. (1)(b): the remuneration paid directly or indirectly during the past 12 months, and estimated to be paid during the next 12 months if materially different, by the issuer (together with all predecessors, parents, subsidiaries, and affiliates) to all those persons in the aggregate;

(d) with respect to any person owning of record, or beneficially if known, 10% or more of the outstanding shares of any class of equity security of the issuer: the information specified in sub. (1)(b) other than his occupation;

(e) with respect to every promoter if the issuer was organized within the past 3 years: the information specified in sub. (1)(b), any amount paid to him within that period or intended to be paid to him, and the consideration for any such payment;

(f) with respect to any person on whose behalf any part of the offering is to be made in a nonissuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; a description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past 3 years or proposed to be effected; and a statement of his reasons for making the offering;

(g) the capitalization and long-term debt (on both a current and a pro forma basis) of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, goodwill, or anything else) for which the issuer or any subsidiary has issued any of its securities within the past 2 years or is obligated to issue any of its securities;

(h) the kind and amount of securities to be offered; the proposed offering price or the method by which it is to be computed; any variation therefrom at which any proportion of the offering is to be made to any person or class of persons other than the underwriters, with a specification of

any such person or class; the basis upon which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering) or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

(i) the estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be

raised from other sources to achieve the purposes stated; the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property (including goodwill) otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons who have received commissions in connection with the acquisition, and the amounts of any such commissions and any other expense in connection with the acquisition (including the cost of borrowing money to finance the acquisition);

(j) a description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in sub. (1)(b), (d), (e), (f), or (h) and by any person who holds or will hold 10% or more in the aggregate of any such options;

(k) the dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made within the past 2 years, together with a copy of every such contract; and a description of any pending litigation or

proceeding to which the issuer is a party and which materially affects its business or assets (including any such litigation or proceeding known to be contemplated by governmental authorities);

(l) a copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering;

(m) a specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and by-laws, or their substantial equivalents, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered;

(n) a signed or conformed copy of an opinion of counsel as to the legality of the security being registered (with an English translation if it is in a foreign language), which shall state whether the security when sold will be legally issued, fully paid, and nonassessable, and, if a debt security, a binding obligation of the issuer and that the security being registered or the proposed offering and sale thereof is exempt from registration under the securities act of 1933, if such is the case, specifying the basis for such exemption;

(o) the written consent of any independent accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by him, if any such person is named as having prepared or certified a report or valuation (other than a public and official document or statement) which is used in connection with the registration statement;

(p) a balance sheet of the issuer as of a date within 120 days prior to the filing of the registration statement; an income statement and analysis of surplus for each of the 3 fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessor's existence if less than 3 years, meeting the requirements of section SEC 6.07; and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements 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 he determines that such information or document is not required for the protection of investors.

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(3) Any information specified in sub. (1) may be included in a prospectus meeting the requirements of section SEC 2.06 if a cross-reference table is filed showing where the information appears in such prospectus.

SEC 2.06 Prospectus requirements. (1) As a condition of registration by qualification under section 551.26, Wis. Stats., a prospectus meeting the requirements of sub. (3) and (4) hereof shall be sent or given to each person to whom an offer is made before or concurrently with the first written offer made to him, otherwise than by means of public advertisement, 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 taken by him as a participant in the distribution; or the confirmation of any sale made by or for the account of any person; or the payment pursuant to any sale; or the delivery of the security pursuant to any sale; whichever first occurs.

(2) A preliminary or summary form of prospectus, clearly designated as such, may be sent or given by a licensed broker-dealer to any person to whom an offer of the security may be made, and is not an offer of a security under section 551.02(11), Wis. Stats., provided/a registration statement under section ^{that}

551.26, Wis. Stats., or a notice under section SEC 2.01(2) or 2.02(8) has been filed with the commissioner. Any such preliminary or summary prospectus shall be filed with the commissioner not later than the date of use.

(3) 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,
- (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) date of prospectus,
- (f) the following statement in bold-face type:

**THE REGISTRATION OF THESE SECURITIES BY THE
WISCONSIN COMMISSIONER OF SECURITIES DOES NOT
SIGNIFY THAT THE COMMISSIONER HAS APPROVED OR**

RECOMMENDED THESE SECURITIES, NOR HAS THE COMMISSIONER PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.,

- (g) 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

- (h) such other information as the commissioner may permit or require.

(4) 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 is deemed to satisfy the requirements of this rule.

(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,

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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 shall be made thereafter until such amended prospectus has been filed with the commissioner.

SEC 2.07 Trust indenture requirements. (1) Evidences of debt registered by coordination under section 551.25, Wis. Stats., shall be issued under a trust indenture meeting the requirements of the trust indenture act of 1939, or if exempt thereunder, meeting the requirements of sub. (2) of this rule.

(2) Evidences of debt registered by qualification under section 551.26, Wis. Stats., or exempted under section 551.22(8), Wis. Stats., or the offer or sale of which is exempted under section 551.23(15), Wis. Stats., unless otherwise permitted by the commissioner, shall be issued under a trust indenture meeting the requirements of the trust indenture act of 1939 or providing that:

(a) There shall at all times be one or more trustees thereunder, at least one of which shall be a corporation organized and doing business under the laws of the United States or of any state which is authorized under such laws

to exercise corporate trust powers and is subject to supervision or examination by federal or state authority; provided that where it appears that the requirements of a corporate trustee may not be necessary for the protection of investors, the commissioner may, upon such conditions as he deems appropriate, waive such requirement and permit the trustee to be an individual or other person;

(b) if the indenture requires or permits the appointment of one or more co-trustees in addition to the corporate trustee, then the rights, powers, duties and obligations conferred or imposed upon the trustees or any of them shall be conferred or imposed upon and exercised or performed by such corporate trustee or such corporate trustee and such co-trustee jointly, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed, such corporate trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by such co-trustee;

(c) in the case of certificates of interest or participation, the trustee shall have the legal power to exercise all of the rights, powers and privileges of a holder of a

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security or securities in which such certificates evidence an interest or participation; and

(d) if any trustee has or shall acquire any conflicting interest such trustee shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign, such resignation to become effective upon the appointment of a successor trustee and such successor's acceptance of such appointment, and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture.

SEC 2.08 Extension of registration statements. Notice of a proposed extension of the offering period of a registration statement, except a registration statement relating to redeemable securities of an investment company registered under the investment company act of 1940 or securities of a finance company licensed under sections 138.07 or 138.09, Wis. Stats., shall be filed on a 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, and shall be accompanied by the latest form of prospectus used in connection with the sale of the registered

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securities and a balance sheet of the issuer as of a date within 120 days of such proposed extension date and an income statement and analysis of surplus of the issuer for its last fiscal year preceding the date of such balance sheet and for the period between the close of the issuer's last fiscal year and the date of such balance sheet, all meeting the requirements of section SEC 6.07. Any extension of the offering period of a registration statement shall be by order of the commissioner, subject to such conditions as he may prescribe for the protection of investors.

SEC 2.09 Periodic reports. (1) Each issuer or registrant of securities registered under sections 551.25 or 551.26, Wis. Stats., except an issuer or registrant specified in sub. (2) of this rule, shall file with the commissioner within 90 days following the effective date of its registration statement a report on a form prescribed by the commissioner specifying the number of shares or units of securities sold in this state pursuant to such registration statement and the aggregate selling price thereof, unless such issuer or registrant has paid the maximum filing fee for such registration statement and the securities are registered

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under the securities act of 1933.

(2) Each investment company registered under the investment company act of 1940 issuing redeemable securities and each finance company licensed under sections 138.07 or 138.09, Wis. 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 such quarter.

(3) Each issuer or registrant of securities registered under section 551.26, Wis. 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.

SEC 2.10 Amendment of registration statements. (1) All applications for amendment of a registration statement shall be filed on forms prescribed by the commissioner.

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(2) a registration statement relating to redeemable securities of an investment company registered under the investment company act of 1940 or to securities issued by a finance company licensed under sections 138.07 or 138.09, Wis. Stats., may be amended after its effective date so as to increase the specified amount of securities proposed to be offered in this state.

SEC 2.11 Registration proceedings. If any information is reasonably required by the commissioner prior to the effective date of a registration statement filed under sections 551.25 or 551.26, Wis. Stats., in connection with the examination of such registration statement, the filing of such registration statement is made when the information so required is filed with the commissioner.

Chapter SEC 3

DENIAL, SUSPENSION AND REVOCATION OF REGISTRATIONS

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) of this rule, is presumed reasonable if, when added to the other expenses paid or payable in connection with the offering and sale of securities, the total of commissions and other expenses does not exceed 15% of the aggregate selling price of the securities.

(2) With respect to the sale of redeemable securities of investment companies registered under the investment company act of 1940:

(a) The maximum selling commission or discount is presumed reasonable if it does not exceed 9% of the selling price of the security. A redemption fee if charged is presumed reasonable if it does not exceed 1% of the redemption price of the security, but the redemption fee is considered as a part of the selling commission in determining compliance with this provision.

(b) The aggregate annual expenses of every character paid or incurred by any such investment company, inclusive of management fees but exclusive of interest and taxes, are presumed reasonable if they do not exceed 1% of the annual average net assets of such company, calculated at least quarterly on a basis consistently applied. If the management fee of any such company or trust is subject to variation based on investment performance or otherwise, the factors used as the basis for such variation shall not be inequitable in any respect.

SEC 3.02 Offering price. The offering price of any security shall be fair and equitable to purchasers, taking into account all relevant factors. With respect to common stock, 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) If a registration statement relating to common stock is filed in which the maximum or proposed offering price exceeds a multiple of 25 times the net earnings per share of the issuer for the last 12 months or its average net earnings per share for the last 3 years prior to the

proposed offering date, or such other multiple of earnings as the commissioner may prescribe in particular cases, the information set forth below shall be filed in justification of the offering price.

(2) If there is an existing public market for the stock, information shall be filed justifying the adequacy of such public market, including (a) the number of shares traded during each of the preceding 6 months, the number of stockholders of the issuer at the beginning and end of such 6-month period, and the names and locations of broker-dealers regularly making a market in the stock and of the financial publications where market prices of the stock are regularly quoted if the stock is not listed on a national securities exchange, and (b) information accounting for any significant increase in the price/earnings multiple of the stock over such 6-month period.

(3) If there is no existing public market for the stock, information shall be filed justifying the proposed offering price in relation to the recent offering and current market prices of the stock of companies comparable to the issuer in terms of size, history of operation, 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.

(4) The information prescribed in sub. (2) and (3) is not required in the case of common stock of an issuer which is in the promotional or development stage.

SEC 3.03 Options and warrants. The amounts and kinds of options and warrants to purchase securities issued or sold, other than ratably to purchasers, in connection with a proposed offering of equity securities or securities convertible into equity securities, shall be reasonable. Options and warrants are presumed reasonable if they satisfy the following conditions:

(1) Restricted or qualified stock options to employees for incentive purposes shall be reasonable in number and method of exercise.

(2) Options or warrants to underwriters are presumed reasonable if they satisfy all of the following conditions or if the offering has been reviewed by the committee on underwriting arrangements of the National Association of Securities Dealers, Inc., and has not been found to involve unfair and unreasonable underwriters' compensation:

(a) The options or warrants are issued to managing underwriters under a firm underwriting agreement, provided they are not transferable except among the partners or stockholders of the underwriter.

(b) The options or warrants do not exceed 5 years in duration and are exercisable no sooner than one year after issuance.

(c) The exercise price of the options or warrants is at least equal to the public offering price plus a step-up of said public offering price of either 7% each year such options or warrants are outstanding, so that the exercise price throughout the second year is 107%, throughout the third year 114%, throughout the fourth year 121%, and throughout the fifth year 128%; or in the alternative, 20% at any time after one year from the date of issuance; provided that an election as to either alternative must be made by the underwriters at the time that the options or warrants are issued.

(d) The options or warrants are issued by a company which is in the promotional or development stage, or which lacks a public market for its stock, or other factors justify the issuance of options to obtain underwriting services;

provided that the direct commissions to the underwriters are lower than the usual and customary commissions in the absence of such options or warrants.

(e) The prospectus used in connection with the offering fully discloses the terms and the reason for the issuance of such options or warrants, and, if such reason relates to future advisory services to be performed by the underwriter, a statement to that effect is placed in the prospectus.

(f) The value of the options or warrants shall be included in the computation of underwriting commissions and discounts. The market value of such options or warrants, if any, shall be used, and where no market value exists, a presumed fair value of not less than 20% of the public offering price of the stock to which the options or warrants relate shall be used, unless evidence indicates that a different value exists.

(3) Options or warrants issued to financing institutions, other than underwriters, in connection with financing arrangements made by the issuer are presumed reasonable if they satisfy all of the following conditions:

(a) The options or warrants are issued in connection with the issuance of the evidence of indebtedness of the loan.

(b) The options or warrants expire not later than 2 years after the final maturity date of the loan.

(c) The options or warrants are issued as a result of bona fide negotiations between the issuer and parties not affiliated with the issuer.

(d) The exercise price of such options or warrants is not less than the fair market value of the stock subject thereto on the date the loan is approved.

(e) The number of shares issuable upon exercise of the options or warrants multiplied by the exercise price thereof does not exceed the principal amount of the loan.

(4) The total amount of options and warrants issued or reserved for issuance at the date of the public offering shall be reasonable. The amount of options and warrants is presumed reasonable if the number of shares subject to such options and warrants, excluding options issued to financing institutions and options issued in connection with acquisitions, does not exceed ^{either} 10% of the shares to be outstanding upon completion of the offering or 10% of the shares outstanding during the period the registration statement is effective. The number of options and warrants reserved for issuance may be disregarded if the issuer files an undertaking

or states in the prospectus that the amount of outstanding options and warrants shall not exceed the above amount during the period the registration statement is effective.

(5) All options and warrants except those issued to financing institutions shall be issued at not less than fair market value on the date of issuance, and the exercise price shall not be subject to change by the issuer except in accordance with anti-dilution provisions in effect on the date of issuance.

SEC 3.04 Promotional or cheap stock. (1) An offering 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 unreasonable amounts of promotional or cheap stock have been issued or sold prior to the offering.

(2) For the purpose of this rule, "promotional or cheap stock" includes any equity or convertible securities issued or sold within 2 years prior to the public offering date to persons who at the time of such sale or issuance were underwriters, promoters, finders, officers, directors,

or controlling stockholders of the issuer, at a price lower than or at a conversion rate or for a consideration not reasonably related to the public offering price of such securities, in the absence of any public market for such equity securities or any substantial change in the earnings or financial position of the issuer.

(3) The issuance of promotional or cheap stock is presumed reasonable if any of the following conditions are satisfied:

(a) The issuer was organized less than 2 years prior to the public offering date and is in the promotional or development stage, the promotional or cheap stock was issued at or shortly after the date of organization, and the amount of promotional or cheap stock issued to persons subject to this rule, when added to the number of shares of stock subject to unexercised options and warrants issued to such persons, does not exceed 25% of the amount of stock to be outstanding on completion of the offering or outstanding during the period the registration statement is effective.

(b) The amount of promotional or cheap stock issued to persons subject to this rule, when added to the amount of unexercised options and warrants issued to such persons,

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does not exceed 10% of the amount of stock to be outstanding on completion of the offering or outstanding during the period the registration statement is effective.

(c) The proposed offering price of the equity securities does not exceed the multiple of earnings prescribed in section SEC 3.02(1) for each of the last 2 years prior to the public offering date, after taking into account the promotional or cheap stock issued.

(4) The commissioner may require as a condition of registration of such securities that all or any part of the promotional or cheap stock be deposited in escrow pursuant to section 551.27(7), Wis. Stats., under such conditions as he may prescribe.

SEC 3.05 Promoters' investment. (1) The offering or sale of securities of an issuer in the promotional or development stage may be deemed unfair and inequitable to purchasers unless the fair value of the equity investment of the officers, directors, and promoters of such issuer, determined as of the offering date, equals at least 10% of the total equity investment resulting from the sale of all the securities which are the subject of the proposed offering.

(2) For purposes of this rule:

(a) The "fair value of the equity investment" of the officers, directors and promoters means the total of all amounts contributed to the issuer in cash together with the reasonable value of all tangible assets contributed to the issuer, as determined by independent appraisal or otherwise, and as adjusted by the earned surplus or deficit of the issuer subsequent to the dates of contribution.

(b) "Total equity investment" means the total of the par or stated value of all securities of the issuer outstanding or offered or proposed to be offered, and the amounts of surplus of any kind, regardless of description and whether or not restricted.

(3) For purposes of this chapter, an issuer in the "promotional or development stage" means an issuer which has no significant record of operations or earnings prior to the proposed offering date or the offering of whose securities cannot be justified on the basis of such record.

SEC 3.06 Preferred stock and debentures. (1) The offering or sale of preferred stock of an issuer may be deemed unfair and inequitable to purchasers if the net earnings of the issuer for (a) its last year prior to the offering or

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(b) the average of its last 3 years prior to the offering, as stated in the prospectus, exclusive of nonrecurring items, or the substantiated future earnings capability of the issuer, is insufficient to cover the dividends on the securities to be offered or sold.

(2) The offering or sale of debt securities, including debentures, notes and bonds of an issuer, may be deemed unfair and inequitable to purchasers if the cash flow of the issuer for (a) its last year prior to the offering or (b) the average of its last 3 years prior to the offering, as stated in the prospectus, exclusive of nonrecurring items and adjusted for the issuance of the debt securities, or the substantiated future cash flow capability of the issuer, is insufficient to cover the interest on the securities proposed to be so offered.

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

(4) The offering or sale of preferred stock or debentures by an issuer in the promotional or development

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 offering or sale of (a) debt securities by a nonprofit issuer, (b) industrial development revenue bonds, (c) securities issued pursuant to a voluntary or involuntary corporate reorganization, or (d) securities of an issuer whose financial structure or the issuance of whose securities is regulated by federal or state governmental authority.

SEC 3.07 Non-voting stock. The offering or sale of equity securities of an issuer having more than one class of equity securities authorized or outstanding may be deemed unfair and inequitable to purchasers if the class of equity securities to be offered or sold to such purchasers (a) has no voting rights or (b) has less than equal voting rights, in proportion to the number of shares of each class outstanding, on all matters, including election to the board of directors of the issuer, unless preferential treatment as to dividends and liquidation is provided with respect to the class of equity securities offered or sold or the inequality

in voting rights is otherwise justified by the issuer or registrant.

SEC 3.08 Capitalization. The offering or sale of one class of securities may be deemed unfair and inequitable to purchasers if the aggregate amount of the class of securities being offered is unreasonable in relation to the aggregate amount of other classes of outstanding securities of the issuer, consideration being given to the nature of the issuer's business and to other relevant factors. An offering of debt securities or preferred stock is presumed reasonable if the aggregate amount of stockholders' equity and junior securities exceeds 50% of the aggregate amount of the class of securities being offered, or if the offering is justified by the prevailing debt-equity ratios in the issuer's industry or by the issuer's history of interest or dividend coverage.

SEC 3.09 Incomplete registration statements. 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 section 551.28(1)(a), Wis. Stats., and the commissioner may issue a stop order denying

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effectiveness to such registration statement.

SEC 3.10 Federal securities laws. The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement filed pursuant to section 551.26, Wis. Stats., when he finds that the sale of securities pursuant or would be to such registration statement is/in violation of the securities act of 1933 or the investment company act of 1940.

SEC 3.11 Other causes for denial, suspension or revocation of registrations. The enumeration of causes stated in sections SEC 3.01 through 3.10 is not exclusive, and the commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement for any cause stated in section 551.28, Wis. Stats., whether similar to or different from the causes enumerated in those sections, when necessary or appropriate in the public interest or for the protection of purchasers.

Chapter SEC 4

LICENSING OF BROKER-DEALERS, AGENTS
AND INVESTMENT ADVISERS

SEC 4.01 License period. (1) Renewal licenses of broker-dealers whose names commence with the letters A through D expire on March 31 of each year; renewal licenses of broker-dealers whose names commence with the letters E through I expire on June 30 of each year; renewal licenses of broker-dealers whose names commence with the letters J through O expire on September 30 of each year; and renewal licenses of broker-dealers whose names commence with the letters P through Z expire on December 31 of each year. Renewal licenses of agents representing broker-dealers expire on the same day as that of the broker-dealer which they represent. Renewal licenses of agents representing issuers expire on December 31 of each year. Renewal licenses of investment advisers expire on December 31 of each year.

(2) Initial licenses of broker-dealers, agents and investment advisers shall, if renewed, expire on the respective dates set forth in sub. (1).

SEC 4.02. Licensing procedure. (1) Applications for initial and renewal licenses of broker-dealers, agents and investment advisers shall be filed on forms prescribed by the commissioner and shall include all information required by such forms with respect to the applicant's form and place of organization; proposed method of doing business and financial condition; qualifications and experience of the applicant, including, in the case of a broker-dealer or investment adviser, qualifications and experience of any partner, officer, director or controlling person; any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony; and any other matters which the commissioner determines are relevant to the application.

(2) If the commissioner reasonably requires any applicant for a license to furnish information in addition to that contained in the application or requires the applicant or any partner, officer, director or controlling person thereof to take an examination, the filing of the license application is deemed made when such information is furnished or such examination is satisfactorily completed.

(3) Each applicant for an initial license as an agent

or investment adviser and each person representing an investment adviser in this state is required to pass a written examination prescribed by the commissioner. The commissioner may require that a written examination be taken by one or more partners or officers representing a broker-dealer in this state prior to the issuance of a license to the broker-dealer, and by one or more supervisory employes of a licensed broker-dealer prior to acting as such in this state. Any such examination shall relate to chapter 551, Wis. Stats., and the rules of the commissioner thereunder, the applicable federal securities laws and the rules of the securities and exchange commission thereunder, general matters concerning the securities business and such other matters as the commissioner may determine. The commissioner may, with respect to any person, waive the examination insofar as it relates to general matters concerning the securities business upon receipt of evidence of satisfactory completion of a comparable examination administered by the National Association of Securities Dealers, Inc. The commissioner may prescribe different examinations for different classes of applicants.

(4) No person shall be issued an initial license as a

broker-dealer, agent or investment adviser unless satisfactory evidence is furnished to the commissioner of the trustworthiness, training, experience and knowledge of the securities business of the applicant and its partners, officers, directors and controlling persons and their competence to engage in the business of effecting transactions in securities or giving investment advice.

SEC 4.03 Withdrawals of licenses. An application for withdrawal from the status of a licensed broker-dealer, agent or investment adviser under section 551.34(6), Wis. Stats., shall be filed by the licensee, except that withdrawal from the status of a licensed agent may be filed by the agent or by the broker-dealer or issuer which he represents. Notification of termination of an agent's connection with a broker-dealer or issuer is deemed an application for such withdrawal.

SEC 4.04 Net capital requirements. (1) Every broker-dealer shall have the net capital necessary to comply with all of the following conditions:

(a) The aggregate indebtedness of the broker-dealer to all other persons shall not exceed 2,000% of its net capital.

(b) The broker-dealer shall have and maintain net capital of not less than \$20,000; provided that if a broker-dealer effects only transactions involving the sale and redemption of redeemable securities of investment companies registered under the investment company act of 1940, does not effect margin transactions with any customers, and does not hold funds or securities of any customer or owe money or securities to any customer, such broker-dealer shall have and maintain net capital of not less than \$10,000.

(2) Every investment adviser shall have and maintain net capital of not less than \$5,000.

(3) If a broker-dealer or investment adviser is an individual, he shall segregate from his personal capital an amount sufficient to satisfy his net capital requirement, and the amount so segregated shall be utilized solely for the business for which such broker-dealer or investment adviser is licensed.

(4) For the purpose of this rule and to insure uniform interpretations, the terms "aggregate indebtedness" and "net capital" of a broker-dealer have the respective meanings as defined in rule 15c3-1 under the securities exchange act of 1934. A copy of any subordination agreement relating to a

broker-dealer shall be filed with the commissioner or with a national securities exchange of which the broker-dealer is a member, within 10 days after such agreement has been entered into, and shall meet the requirements of a "satisfactory subordination agreement" as defined in rule 15c3-1.

(5) The commissioner may by order exempt from the provisions of this rule, either unconditionally or upon special terms and conditions, any broker-dealer who satisfies the commissioner that because of membership in a national securities exchange or because of the special nature of business, and its financial position, and the safeguards that have been established for the protection of customers' funds and securities, it is not necessary in the public interest or for the protection of investors to subject the broker-dealer to this rule.

SEC 4.05 Broker-dealers records. (1) Every licensed broker-dealer shall make and keep current the following books and records relating to its business:

(a) Blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities

(including certificate numbers), all receipts and disbursements of cash and all other debits and credits. Such record shall show the account for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered.

(b) Ledgers (or other records) reflecting all assets and liabilities, income, and expense and capital accounts.

(c) Ledgers (or other records) itemizing separately as to each cash and margin account of every customer and of such broker-dealer and partners thereof, all purchases, sales, receipts and deliveries of securities and commodities for such account and all other debits and credits to such account.

(d) Ledgers (or other records) reflecting the following:

1. Securities in transfer;
2. Dividends and interest received;
3. Securities borrowed and securities loaned;
4. Moneys borrowed and moneys loaned (together with a record of the collateral therefor and any substitutions in such collateral);

5. Securities failed to receive and failed to deliver.

(e) A securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping) carried by such broker-dealer for its account or for the account of its customers or partners and showing the location of all securities long and the offsetting position to all securities short and in all cases the name or designation of the account in which each position is carried.

(f) A memorandum of each order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. Such memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise of discretionary power by such broker-dealer, or any employe thereof, shall be so designated. The term "time of entry" shall mean the time when such broker-dealer transmits the order or instruction for execution, or, if it is not so transmitted, the time when it is received.

(g) A memorandum of each purchase and sale of securities for the account of such broker-dealer showing the price and, to the extent feasible, the time of execution.

(h) Copies of confirmations of all purchases and sales of securities, and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of such broker-dealer.

(i) Copies of all communications, correspondence and other records relating to securities transactions with customers, including all complaints of customers relating to securities transactions.

(j) The account card and a record in respect of the opening and maintenance of each cash and margin account with such broker-dealer, all guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority in respect of any account, the name and address of the beneficial owner of each account and, in the case of a margin account, the signature of such owner; provided that, in the case of a joint account or an account of a corporation, such records are required only in respect of the person or persons authorized to transact business for such account.

(k) All partnership articles or, in the case of a corporation, all articles of incorporation, by-laws, minute books and stock certificate books of such broker-dealer.

(2) Every licensed broker-dealer shall preserve for a period of not less than 6 years, the first 2 years in an easily accessible place, all records required under sub. (1) of this rule, except that records respecting an account required under sub. (1)(j) shall be preserved by a broker-dealer for a period of not less than 6 years after the closing of the account and records required under sub. (1)(k) shall be preserved by a broker-dealer for a period of not less than 6 years after withdrawal or expiration of its license in this state. After a record or other document has been preserved for 2 years a microfilm copy thereof may be substituted for the remainder of the required period.

(3) This rule shall not be deemed to require a member of a national securities exchange to make or keep such records of transactions cleared for such member by another member as are customarily made and kept by the clearing member.

(4) Compliance with the requirements of the securities and exchange commission with respect to preservation of records is deemed compliance with this rule.

SEC 4.06 Investment advisers' records. (1) Every licensed investment adviser shall maintain and keep current the following books and records relating to its business:

(a) Ledgers (or other records) reflecting all assets and liabilities, income and expense and capital accounts.

(b) A record showing all payments received, including date of receipt, purpose and from whom received; and all disbursements, including date paid, purpose and to whom made.

(c) A record showing all receivables and payables.

(d) Records showing separately for each client the securities purchased or sold, and to the extent it has been made available to the investment adviser, the date and amount of and price at which such purchases or sales were executed, and the name of the broker-dealer who effected the transaction.

(e) Records showing separately all securities bought or sold by the clients of the investment adviser insofar as known to the investment adviser and indicating thereon with proper identification of the individual account, the date, amount, and price at which such securities were purchased or sold by or for each client; or, in the alternative, a record showing all such securities bought or sold by or for

the accounts of all clients of the investment adviser in each month, the total number of shares or principal amount of each security bought or sold and the lowest and highest price at which such purchases or sales were made during the month.

(f) Copies of broker-dealers' confirmations of all transactions placed by the investment adviser for any account, and such other broker-dealers' confirmations as may be supplied to the investment adviser by a client or broker-dealer.

(g) Records of all accounts in which the investment adviser is vested with discretionary authority, including powers of attorney and other evidence of such discretionary authority.

(h) Copies of all agreements entered into by the investment adviser with respect to any account, which agreements shall set forth the fees to be charged and the manner of computation and method of payment thereof, and copies of all communications, correspondence and other records relating to securities transactions with customers including all complaints of customers relating to securities transactions.

(i) All partnership articles, or all articles of

incorporation, by-laws, minute books and stock certificate books of such investment adviser.

(2) Every licensed investment adviser shall preserve for a period of not less than 3 years, the first 2 years in an easily accessible place, all records required under sub. (1) of this rule, except that records respecting an account required under sub. (1)(g) and (h) shall be preserved by the investment adviser for a period of not less than 3 years after the closing of the account and records required under sub. (1)(i) shall be preserved by the investment adviser for a period of not less than 3 years after withdrawal or expiration of its license in this state. After a record or other document has been preserved for 2 years a microfilm copy thereof may be substituted for the remainder of the required period.

SEC 4.07 Reporting requirements. (1) Each broker-dealer or investment adviser, within 45 days after the end of each fiscal year or within 45 days after any surprise audit of a broker-dealer under the rules of a national securities exchange of which it is a member, shall file with the commissioner a verified statement of assets and liabilities as

of the end of such fiscal year or as of the date of such surprise audit. In the case of a broker-dealer such financial statements shall be prepared in accordance with the requirements of form X-17A-5 under the securities exchange act of 1934 and include all information specified under such requirements.

(2) Each broker-dealer and investment adviser shall file with the commissioner, within 20 days, a copy of any complaint filed against such broker-dealer or investment adviser or any of his or its partners, officers or agents, in any civil or criminal proceeding, or in any administrative or disciplinary proceeding by any public or private regulatory agency, related to its securities business or securities transactions in this state or affecting its operations in this state, a copy of any answer or reply thereto filed by such broker-dealer or investment adviser, and a copy of any decision, order or sanction made with respect to any such proceeding.

(3) Each broker-dealer shall file with the commissioner within 30 days after the end of each month, a written report on a form prescribed by the commissioner, stating with respect to that month (a) the securities and number of units or

shares thereof sold and the aggregate selling price thereof and the number of customers to which such securities were sold in each distribution in which such broker-dealer participated, and (b) the securities and number of shares or units thereof sold by such broker-dealer, the price ranges thereof and the number of customers to whom such securities were sold in transactions exceeding in the aggregate such amounts as may be prescribed by the commissioner, exclusive of sales specified in (a), and whether such broker-dealer was acting as a market maker in such securities during such month. No reports are required to be filed for months during which the broker-dealer did not engage in transactions subject to this rule.

(4) Each broker-dealer and investment adviser shall file with the commissioner a notice of transfer of control of such broker-dealer or investment adviser not less than 20 days prior to the date on which such transfer of control is to become effective or such shorter period as he may permit, and shall furnish the commissioner with such additional information relating thereto as he may reasonably require.

SEC 4.08 Rules of conduct. (1) Each broker-dealer, promptly after execution of and before completion of each transaction with its customer, shall give or send to the customer a written confirmation setting forth:

(a) a description of the security purchased or sold, the date of the transaction, the price at which the security was purchased or sold and any commission charged;

(b) whether the broker-dealer was acting for its own account, as agent for the customer, as agent for some other person, or as agent both for the customer and some other person;

(c) when the broker-dealer is acting as agent for the customer, either the name of the person from whom the security was purchased or to whom it was sold or the fact that such information will be furnished upon the request of the customer.

(2) Each broker-dealer and investment adviser shall establish written supervisory procedures, and a system for applying such procedures, which may reasonably be expected to prevent and detect any violations of chapter 551, Wis. Stats., and rules and orders thereunder. Such procedures shall include the designation and qualification of a number

of supervisory employes reasonable in relation to the number of its licensed agents, offices and transactions in this state.

(3) An investment adviser shall not enter into, extend, or renew any investment advisory contract unless it provides in writing:

(a) that the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(b) that no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(c) that the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

(4) Sub. (3)(a) of this rule does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. "Assignment," as used in sub. (3)(b) of this rule

includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business. As used in sub. (3) of this rule, "investment advisory contract" means any contract or agreement whereby a person agrees to act as investment adviser or to manage any investment or trading account for a person other than persons specified under section 551.23(8), Wis. Stats.

SEC 4.09 Unethical business practices. (1) The following are deemed "unethical business practices" by a broker-dealer under section 551.34(1)(g), Wis. Stats., without limiting that term to the practices specified herein:

(a) causing an unreasonable delay in the delivery of securities purchased by any of its customers;

(b) inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of such account;

(c) recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for such customer on the basis of information furnished by such customer after such reasonable inquiry as may be necessary under the circumstances concerning the customer's investment objectives, financial situation and needs, and any other information known by such broker-dealer;

(d) executing a transaction on behalf of a customer without authority to do so;

(e) exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from such customer unless such discretionary power relates solely to the execution of orders;

(f) extending credit to a customer in violation of the securities exchange act of 1934 or the regulations of the federal reserve board;

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(g) executing any transaction in a margin account without obtaining from its customer a written margin agreement prior to the completion of the initial transaction in such account;

(h) failing to segregate customers' free securities or securities in safekeeping;

(i) hypothecating a customer's securities without having a lien thereon unless written consent of the customer is first obtained;

(j) charging its customer an unreasonable commission or service charge in any transaction executed as agent for such customer, taking into consideration all relevant factors;

(k) entering into a transaction for its own account with a customer in a security at a price including an unreasonable mark-up or mark-down of the security, taking into consideration all relevant factors;

(l) entering into a transaction with a customer in a security at a price not reasonably related to the current market price of the security; and

(m) executing orders for the purchase^{by a customer}/of securities not registered under sections 551.25 or 551.26,

*

Wis. Stats., unless the securities are exempted under section 551.22, Wis. Stats., or the transaction is exempted under section 551.23, Wis. Stats.

(2) The following are deemed "unethical business practices" by an agent under section 551.34(1)(g), Wis. Stats., without limiting that term to the practices specified herein:

(a) borrowing money or securities from a customer;

(b) effecting securities transactions with a customer not recorded on the records of or disclosed to the broker-dealer which he represents;

(c) operating an account under a fictitious name, unless disclosed to the broker-dealer which he represents;

(d) sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which he represents;

(e) dividing or otherwise splitting commissions, profits or other compensation receivable in connection with the purchase or sale of securities in this state with any person not a licensed broker-dealer or agent; and

(f) engaging in any of the practices specified under sub. (1)(b), (c) and (d) of this rule.

(3) The following are deemed "unethical business practices" by an investment adviser under section 551.34(1)(g), Wis. Stats., without limiting that term to the practices specified herein:

(a) exercising any discretionary power in placing an order for the purchase or sale of securities for the account of a customer without first obtaining written discretionary authority from such customer; or

(b) placing an order for the purchase or sale of a security pursuant to discretionary authority if such purchase or sale is in violation of chapter 551, Wis. Stats., or any rule thereunder.

SEC 4.10 Bank agency transactions. (1) A bank, savings institution or trust company not licensed as a broker-dealer may execute orders for the purchase or sale of securities as agent for the purchaser or seller thereof, in transactions not in violation of chapter 551, Wis. Stats., or rules thereunder, under the following conditions:

(a) the bank, savings institution or trust company has no direct interest in the sale or distribution of the securities purchased or sold, receives no commission, profit, or other compensation from any source other than the purchaser

or seller, delivers to the customer its own written confirmation of the order which clearly itemizes its commission, profit or other compensation; and

(b) the bank, savings institution or trust company, in connection with purchases of securities from or through broker-dealers, discloses to the broker-dealer whether such purchase is for its own account, or for the account of a customer for whom it is acting as trustee, or for the account of a customer for whom it is acting as agent and whether such customer is a person specified under section 551.23(8), Wis. Stats.

(2) The bank, savings institution or trust company shall make, keep current and preserve for a period of not less than 3 years, adequate records of purchases and sales of securities by it as agent for its customers, including copies of its own confirmations delivered to its customers and copies of confirmations received from broker-dealers in connection with such transactions and records confirming any customer is a person specified under section 551.23(8), Wis. Stats.

(3) Nothing in this rule shall prevent a bank, savings

institution or trust company from acting as depository,
custodian, exchange agent, escrow agent, transfer agent,
registrar or in any similar capacity in the ordinary course
of business.

Chapter SEC 5

FRAUDULENT PRACTICES

SEC 5.01 Application of proceeds. An issuer of securities registered under chapter 551, Wis. Stats., or any person who is an officer, director or controlling person of such issuer is deemed to employ a "device, scheme or artifice to defraud" the purchasers of such securities within the meaning of section 551.41(1), Wis. Stats., if such person applies or authorizes or causes to be applied any material part of the proceeds from the sale of such securities in any material way contrary to the purposes specified in the prospectus used in the offering of such securities and not reasonably related to the business of the issuer as described in the prospectus.

SEC 5.02 Stock distributions. A person authorizing or causing the distribution of securities as a stock dividend by a corporation other than the issuer, without registration of such securities under chapter 551, Wis. Stats., or the securities act of 1933, is deemed to employ a "device, scheme or artifice to defraud" the purchasers of such securities in broker-dealer transactions, within the meaning of section

551.41(1), Wis. Stats., if the issuer of the securities is a corporation organized or acquired for the purpose of such distribution either by the distributing corporation or by a person or persons in control of, controlled by, or under common control with, the distributing corporation or if the issuer has nominal assets or income at the time of such distribution, and if such person reasonably believes that the distribution will be followed by transactions in such securities effected through broker-dealers.

SEC 5.03 Broker-dealer activities. The terms "manipulative, deceptive or other fraudulent device or contrivance" in section 551.43, Wis. Stats., are defined to include the activities described in rules 15c1-1, 2, 4, 5, 6, 7 and 8 and 15c2-1, 4, 5 and 7 under the securities exchange act of 1934.

*Case and
Department
attorneys
re: 15c1-1
3/24/44
15c1-1
1/2/44*

Chapter SEC 6

GENERAL PROVISIONS

SEC 6.01 Examination expenses. The following amounts are prescribed for the expenses of examination of various matters arising under chapter 551, Wis. Stats., are chargeable to the applicant, registrant or licensee, and are payable unless otherwise provided at the time an application or notice is filed:

- (1) Examination of registration matters:
 - (a) application for post-effective amendment of a registration statement \$20
 - (b) application for extension of a registration statement \$20
 - (c) application for exemption from registration under section 551.23(18), Wis. Stats. \$50
 - (d) application for opinion confirming an exemption \$20
 - (e) notice filed under section 551.22(8), (10), or (14), Wis. Stats., or under section 551.23(3)(c) or (12), Wis. Stats., or under sections SEC 2.01(1) or 2.02(9) \$20

- (f) notice filed under section 551.23
(3)(d) or (15), Wis. Stats. \$50
- (2) Examination of licensing matters:
- (a) examination of an agent, investment
adviser or a person representing an
investment adviser pursuant to sec-
tion 551.32(4), Wis. Stats. \$10
- (b) periodic examination of a broker-
dealer or investment adviser pursu-
ant to section 551.33(4), Wis. Stats. an amount
not exceed-
ing in any
one year the
aggregate
amount of li-
cense fees paid
for such year
by the broker-
dealer and its
agents or by
an investment
adviser, pay-
able upon com-
pletion of the
examination
- (3) Examination of advertising:
- (a) advertising filed by a licensee or
registrant pursuant to section
551.53, Wis. Stats. \$5 per item,
but not ex-

ceeding an
aggregate
amount of
\$150 per
licensee or
registrant in
any one year

(b) advertising filed by a person not
a licensee or registrant pursuant
to section 551.53, Wis. Stats.

\$10 per item

SEC 6.02 Advertising. (1) The following advertising used
in connection with the offer, sale or purchase of any secur-
ity in this state is exempted from filing under section
551.53, Wis. Stats.:

(a) a prospectus used in connection with an offering
of a security for which a registration statement has been
or 551.26,
filed under sections 551.25./Wis. Stats., except an offering
of redeemable securities issued by an investment company
registered under the investment company act of 1940, or of a
security exempted under section SEC 2.01(1);

(b) advertising relating to a security exempted under
section 551.22, Wis. Stats., except under sections SEC 2.01
(1) or (2), or relating to a transaction exempted under sec-
tion 551.23, Wis. Stats., except sub. (3), (9), (10), (12),

(15) or (18) thereof, and except sub. (11) thereof if the issuer has no securities registered under the securities act of 1933 or registered under section 12 of the securities exchange act of 1934;

(c) advertising which does no more than state from whom a prospectus may be obtained, identify the security offered for sale and state the price thereof and the names of broker-dealers having an interest in the sale thereof;

(d) advertising published by a licensed broker-dealer or investment adviser concerning the qualifications or business of the licensee, the general advisability of investing in securities or market quotations or other factual information relating to particular securities or issuers, provided such advertising contains no recommendation concerning the purchase or sale of particular securities;

(e) advertising, including but not limited to annual reports and proxy statements, published by an issuer specified in section 551.22(3), (4), (5) or (6), Wis. Stats., or registered under section 12 of the securities exchange act of 1934, or exempted from registration by section 12 (g)(2)(G) thereof, relating to transactions exempted under section 551.23, Wis. Stats.; and

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(f) any other advertising which the commissioner may specify by order.

(2) All advertising required to be filed by a licensee or registrant shall be filed with the commissioner not later than the date of use. All advertising required to be filed by any other person shall be filed in duplicate not less than 10 days prior to the date of use or such shorter period as the commissioner may permit, and shall not be used in this state until a copy thereof, marked with allowance for use, has been received from the commissioner.

(3) Every filing with the commissioner of sales literature of ^{an} investment company registered under the investment company act of 1940 shall indicate the date of its filing with the National Association of Securities Dealers, Inc., or the securities and exchange commission and the action taken thereon. Any such literature which is materially misleading within the meaning of the statement of policy of the securities and exchange commission, as amended November 5, 1957, is deemed "false or misleading advertising" within the meaning of section 551.53, Wis. Stats.

SEC 6.03 Injunctions. In any injunctive proceeding under

section 551.57, Wis. Stats., the commissioner may petition the court to order rescission of any sale or purchase of securities determined to be in violation of chapter 551, Wis. Stats.

SEC 6.04 Civil liabilities. (1) For purposes of sections 551.59(1) and (2), Wis. Stats., any person who places an order or effects a transaction involving the purchase or sale of a security for the account of a customer pursuant to discretionary authority is deemed to be offering or selling or purchasing a security.

(2) An offer to repurchase securities made pursuant to section 551.59(6)(a), Wis. Stats., by a licensed broker-dealer and not involving an act or omission specified in section 551.59(1)(b), Wis. Stats., may provide that the period within which such offer may be accepted by the offeree is not less than 15 days after the date of receipt thereof.

(3) Every offer to repurchase or return securities made pursuant to sub. (6)(a) or (b) of section 551.59, Wis. Stats., shall include, in addition to the information specified in such subsections, the price at which the security

was sold or purchased, the price of the security on the date the offer is made and such additional information as the commissioner may require in connection with specific offers.

SEC 6.05 Annual reports. (1) Every issuer of equity securities which are held by more than 100 stockholders of record in this state, registered under chapter 551, Wis. Stats., or any predecessor law, but not registered under section 12 of the securities exchange act of 1934 or exempted from registration by section 12(g)(2)(G) thereof, shall distribute to such stockholders not more than 120 days after the end of each fiscal year of the issuer a balance sheet of the issuer as of the end of such fiscal year and an income statement and analysis of surplus for such fiscal year meeting the requirements of section SEC 6.07.

(2) Every domestic corporation and every foreign corporation licensed in this state and not registered under section 12 of the securities exchange act of 1934 or exempted from registration by section 12(g)(2)(G) thereof, shall indicate on its annual report filed with the secretary of state pursuant to sections 180.793 or 180.833, Wis. Stats., the number of stockholders of record in this state of each

class of its equity securities.

SEC 6.06 Administrative files. The information contained in any investigation files of the commissioner shall be kept confidential, unless the disclosure of such information is deemed by the commissioner to be in the public interest.

SEC 6.07 Financial statements. (1) All financial statements required by chapter 551, Wis. Stats., or these rules shall be:

(a) Prepared in accordance with generally accepted accounting principles applied on a consistent basis; and

(b) certified by an independent public accountant, provided that this requirement may be waived by the commissioner in particular cases for good cause shown and does not apply to interim financial statements unless otherwise required by the commissioner in particular cases.

(2) Financial statements meeting the requirements of regulation S-X of the securities and exchange commission are deemed to satisfy the requirements of sub. (1) of this rule.

Chapter SEC 7

ADMINISTRATIVE PROCEDURE

SEC 7.01 Applications for hearing. Any application or request for hearing shall be filed with the commissioner and shall be accompanied by a complete and accurate statement of the relevant facts. Upon receipt of any application or request for hearing, the commissioner shall promptly mail a notice of hearing unless he determines that the application is inappropriate or that the applicant is not an interested party.

SEC 7.02 Notices of hearing. Notice of a hearing shall be mailed by the commissioner to all interested parties and shall state the date, time, place, issues involved and reasons for holding the hearing. An order for hearing shall be in the form of a notice and shall describe the purpose of such hearing with reasonable particularity. Any party who has received a notice of hearing may file a written answer thereto prior to the date set for hearing, or may appear at the hearing. If briefs or written arguments are presented, copies shall be served upon the commissioner and all interested parties prior to the hearing.

SEC 7.03 Appearances and defaults. (1) An appearance at a hearing shall be made either in person or by a duly authorized representative.

(2) If a party who has received notice of a hearing fails to appear at the hearing, the commissioner may proceed with the hearing and, on the evidence presented, may make a decision and issue an order.

SEC 7.04 Form and content of pleadings. All pleadings, briefs, answers and orders filed or issued in reference to any administrative proceeding shall be captioned "Before the Commissioner of Securities, State of Wisconsin" and shall be entitled "In the Matter of (Name of Party), Petitioner or Respondent."

SEC 7.05 Prehearing conferences. Prehearing conferences may be held at the convenience of the parties and shall be conducted by the commissioner, or by an officer or employee designated by the commissioner, who shall keep and preserve a record of any agreement as to the issues or stipulation or admission of fact which may be made at such conference. Such record shall be attached to the file and constitute a part of the official record of the proceeding.

SEC 7.06 Stipulations. The parties to an administrative proceeding, by a stipulation in writing filed with the commissioner or by a statement in the record at the hearing, may agree upon the facts involved or any portion thereof, which stipulation may be used as evidence in the proceeding.

SEC 7.07 Record of hearings. All testimony at a hearing shall be taken down by a stenographic reporter, or by recording without a stenographic reporter, and the transcript thereof, together with all exhibits, shall be a part of the official record of such hearing. Any party desiring a copy of such transcript shall so indicate and shall pay therefor the same fees as those of the official reporter of the circuit court for Dane County, Wisconsin.

SEC 7.08 Conduct of hearings. All hearings shall be conducted and presided over by the commissioner or any officer or employe designated by him to hear the matter.

SEC 7.09 Examination of witnesses. Witnesses may be examined at a hearing under oath or affirmation by the commissioner or by any officer or employe designated by him or by any interested party.

SEC 7.10 Decisions and orders. (1) A decision or order following a hearing shall be promptly mailed by certified mail to each interested party at his last known address of record.

(2) Each order issued without a hearing involving a denial, revocation or suspension of a registration statement or license under sections 551.28(4) or 551.34(4), Wis. Stats., or a revocation of an exemption under section 551.24(1), Wis. Stats., or a prohibition of sales or suspension of trading in a security under section 551.60(2) or (3) shall be promptly mailed by certified mail to each party named in the order at his last known address or delivered to any such party by an officer or employe designated by the commissioner.

Chapter SEC 8

FORMS

SEC 8.01 Forms. (1) The following forms are prescribed for use in this state and may be obtained from the office of the commissioner of securities, Madison, Wisconsin:

U-1 - Uniform application to register securities

U-2 - Uniform consent to service of process

U-3 - Uniform application for broker-dealer's or investment adviser's license

L-1 - Application for renewal of broker-dealer's license

L-2 - Application for renewal of agent's license

L-3 - Application for renewal of investment adviser's license

R-1 - Order of registration

R-2 - Order of registration (investment company shares)

R-3 - Order of amendment

R-4 - Order of extension

R-5 - Order of exemption

(2) Any other application or notice may be filed containing the information specified in the applicable rule.

