

Chapter SEC 6

GENERAL PROVISIONS

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SEC 6.01 Examination expenses. The following fees 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 ----- \$50.
 - (b) Application for extension of a registration statement ----- \$50.
 - (c) Application for exemption from registration under section 551.23 (11) or (18), Wis. Stats. ----- \$50.
 - (d) Application for opinion confirming an exemption or an exclusion from a definition - \$20.
 - (e) Notice filed under section 551.22 (10) or (14), Wis. Stats., or under section 551.23 (12), Wis. Stats., or under Wis. Adm. Code sections SEC 2.01 (2) or 2.02 (10) ----- \$20.
 - (f) Notice filed under section 551.22 (8), Wis. Stats., or under section 551.23 (3) or (15), Wis. Stats. ----- \$50.
- (2) Examination of licensing matters:
 - (a) Application for initial license of a broker-dealer or investment adviser or a successor under section 551.32 (1) or (3), Wis. Stats. ----- \$50.
 - (b) Notice of transfer of control of a broker-dealer or investment adviser under Wis. Adm. Code section SEC 4.07 (4) ----- \$50.
 - (c) Examination of an agent applicant or a person representing an investment adviser under section 551.32 (4), Wis. Stats. ----- \$10.
 - (d) Periodic examination of a broker-dealer or investment adviser under section 551.33 (4), Wis Stats. ----- An amount not exceeding in any year the aggregate amount of license fees of the broker-dealer and its agents or the investment adviser, payable upon completion of the examination.

- (3) Examination of advertising:
- (a) Advertising filed with a notice or application for exemption under section 551.22 or 551.23, Wis. Stats. ----- No charge
- (b) Advertising filed by a licensee or registrant under section 551.53, Wis. Stats. ----- \$5 per item, but not exceeding in any year the aggregate amount of \$100 for each licensee or registrant if paid in advance.
- (c) Advertising filed by a person not a licensee or registrant under section 551.53, Wis. Stats. ----- \$10 per item
- (d) Prospectus filed by a registered investment company or finance company under Wis. Adm. Code section SEC 2.08 (2) ----- \$20.
- (e) Proxy solicitation material filed by an issuer under Wis. Adm. Code section SEC 6.03 (3) ----- \$20.
- (4) Examination of other matters:
- (a) Certification of any document or entry under section 551.64 (4), Wis. Stats. ----- \$10 plus \$1 per page
- (b) Issuance of an interpretive opinion under section 551.64 (5), Wis. Stats. ----- \$50.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; r. and recr. Register, August, 1972, No. 200, eff. 9-1-72.

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

(a) A prospectus published or circulated in connection with an offering of a security for which a registration statement has been filed under sections 551.25 or 551.26, Wis. Stats., that has not become effective; or an offering of a security for which a notice or application for exemption, including such prospectus, has been filed under sections 551.22 or 551.23; or an offering of a security exempted under Wis. Adm. Code section SEC 2.01 (2);

(b) Advertising published or circulated relating to a security exempted under section 551.22, Wis. Stats., except under Wis. Adm. Code section SEC 2.01 (2); or relating to a transaction exempted under section 551.23 (4), (5), (6), (7) or (8), Wis. Stats.; or relating to a transaction exempted under section 551.23 (12), (13) or (14), Wis. Stats., if the issuer has any securities registered under section 12 of the securities exchange act of 1934 or exempted from registration by section 12 (g) (2) (G) thereof or is an investment company registered under the investment company act of 1940.

(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

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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

(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.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; am. (1) (a) and (b), Register, August, 1972, No. 200, eff. 9-1-72.

SEC 6.03 Proxy solicitations. (1) An offer for the sale or purchase of a security within the meaning of chapter 551, Wis. Stats., is involved, so far as the security holders of a corporation or other issuer are concerned where, pursuant to the articles of incorporation or other organizational instrument or the applicable corporation or other statute, there is submitted to the vote of such security holders a proposal, plan or agreement for:

(a) a reclassification of securities of such corporation or issuer which involves the substitution or exchange of a security for another security;

(b) a statutory merger or consolidation in which securities of such corporation or issuer will become or be exchanged for securities of any other corporation or issuer;

(c) a transfer of assets of such corporation or issuer to another person in consideration of the issuance of securities of the other person or any of its affiliates; or

(d) a sale of securities of such corporation or issuer to another person in consideration of the issuance or transfer to such corporation or issuer of securities of the other person or any of its affiliates.

(2) Advertising includes any proxy solicitation material or other written communication published or circulated by a corporation or other issuer in connection with the submission of any matter specified in subsection (1) to the vote of its security holders.

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(3) A corporation or other 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, except an investment company registered under the investment company act of 1940, shall not publish or circulate any proxy solicitation material or other written communication in connection with the submission of any matter specified in subsection (1) to the vote of its security holders, unless such material is filed in duplicate with the commissioner not less than 10 days prior to the date of use or such shorter period as he may permit, and unless it fully discloses all facts deemed by the commissioner to be material in connection with the matter being submitted to the vote of its security holders.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; r. and recr. Register, August, 1972, No. 200, eff. 9-1-72.

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 subsection (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.

(4) The commissioner may require any person named in any administrative order issued under section 551.60 (2), Wis. Stats., to satisfy any civil liabilities arising under section 551.59, Wis. Stats., in connection with the matters set forth in the order, prior to registering any securities offered for sale by such person or licensing such person as a broker-dealer, agent, or investment adviser.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; Cr. (4), Register, August, 1972, No. 200, eff. 9-1-72.

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 Wis. Adm. Code section SEC 6.07.

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(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.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70.

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.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70.

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 subsection (1) of this rule.

(3) The commissioner may, upon the request of the registrant and where appropriate for the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution thereof of appropriate statements of comparable character. The commissioner may also require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any issuer or person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; cr. (3), Register, August, 1972, No. 200, eff. 9-1-72.