

Jan 1980 #259

Chapter SEC 7

GENERAL PROVISIONS

SEC 7.01 Fees	SEC 7.04 Annual reports
SEC 7.02 Advertising	SEC 7.05 Files and records
SEC 7.03 Civil liabilities	SEC 7.06 Financial statements

Note: Renumbered from SEC 6, Register, December, 1977.

SEC 7.01 Fees. The following fees are prescribed for the expenses of examination of various matters arising under ch. 551, 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 .....\$100.
- (b) Application for extension of a registration statement .....\$100.
- (c) Field examination pursuant to s. 551.27 (5), Stats. of application for registration under s. 551.26, Stats. ....\$50 per day per examiner.

(2) Examination of exemption matters:

- (a) Application for exemption from registration by order under ss. 551.23(11) or (18), Stats.....\$100.
- (b) Application for exclusion from a definition by order under ss. 551.02(3) (h) or 551.02(7) (g), Stats. ....\$100.
- (c) Application for opinion confirming an exemption or an exclusion from a definition.....\$50.
- (d) Notice filed under s. 551.22(10) or (14), Stats., or under s. 551.23(12), Stats., or under Wis. Adm. Code sections SEC 2.02(11) (b), or (c) or (d) .....\$50.
- (e) Notice filed under s. 551.22(8), Stats., or under ss. 551.23(3), (10), (11) or (15), Stats., or under Wis. Adm. Code section SEC 6.05.....\$100.
- (f) Notice filed under Wis. Adm. Code section SEC 2.01(1) (a) 1. or 2.....\$50.
- (g) Notice filed under Wis. Adm. Code section SEC 2.01(1) (a) 3. ....\$100.

(3) Examination of licensing matters:

- (a) Application for initial license of a broker-dealer or investment adviser or a successor under s. 551.32 (1) or (3), Stats. ....\$50.
- (b) Application for order waiving a licensing provision .....\$100.
- (c) Notice of transfer of control of a broker-dealer or investment adviser under Wis. Adm. Code section SEC 4.04 (2) .....\$50.

(d) Examination of an agent applicant or a person representing an investment adviser under s. 551.32 (4), Stats. ....\$10.

(e) Field examination of applicant for initial license as broker-dealer or investment adviser..\$50 per day per examiner.

(f) Periodic examination of a broker-dealer or investment adviser under s. 551.33 (4), Stats. An amount not exceeding in any year the aggregate amount of filing fees of the broker-dealer and its agents or the investment adviser, payable upon completion of the examination.

(4) Examination of advertising:

(a) Advertising filed with a notice or application under ss. 551.22, 551.23, 551.25 or 551.26, Stats. ....No charge.

(b) Advertising filed by a licensee or registrant under s. 551.53, 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 s. 551.53, Stats. ....\$10 per item.

(d) Prospectus filed by a registered investment company or finance company under Wis. Adm. Code section SEC 3.27 (2) .....\$50.

(5) Examination of other matters:

(a) Certification of any document or entry under s. 551.64 (4), Stats. ....\$20 plus \$1 per page.

(b) Issuance of an interpretive opinion under s. 551.64 (5), Stats. ....\$100.

(6) Photocopying fee .....\$ .25 per page for the first 10 pages and \$.10 per page for any additional pages.

(7) The commissioner may by order require the payment of a fee of no more than \$100 for delinquent or materially deficient filings of information or documents required to be filed in connection with the examination of any matter under this chapter.

(8) If the additional registration fee for investment company registrants prescribed under s. 551.52(1) (b), Stats., exceeds \$1,000 for the previous fiscal year (or portion thereof before termination), the amount of that excess may be reduced by one-twentieth of 1% of the amount by which the aggregate redemption or repurchase price of the securities redeemed or repurchased from persons in this state during that period exceeded the aggregate sale price of the securities sold to persons in this state during the same period.

**History:** Cr. Register, December, 1969, No. 168, eff. 1-1-70; r. and recr. Register, August, 1972, No. 200, eff. 9-1-72; emerg. cr. (1) (g), eff. 6-16-74; emerg. am. (1) (a) and (b), eff. 7-5-74; am. (1) (a) and (b), cr. (1) (g) and (h), Register, October, 1974, No. 226, eff. 11-1-74; r.

Register, September, 1978, No. 273

and recr. Register, December, 1977, No. 264, eff. 1-1-78; emerg. cr. (8), eff. 6-19-78; am. (2) (b) and cr. (8), Register, September, 1978, No. 273, eff. 10-1-78.

**SEC 7.02 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 s. 551.53, Stats.:

(a) A prospectus published or circulated in connection with an offering of a security for which a registration statement has been filed under ss. 551.25 or 551.26, 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 ss. 551.22 or 551.23, Stats.;

(b) Advertising published or circulated relating to a security exempted under s. 551.22, Stats., except under Wis. Adm. Code section SEC 2.01 (3) (a); or relating to a transaction exempted under ss. 551.23 (4), (5), (6), (7) or (8), Stats.; or relating to a transaction exempted under ss. 551.23 (12), (13) or (14), 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; or relating to a transaction subject to the filing requirements of section 14 (d) of the Securities Exchange Act of 1934; provided the transaction is not subject to the filing requirements of Wis. Adm. Code section SEC 6.05 (1);

(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, or advertising meeting the requirements of rule 134 under the Securities Act of 1933;

(d) Advertising published or circulated by a broker-dealer or investment adviser licensed in this state, or by an investment company registered under ch. 551, Stats., unless the commissioner otherwise provides by order;

(e) Advertising, including but not limited to annual reports and proxy statements, published by an issuer specified in ss. 551.22 (3), (4), (5) or (6), 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 s. 551.23, Stats.; provided that with respect to any of the foregoing, the transaction does not and cannot have either of the effects described in Wis. Adm. Code section SEC 6.05 (2); 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 the commissioner has allowed its use.

**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; emerg. am. (1) (b) and (e), eff. 11-4-75; am (1) (b), and (e), Register, February, 1976, No. 242, eff. 3-1-76; am. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) (b), Register, September, 1978, No. 273, eff. 10-1-78.

**SEC 7.03 Civil liabilities.** (1) For purposes of ss. 551.59 (1) and (2), 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 s. 551.59 (6) (a), Stats., by a licensed broker-dealer and not involving an act or omission specified in s. 551.59 (1) (b), 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 s. 551.59, 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 s. 551.60 (2), Stats., to satisfy any civil liabilities arising under s. 551.59, 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; renum. to be 7.03, Register, December, 1977, No. 264, eff. 1-1-78.

**SEC 7.04 Annual reports.** Unless otherwise required by rule or order of the commissioner, every issuer whose securities have been registered under ch. 551, Stats., or any predecessor law and are held of record by 100 or more persons in this state, but none of whose securities are registered under section 12 of the Securities Exchange Act of 1934 or exempted from registration by section 12 (g) (2) (B) or (G) thereof, shall distribute to the security holders 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 statements of income and changes in financial position and an analysis of surplus for the fiscal year meeting the requirements of Wis. Adm. Code section SEC 7.06, and shall concurrently file copies of those financial statements with the commissioner.

**History:** Cr. Register, December, 1969, No. 168, eff. 1-1-70; renum. to 7.04 and am. Register, December, 1977, No. 264, eff. 1-1-78.

**SEC 7.05 Files and records.** (1) Except as otherwise provided by law or as specified in subsection (2), any record or document in the commissioner's possession or control of which the commissioner is the legal custodian, may be inspected or copied by any person during regular business hours.

(2) The following records may be excluded from disclosure under this section if the commissioner finds the public interest in nondisclosure outweighs the benefits of open access:

(a) Personnel files of office employees, former employees and job applicants;

(b) Communications with legal counsel;

Register, September, 1978, No. 273

(c) Records obtained under a pledge or reasonable expectation of confidentiality;

(d) Memoranda and work papers of employees, the commissioner or the deputy commissioner prepared with the reasonable expectation of confidentiality.

(3) With respect to records described in subsection (2) (c) the commissioner shall, and with respect to any other records the commissioner may, prior to producing the records for inspection or copying, call a hearing (with notice to interested persons) for the purpose of determining whether the records should be produced.

(4) A request for records shall be addressed to the commissioner, who shall produce the records or a written refusal with specific reasons therefor within ten business days after the request is received (except records described in subsection (2) (c) as to which a hearing has been called).

**History:** Cr. Register, December, 1969, No. 168, eff. 1-1-70; renum. from SEC 6.06 and r. and recr. Register, December, 1977, No. 264, eff. 1-1-78.

**SEC 7.06 Financial statements.** (1) All financial statements required by ch. 551, Stats., or these rules shall be:

(a) Prepared in accordance with generally accepted accounting principles; and

(b) Examined and reported upon by an independent certified public accountant, provided that this requirement may be waived by the commissioner and does not apply to interim financial statements unless otherwise required by the commissioner in particular cases. The accountant's report shall meet the requirements of rule 2-02 of regulation S-X of the U.S. Securities and Exchange Commission and shall accompany the financial statements included in the prospectus:

(2) Financial statements meeting the requirements of regulation S-X are deemed to satisfy the requirements of subsection (1).

(3) The commissioner may permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The commissioner may also require the filing of other statements when 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; renum. fr. SEC 6.07 and am. Register, December, 1977, No. 264, eff. 1-1-78.