

Chapter DFI-Sec 4

REGISTRATION OF BROKER-DEALERS AND AGENTS

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Note: Chapter SEC 4 as it existed on December 31, 1977 was repealed and a new chapter SEC 4 was created effective January 1, 1978. Chapter SEC 4 was renumbered chapter DFI-Sec 4 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, December, 1996, No. 492.

DFI-Sec 4.01 Registration procedure. (1) (a) Applications for initial and renewal registrations of broker-dealers and agents, as well as amendments, reports, notices, related filings and fees, shall be filed with:

1. The division on forms prescribed by the division in s. DFI-Sec 9.01 (1); or

2. The central registration depository of the financial industry regulatory authority as developed under contract with the North American securities administrators association, on forms established for the central registration depository.

(b) An application for registration as an agent of a broker-dealer is deemed filed under s. 551.406 (1), Stats., on the "FILING DATE" reflected on the records of the central registration depository.

(2) (a) Except as provided in par. (b), an "application" for purposes of s. 551.406 (1), Stats., means all information required by the form prescribed under sub. (1) together with any additional information required by the division.

(b) An application for initial registration or for renewal of a registration as a broker-dealer registered with the financial industry regulatory authority includes the payment of the Wisconsin broker-dealer registration fee and, in the case of an initial application, the examination fee prescribed by s. DFI-Sec 7.01 (3) (a), to the central registration depository of the financial industry regulatory authority. An application for initial registration as a broker-dealer under this paragraph shall be deemed filed under s. 551.406 (1), Stats., on the date the application is transferred from "NO STATUS" to "PENDING" on the records of the central registration depository. An application for renewal of a registration as a broker-dealer under this paragraph shall be deemed filed under s. 551.406 (1), Stats., when the fee on deposit with the central registration depository has been allocated to the division.

(c) An "application" for initial registration or for renewal of a registration as a securities agent for a broker-dealer registered with the financial industry regulatory authority includes the payment of Wisconsin agent registration fees to the central registration depository. An application for initial registration as an agent under this paragraph shall be deemed "filed" under s. 551.406 (1), Stats., on the date when the application is designated ready for approval on the records of the central registration depository. An application for renewal of a registration as an agent under this paragraph shall be deemed "filed" under s. 551.406 (1), Stats., when the fee on deposit with the central registration depository has been allocated to the division.

(d) An electronic signature affixed to any filing made in compliance with the requirements of the central registration depository shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing.

(3) Unless waived under sub. (4), each applicant for an initial registration as a broker-dealer or agent is required to take and pass within the two year period immediately preceding the "FIL-

ING DATE" of the application reflected on the records of the central registration depository, either the Series 63 Uniform Securities Agent State Law Examination or the Series 66 Uniform Combined State Law Examination, and take and pass within the two year period immediately preceding the "FILING DATE" of the application reflected on the records of the central registration depository, one of the general securities business examinations in par. (a), unless the applicant's proposed securities activities will be restricted, in which case the applicant is required to take and pass, or receive a waiver from passing, each examination in pars. (b) to (h) that relates to the applicant's proposed securities activities:

(a) The Series 7 General Securities Representative Examination.

(b) The Series 6 Investment Company Products/Variable Contracts Representative Examination.

(c) The Series 22 Direct Participation Programs Representative Examination.

(d) The Series 52 Municipal Securities Representative Examination.

(e) The Series 62 Corporate Securities Limited Representative Examination.

(f) The Series 42 Registered Options Representative Examination.

(g) The Series 72 Government Securities Representative Examination.

(h) The Series 82 Private Placement Representative Examination.

(4) The examination requirement in sub. (3) is waived for any applicant who meets the criteria set forth in any one of the paragraphs in this subsection:

(a) The applicant has passed the examinations required to be passed by the applicant under sub. (3) within 2 years prior to the date the application for registration is filed in this state.

(b) The applicant has been registered within 2 years prior to the date the application is filed in this state, as an agent or as a broker-dealer under the securities law of another state and the following applicable conditions are met:

1. The other state where the applicant has been registered has required the uniform securities agent state law examination prior to that 2 year period.

2. In the case of examinations required by sub. (3) (a) to (e), the applicant has been registered with the financial industry regulatory authority to engage in the type of business for which the applicant is applying for registration within 2 years prior to the date of filing of the application for registration.

(c) The applicant has submitted an undertaking satisfactory to the division setting forth how the applicant's activities will be limited in this state and, in the case of an agent seeking a limited registration, how the agent will be adequately supervised.

(d) The applicant has been registered under ch. 551, Stats., within 2 years prior to the date the application is filed as an agent or broker-dealer to engage in the type of business for which the applicant is applying for registration.

(e) The applicant is currently registered and in good standing with The Securities and Futures Authority of Great Britain and has passed the Series 17 Modified General Securities Representative Qualification Examination for United Kingdom Representatives, except that the applicant's activities may not include the offer and sale of municipal Securities unless the applicant passes the examination listed in sub. (3) (d).

(f) The applicant is currently registered and in good standing as an agent with any Canadian stock exchange or with a securities regulator of any Canadian province or territory, or with the Investment Dealers Association of Canada and has passed either the Series 37 or Series 38 Canada modules of the Series 7 general securities representative qualification examination, except that the applicant's activities may not include the offer and sale of municipal securities unless the applicant passes the examination listed in sub. (3) (d).

(g) The applicant is currently registered and in good standing as an agent with any Japanese stock exchange or with any Japanese securities dealers association and has passed either the Series 47 Japan module of the Series 7 general securities representative qualification examination, except that the applicant's activities may not include the offer and sale of municipal securities unless the applicant passes the examination listed in sub. (3) (d).

(h) The applicant has received an order of the division, issued under conditions as the division may prescribe, waiving the requirement to take and pass one or more of the examinations in sub. (3).

(5) Any application for registration which is not completed or withdrawn within 6 months from the date it is initially received may be deemed materially incomplete, and the division may issue an order denying the registration.

(6) (a) Pursuant to s. 551.406 (3) (b), Stats., the effective date of a registration application is deferred until noon on the 45th day after the filing of any amendment completing the application, unless the application otherwise becomes effective under s. 551.406 (3) (a), Stats.

(b) For purposes of s. 551.406 (3) (b), Stats., a written request for additional information is not limited to a request to the applicant or the applicant's employing broker-dealer, and the division may request additional information from third-party sources relevant to the review of the application.

(c) Before action on an application, the division may designate an employee to make an examination of the books, records and affairs of the applicant at the applicant's expense.

(7) A securities agent registration is effective to authorize the licensee [registrant] to effectuate transactions only in the types of categories of securities that the licensee [registrant] has been qualified to sell by passing the examinations specified in sub. (3).

Note: The correct word is shown in brackets.

(8) For an agent to simultaneously represent in this state more than one broker-dealer pursuant to s. 551.402 (5), Stats., or an issuer pursuant to s. 551.402 (6), Stats., the following requirements shall be met, in addition to the regular agent registration requirements:

(a) Each broker-dealer or issuer that the agent represents shall sign on a form designated by the division in s. DFI-Sec 9.01 (1) (b), a written grant of permission to the agent to represent the other employers. The written grant of permission shall include the identity of all other securities employment affiliations of the agent and contain a listing of all restrictions on the agent's securities activities imposed by the agent's employers.

(b) The agent shall sign on the form under par. (a), an acknowledgement and verification of the information required under that paragraph.

(c) The manually signed original of the form under par. (a) shall be filed with the division together with a written application, which may be in letter form, on behalf of the agent to simultaneously represent more than one broker-dealer or issuer. The divi-

sion shall approve the application in writing prior to the agent's transacting securities business while simultaneously representing more than one broker-dealer or issuer.

(d) Written disclosure shall be provided regarding the agent's simultaneous representation of more than one broker-dealer or issuer, including the information in par. (a), to each securities customer of the agent not later than the date of receipt of the confirmation for the first securities transaction for the account of the customer by the agent after dual registration is approved by the division.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1), Register, December, 1979, No. 288, eff. 1-1-80; am. (1) and (4) (b), r. (4) (c), renum. (4) (d) and (e) to be (4) (c) and (d), r. and recr. (5), renum. (7) to be SEC 4.05 (8), Register, December, 1980, No. 300, eff. 1-1-81; am. (1) and (3), Register, December, 1981, No. 312, eff. 1-1-82; am. (3), (5) and (6), r. (4) (a), renum. (4) (b) to (d) to be (4) (a) to (c), Register, December, 1982, No. 324, eff. 1-1-83; am. (1) (a), renum. (2) to be (2) (a) and am. cr. (2) (b) and (7), r. and recr. (3), (4) and (5), Register, December, 1983, No. 336, eff. 1-1-84; cr. (8), Register, December, 1985, No. 360, eff. 1-1-86; am. (2) (b), Register, December, 1986, No. 372, eff. 1-1-87; am. (3) (intro.) and cr. (3) (e) and (9), Register, December, 1988, No. 396, eff. 1-1-89, except (9), eff. 2-1-89; renum. (2) (b) to (2) (c), cr. (2) (b), am. (4) (b), Register, December, 1990, No. 420, eff. 1-1-91; am. (4) (b) and (5) (intro.), cr. (10), Register, December, 1992, No. 444, eff. 1-1-93; r. and recr. (4) (b), am. (5) (intro.), Register, December, No. 468, eff. 1-1-95; am. (3) (intro.) and (5) (intro.), renum. (4) (e) to be (4) (f), cr. (4) (e), Register, December, 1995, No. 480, eff. 1-1-96; r. and recr. (3) (a), am. (3) (b) to (e) and (5) (a) to (d), cr. (3) (f) and (g), (4) (f) and (g) and (5) (e), renum. (4) (f) to be (4) (h), Register, December, 1999, No. 528, eff. 1-1-00; CR 01-082: am. (3) (intro.), cr. (3) (h), r. (5), renum. (6) to (10) to be (5) to (9), Register December 2001 No. 552 eff. 1-1-02; CR 08-077: am. (title), (2), (3) (intro.), (a), (4) (a) to (d), (5), (7), (8) (intro.) and (d), renum. (1) to be (1) (a) and am. (1) (a) (intro.) and 2., cr. (1) (b) and (2) (d), r. and recr. (6), r. (9) Register December 2008 No. 636, eff. 1-1-09.

DFI-Sec 4.02 Net capital requirements and aggregate indebtedness limitations. (1) Every broker-dealer, whether or not subject to rule 15c3-1 of the securities exchange act of 1934, shall maintain net capital in such minimum amounts as are designated in that rule for the activities to be engaged in by the broker-dealer in this state.

(2) The aggregate indebtedness of each broker-dealer to all other persons shall not exceed the levels prescribed under rule 15c3-1 of the securities exchange act of 1934.

(3) If a broker-dealer is an individual, the person shall segregate from personal capital an amount sufficient to satisfy the net capital requirement, and the amount so segregated shall be utilized solely for the business for which the broker-dealer is registered.

(4) The division may by order exempt any broker-dealer from the provisions of this subsection, either unconditionally or upon specified conditions, if by reason of the broker-dealer's membership on a national securities exchange or the special nature of its business and its financial position, and the safeguards that have been established for the protection of customers' funds and securities, the provisions are not necessary in the public interest or for the protection of investors.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (3) and (4), Register, December, 1980, No. 300, eff. 1-1-81; am. (1), Register, December, 1982, No. 324, eff. 1-1-83; am. (1), Register, December, 1983, No. 336, eff. 1-1-84; CR 08-077: am. (3) Register December 2008 No. 636, eff. 1-1-09.

DFI-Sec 4.03 Broker-dealers' records. (1) Every registered broker-dealer shall prepare and keep current at its principal office the books and records as described in rules 17a-3 and 17a-4 under the securities exchange act of 1934.

(2) Every registered broker-dealer shall preserve the records required under sub. (1) according to the schedule provided in rule 17a-4 under the securities exchange act of 1934 in compliance with the requirements of the U.S. securities and exchange commission concerning preservation and microfilming of records or other means of retention of records.

(3) Every branch office of a registered broker-dealer, as defined under s. DFI-Sec 1.02 (7), shall prepare and keep current the branch office books and records as described in rule 17a-3(f) under the securities exchange act of 1934.

(4) Every registered broker-dealer shall preserve the branch office records required under sub. (3) according to the schedule

provided in rule 17a-4(k) under the securities exchange act of 1934 in compliance with the requirements of the U.S. securities and exchange commission concerning preservation and micro-filing of records or other means of retention of records.

(5) This section does not require a registered broker-dealer to make and keep such records of transactions cleared for the licensee [registrant] by another broker-dealer as are customarily made and kept by the clearing broker-dealer.

(6) The division may by order exempt any broker-dealer from all or part of the requirements of this section, either unconditionally or upon specified conditions, if by reason of the special nature of its business, the division finds the issuance of the order is necessary or appropriate in the public interest or for the protection of investors.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (3) (intro) and cr. (3) (d), Register, September, 1978, No. 273, eff. 10-1-78; r. and recr. (1) (p), Register, December, 1979, No. 288, eff. 1-1-80; am. (1) (c), (d) 4., (e), (j), (k), (2), (3) (intro.), (a) and (b), (4) to (6), r. and recr. (1) (l), renum. (1) (m) to (p) to be (1) (n) to (q), (3) (c) and (d) to be (3) (d) and (e) and am., cr. (1) (r) and (3) (c), (1) (s) renum. from SEC 4.05 (9), Register, December, 1980, No. 300, eff. 1-1-81; am. (1) (r) and (4), Register, December, 1981, No. 312, eff. 1-1-82; r. (1) (s), am. (2), (3) (a) and (e), Register, December, 1982, No. 324, eff. 1-1-83; am. (1) (b) and (2), Register, December, 1983, No. 336, eff. 1-1-84; am. (1) (r), (2) and (4), Register, December, 1984, No. 348, eff. 1-1-85; am. (1) (r), Register, December, 1985, No. 360, eff. 1-1-86; am. (2), Register, December, 1986, No. 372, eff. 1-1-87; am. (1) (intro.) and cr. (1) (s), Register, December, 1987, No. 384, eff. 1-1-88; am. (1) (j), Register, December, 1989, No. 408, eff. 1-1-90; am. (3) (intro.), Register, December, 1991, No. 432, eff. 1-1-92; am. (1) (intro.), (r) 2., (2) and (3) (e), Register, December, 1992, No. 444, eff. 1-1-93; renum. (2) to (2) (a) and am., cr. (2) (b), Register, December, 1994, No. 468, eff. 1-1-95; am. (3) (c), renum. (6) to be (7), cr. (6), Register, December, 1995, No. 480, eff. 1-1-96; am. (1) (j), Register, December, 2000, No. 540, eff. 1-1-01; correction in (1) (p) made under s. 13.93 (2m) (b) 7., Stats., Register August 2002 No. 560; CR 03-068: r. and recr. (1) to (4), r. (6), renum. (7) to be (6) Register November 2003 No. 575, eff. 12-1-2003; CR 08-077: am. (1) to (5) Register December 2008 No. 636, eff. 1-1-09; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register December 2008 No. 636.

DFI-Sec 4.04 Reporting requirements. (1) (a)

Except as provided in pars. (b) and (c), each broker-dealer shall file annually with the division within 60 days from the end of its fiscal year a copy of its annual financial statement in the form specified in rule 17a-5 under the securities exchange act of 1934, accompanied by a computation of its net capital using the formula specified in rule 15c3-1 under the securities exchange act of 1934.

(b) The filing requirement in par. (a) is not applicable to any broker-dealer registered under the securities exchange act of 1934 if the broker-dealer is not delinquent in the filing of its annual financial statements with the U.S. securities and exchange commission under rule 17a-5 of the securities exchange act of 1934.

(c) The deadline established under par. (a) for a broker-dealer to file its annual financial statement shall be extended for an additional 30 days upon the broker-dealer filing with the division before the deadline date, a written request for an additional 30 days to file its annual financial statement.

(2) Each broker-dealer shall file with the division a copy of every complaint or equivalent pleading related to its business, transactions, or operations in this state, naming the broker-dealer or any of its partners, officers or agents as defendants in any civil or criminal proceeding, or in any administrative or disciplinary proceeding by any public or private regulatory agency, within 20 days of the date the complaint or equivalent pleading is served on the broker-dealer, or the broker-dealer otherwise receives notice thereof; a copy of every answer or reply thereto within 10 days of the date it is filed; and a copy of the decision, order, or sanction made with respect to the proceeding within 20 days of the date the decision, order, or sanction is rendered.

(3) Except as provided in subs. (2) and (8), each broker-dealer shall file with the division any notice of change of control or change of name, as well as any material change in the information included in the broker-dealer's most recent application for registration, in an amendment to Form BD filed with the central registration depository within 30 days of the date of the change.

(4) Every broker-dealer shall file with the division the following reports concerning its net capital and aggregate indebtedness:

(a) Immediate electronic or written notice whenever the net capital of the broker-dealer is less than is required under s. DFI-Sec 4.02 (1), specifying the respective amounts of its net capital and aggregate indebtedness on the date of the notice;

(b) A copy of every report or notice required to be filed by the broker-dealer pursuant to rule 17a-11 under the securities exchange act of 1934, contemporaneous with the date of filing with the U.S. securities and exchange commission.

(5) Each broker-dealer shall give immediate electronic or written notice to the division of the theft or disappearance of any Wisconsin customers' securities or funds that are in the custody or control of any of its offices, whether within or outside this state, stating all material facts known to it concerning the theft or disappearance.

(6) Each broker-dealer shall file with the division a copy of any subordination agreement relating to the broker-dealer, within 10 days after the agreement has been entered, unless prior thereto the broker-dealer has filed a copy of the agreement with a national securities exchange or association of which it is a member.

(7) (a) Each broker-dealer shall notify the division in writing within 14 days of either the opening or the change of address in this state of any "branch office" as defined in s. DFI-Sec 1.02 (7).

(b) Each broker-dealer shall notify the division in writing not later than 14 days after the closing in this state of any "branch office" as defined in s. DFI-Sec 1.02 (7), which notice shall specify the effective date of the closing.

(c) The notification required to be provided to the division under par. (a) or (b) shall be made electronically on Form BR via the central registration depository by broker-dealers eligible to file electronically, and shall be made directly with the division by broker-dealers that are not eligible to file electronically with the central registration depository.

(8) Each broker-dealer shall file a branch office renewal notice annually with the central registration depository by broker-dealers eligible to file electronically, and shall be made directly with the division by broker-dealers that are not eligible to file electronically with the central registration depository.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) and (3), Register, December, 1979, No. 288, eff. 1-1-80; am. (4), (5), (8) and (9), Register, December, 1980, No. 300, eff. 1-1-81; am. (1) and (7), cr. (1) (b), Register, December, 1982, No. 324, eff. 1-1-83; am. (1) (a), Register, December, 1983, No. 336, eff. 1-1-84; r. and recr. (1) (a), renum. (1) (b) to be (1) (c), cr. (1) (b) and am. (9), Register, December, 1984, No. 348, eff. 1-1-85; cr. (10), Register, December, 1985, No. 360, eff. 1-1-86; r. and recr. (3), Register, December, 1989, No. 408, eff. 1-1-90; r. and recr. (4), (r), (5), renum. (6) to (10) to be (5) to (9), Register, December, 1990, No. 420, eff. 1-1-91; renum. (8) to be (8) (a) and am., cr. (8) (b) and (c), Register, December, 1991, No. 432, eff. 1-1-92; renum. (4) to be (4) (a), cr. (4) (b), Register, December, 1994, No. 468, eff. 1-1-95; am. (8) (b), Register, December, 1995, No. 480, eff. 1-1-96; am. (2), Register, December, 1996, No. 492, eff. 1-1-97; reprinted to correct printing error in (1) (a), Register, April, 1998, No. 508; am. (5) (a) and (6), Register, December, 1999, No. 528, eff. 1-1-00; CR 01-082: am. (8) (a), Register December 2001 No. 552, eff. 1-1-02; CR 02-102: r. (3), renum. (4) to (9) to be (3) to (8) and am. (3) (a), Register December 2002 No. 564, eff. 1-1-03; CR 08-077: renum. (3) (a) to be (3) and am., r. (3) (b), r. and recr. (7) (c) and (8) Register December 2008 No. 636, eff. 1-1-09; corrections in (7) (a) and (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2008 No. 636.

DFI-Sec 4.05 Practice rules. (1) (a)

Except as provided in pars. (b) and (c), each broker-dealer shall give or send to the customer a written confirmation, promptly after execution of, and before completion of, each transaction. The confirmation shall set forth the information prescribed in rule 10b-10 of the securities and exchange act of 1934 and whether the transaction was unsolicited.

(b) A broker-dealer engaged solely in the offer and sale of securities issued by open-end investment companies, face amount certificate companies or unit investment trusts registered under the investment company act of 1940 is not required to give or send a written confirmation under par. (a), provided that the

issuer gives or sends a written confirmation directly to the customer for the transaction.

(c) A broker-dealer engaged solely in the offer and sale of interests in direct participation programs is not required to give or send a written confirmation under par. (a), provided that a customer subscribing to purchase an interest in a direct participation program is provided immediately upon subscription with a copy of the subscription agreement entered into and the issuer gives or sends a written confirmation directly to the customer for the transaction.

(2) Each broker-dealer shall establish and keep current a set of written supervisory procedures and a system for applying such procedures, which may be reasonably expected to prevent and detect any violations of ch. 551, Stats., and rules and orders thereunder. The procedures shall include the designation, by name or title, of a number of supervisory employees reasonable in relation to the number of its registered agents, offices and transactions in this state. A complete set of the procedures and system for applying them shall be kept and maintained at every branch office.

(3) A broker-dealer shall not enter any contract with a customer if the contract contains any condition, stipulation or provision binding the customer to waive any rights under ch. 551, Stats., or any rule or order thereunder. Any such condition, stipulation or provision is void.

(4) No broker-dealer shall permit or effect a withdrawal of any part of its net worth, including subordinated indebtedness, whether by redemption, retirement, repurchase, repayment or otherwise, that would cause its net capital or its aggregate indebtedness to violate s. DFI-Sec 4.02 (1) or (2), without prior written approval of the division.

(5) Each broker-dealer shall provide each customer with a conformed copy of all contracts and agreements between the broker-dealer and the customer not later than 30 days after the customer's account is first established on the books and records of the broker-dealer. Each broker-dealer shall provide each customer with a conformed copy of the customer information pursuant to the requirements of rule 17a-3(a)(17) under the securities exchange act of 1934. Each contract or agreement and new account form for a customer whose account involves both an introducing broker and a clearing broker who provides services to the customer, shall contain or be accompanied by a disclosure of the identity and address of each broker-dealer.

(6) Every broker-dealer whose principal office is located in this state, other than a broker-dealer engaged solely in the offer and sale of either interests in direct participation programs or securities issued by open-end investment companies, face amount certificate companies or unit investment trusts registered under the investment company act of 1940, shall have at least one registered person employed on a full-time basis at its principal office.

(7) No broker-dealer may associate with a bank, savings institution, trust company, savings and loan association or credit union by contract, agreement or other means for the purpose of that entity publishing or circulating advertising promoting the services offered by the broker-dealer or assisting or providing information to persons to establish an account with the broker-dealer unless:

(a) The promotional or account-establishing functions are performed by persons registered as securities agents representing the broker-dealer; or

(b) The promotional or account-establishing functions are performed by persons who are supervised by one of at least 2 persons at the bank, savings institution, trust company, savings and loan association or credit union who are officers, branch or assistant branch managers or other employees occupying a similar office or performing similar functions at each location where promotional or account-opening functions are performed, and are registered as securities agents representing the broker-dealer.

(8) No broker-dealer shall conduct broker-dealer services on the premises of a financial institution where retail deposits are taken unless the broker-dealer complies initially and continuously with all of the following requirements:

(a) The broker-dealer services shall be conducted, wherever practical, in a physical location distinct from the area in which the financial institution's retail deposits are taken. In all situations, the broker-dealer shall identify its services in a manner that clearly distinguishes those services from the financial institution's retail deposit-taking activities. The broker-dealer's name shall be clearly displayed in the area in which the broker-dealer conducts its broker-dealer services. Nothing in this paragraph prohibits the financial institution from carrying out other activities within the designated area, provided that no promotional signs or materials shall be displayed in the designated area other than those relating to the securities services.

(b) Networking and brokerage affiliate arrangements shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. Networking and brokerage affiliate arrangements shall provide that supervisory personnel of the broker-dealer and representatives of state securities authorities, where authorized by state law, will be permitted access to the financial institution's premises where the broker-dealer conducts securities services in order to inspect the books and records and other relevant information maintained by the broker-dealer with respect to its securities services. The broker-dealer shall ensure that the networking and brokerage affiliate arrangement clearly outlines the duties and responsibilities of all parties. For purposes of this paragraph, "networking arrangement" and "brokerage affiliate arrangement" mean a contractual or other arrangement between a broker-dealer and a financial institution pursuant to which the broker-dealer conducts securities services on the premises of a financial institution where retail deposits are taken.

(c) At or prior to the time that a customer's securities brokerage account is opened by a broker-dealer on the premises of a financial institution where retail deposits are taken, the broker-dealer shall comply with all of the following.

1. Disclose to the customer, orally and in writing, all of the following information about the securities products purchased or sold in a transaction with the broker-dealer:

a. The securities products are not insured by the Federal Deposit Insurance Corporation ("FDIC"), or by other deposit insurance required by the financial institution's governmental regulatory authority.

b. The securities products are not deposits or other obligations of the financial institution, and are not guaranteed by the financial institution.

c. The securities products are subject to investment risks, including possible loss of the principal invested.

2. Make reasonable efforts to obtain from each customer during the account-opening process, a written acknowledgment of the disclosures required by subd. 1.

(d) If securities services include any written or oral representations concerning insurance coverage, other than FDIC or similar insurance coverage, then clear and accurate, written or oral explanations of the coverage shall also be provided to the customers when the representations are first made.

(e) Recommendations by a broker-dealer concerning any non-deposit investment product with a name similar to that of the financial institution shall occur only pursuant to a sales program designed to minimize the risk of customer confusion.

(f) All confirmations and account statements shall indicate clearly that the broker-dealer services are provided by the broker-dealer.

(g) Advertisements and sales literature that announce the location of a financial institution where broker-dealer services are

provided by the broker-dealer, or that are distributed by the broker-dealer on the premises of a financial institution, shall disclose using the following language or using the shorter, logo format language in par. (h), the information in each of the following subdivision paragraphs about the securities products purchased or sold in a transaction with the broker-dealer:

1. The securities products are not insured by the FDIC or by other deposit insurance required by the financial institution's governmental regulatory authority.

2. The securities products are not deposits or other obligations of the financial institution, and are not guaranteed by the financial institution.

3. The securities products are subject to investment risks, including possible loss of the principal invested.

(h) The following shorter, logo format disclosures may be used by a broker-dealer in advertisements and sales literature, including material published, or designed for use, in radio or television broadcasts, automated teller machine screens, billboards, signs, posters and brochures, to comply with the requirements of par. (g), provided that the disclosures are displayed in a conspicuous manner:

1. Not FDIC Insured.
2. No Bank Guarantee.
3. May Lose Value.

(i) Provided that the omission of the disclosures required by par. (g) would not cause the advertisement or sales literature to be misleading in light of the context in which the material is presented, the disclosures in par. (g) shall not be required with respect to messages contained in any of the following:

1. Radio broadcasts of 30 seconds or less.
2. Electronic signs, including billboard-type signs that are electronic, time, and temperature signs and ticker-tape signs, but excluding messages contained in media such as television, on-line computer services, or automated teller machines.
3. Signs, such as banners and posters, when used only as location indicators.

(j) The broker-dealer shall promptly notify the financial institution if any agent of the broker-dealer who is employed by the financial institution is terminated for cause by the broker-dealer.

(k) The broker-dealer shall establish written supervisory procedures and a system for applying the procedures. The procedures shall comply with sub. (2) and shall be designed to accomplish certain supervisory functions, including but not limited to the following:

1. Prevention and detection of violations of ch. 551, Stats., and any applicable rules and orders thereunder;
2. Establishment of a system under which the broker-dealer approves prior to use copies of all advertising used by the financial institution relating to the securities services conducted on the premises of the financial institution for the purpose of ensuring compliance with ss. 551.501 and 551.504, Stats.; and
3. Establishment of a system for prompt and proper execution and settlement of securities transaction orders, the safekeeping of customer funds and securities, and the maintenance of books and records.

(L) Notify the division at the time of filing the notice of opening or change of address of a branch office as required in s. DFI-Sec 4.04 (7), that the office is located on the premises of a financial institution in this state, which notification shall include the identity of the institution.

(9) (a) Except as provided in par. (b), each registered broker-dealer engaged in a general securities business that ceases to do business at a principal or branch office located in Wisconsin shall mail to each Wisconsin customer with an account at the office at least 14 days before the cessation of business at the office a written notification that shall contain the following information:

1. The date on which the office will cease to do business;
2. A description of the procedure a customer may follow to maintain the customer's account with the broker-dealer, transfer the account to another broker-dealer, or have securities and funds held by the broker-dealer delivered to the customer;
3. The name and telephone number of a person representing the broker-dealer who may be contacted without expense to the customer to answer questions regarding items in subd. 2.; and
4. Any additional information necessary under the circumstances to clarify the information prescribed in this paragraph.

(b) The notification requirement under par. (a) is not applicable to the cessation of business at an office where the cessation is caused by illness or death of all registered agents at that office, if the cessation of business at the office does not occur for a period exceeding 14 days.

(10) Each broker-dealer shall disclose in writing to customers at the time of opening an account, any custody fees, service fees, or maintenance fees that may be charged to the customer and the basis upon which the charges are determined. Customers shall receive written notice at least 45 days prior to the imposition of any new custody, service, maintenance or similar fees, or any changes to existing fees of that nature.

(11) No broker-dealer or agent, in connection with a telephone or electronic solicitation, shall:

(a) Fail to provide both the caller's identity and the identity of the broker-dealer with whom the caller is affiliated, at the beginning of any telephone or electronic solicitation.

(b) Telephone any person in this state between the hours of 9:00 PM and 8:00 AM local time at the called person's location without that individual's prior consent.

(c) Telephone or electronically solicit any person in this state after that individual has requested that he or she not be telephoned.

(d) Make repeated telephone or electronic solicitations in an annoying, abusive or harassing manner, either individually or in concert with others.

(e) Use threats, intimidation or obscene language in connection with securities recommendations, transactions or other brokerage account activities.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (8), (intro.), Register, September, 1978, No. 273, eff. 10-1-78; r. (5), renum. (6) to (8) to be (4) to (6) and am. (5), (6) (intro.), (a) and (b), cr. (7), Register, December, 1980, No. 300, eff. 1-1-81; am. (6) (intro.) and r. (9), Register, December, 1981, No. 312, eff. 1-1-82; renum. (6) to be SEC 4.035, renum. (7) and (8) to be (6) and (7) and am. (6), Register, December, 1982, No. 324, eff. 1-1-83; emerg. cr. (8), eff. 4-15-83; cr. (8), Register, August, 1983, No. 332, eff. 9-1-83; am. (1) (a), r. and recr. (1) (b), cr. (1) (c), (9) and (10), Register, December, 1984, No. 348, eff. 1-1-85; am. (7), Register, December, 1985, No. 360, eff. 1-1-86; am. (5), Register, December, 1987, No. 384, eff. 1-1-88; am. (6), Register, December, 1989, No. 408, eff. 1-1-90; am. (5), cr. (11), Register, December, 1991, No. 432, eff. 1-1-92; am. (6), Register, December, 1992, No. 444, eff. 1-1-93; am. (6), (9) (c), (d) (intro.), r. and recr. (9) (e), Register, December, 1994, No. 468, eff. 1-1-95; am. (5) and (6), Register, December, 1995, No. 480, eff. 1-1-96; am. (5), cr. (12), Register, December, 1996, No. 492, eff. 1-1-97; r. and recr. (9), Register, December, 1999, No. 528, eff. 1-1-00; CR 01-082: r. (6), Register December 2001 No. 552, eff. 1-1-02; CR 02-102: renum. (7) to (12) to be (6) to (11) and am. (8) (L), Register December 2002 No. 564, eff. 1-1-03; CR 03-068: am. (5) Register November 2003 No. 575, eff. 12-1-2003; CR 08-077: am. (title), (2), (6), (7) (a), (b), (8) (b), (d), (k) 2., (9) (a) (intro.) and (b) Register December 2008 No. 636, eff. 1-1-09.

DFI-Sec 4.06 Prohibited conduct. (1) The following are deemed "dishonest or unethical business practices" or "taking unfair advantage of a customer" by a broker-dealer under s. 551.412 (4) (m), Stats., without limiting those terms to the practices specified herein:

(a) Causing any unreasonable delay in the transmitting of customer orders for execution, the delivery of securities purchased by any of its customers, the payment upon request of free credit balances reflecting completed transactions of any of its customers or the transfer of a customer's account securities positions and balances to another broker-dealer;

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

(c) 1. Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by the broker-dealer;

2. For purposes of making purchase recommendations to a customer with respect to direct participation program securities, the following investor financial income and net worth suitability standards do not preclude the use of any other information, including without limitation the criteria in subd. 1., to establish suitability or lack of suitability in specific instances:

a. The customer has an annual gross income of at least \$70,000 and a net worth of at least \$70,000 exclusive of the customer's principal residence and its furnishing and personal use automobiles; or

b. The customer has a net worth of at least \$250,000, exclusive of the customer's principal residence and its furnishings and personal use automobiles.

(d) Executing a transaction on behalf of a customer without authority to do so, except that use by a broker-dealer of a negative response letter in conformity with rule 2510(d)(2) of the financial industry regulatory authority is not a violation of this rule;

(e) Executing a transaction for the account of a customer upon instructions from a 3rd party without first having obtained written 3rd party authorization from the customer;

(f) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for the execution of orders pursuant to rule 2510(d)(1) of the financial industry regulatory authority;

(g) Extending, arranging for, or participating in arranging for credit to a customer in violation of the securities exchange act of 1934 or the regulations of the federal reserve board;

(h) Executing any transaction in a margin account without obtaining from its customer a written margin agreement not later than 15 calendar days after the initial transaction in the account;

(i) Failing to segregate customers' free securities or securities in safe-keeping;

(j) Hypothecating a customer's securities without having a lien thereon unless written consent of the customer is first obtained, except as permitted by rules of the U.S. securities and exchange commission;

(k) Charging its customer an unreasonable commission or service charge in any transaction executed as agent for the customer;

(L) Entering into a transaction for its own account with a customer with an unreasonable mark-up or mark-down;

(m) Entering into a transaction for its own account with a customer in which a commission is charged;

(n) Entering into a transaction with or for a customer at a price not reasonably related to the current market price;

(o) Executing orders for the purchase by a customer of securities not registered under s. 551.303 or 551.304, Stats., unless the securities are exempted under s. 551.201, Stats., or the transaction is exempted under s. 551.202, Stats.;

(p) Representing itself as a financial or investment planner, consultant, or adviser, when the representation does not accurately describe the nature of the services offered, the qualifications of the person offering the services, and the method of compensation for the services;

(q) Violating any rule of any securities exchange or national securities association of which it is a member with respect to any customer, transaction or business in this state;

(r) Failing to furnish to a customer purchasing securities in an offering, not later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus;

(s) Introducing customer transactions on a "fully disclosed" basis to another broker-dealer that is not registered under ch. 551, Stats., unless the customer is a person described in s. 551.401 (2), Stats., or s. DFI-Sec 4.10;

(t) Recommending to a customer that the customer engage the services of an investment adviser, broker-dealer or agent not registered under ch. 551, Stats., unless the customer is a person described in s. 551.401 (2) (h) or 551.402 (2) (i), Stats., or s. DFI-Sec 4.10;

(u) Failing to accurately describe or disclose in advertising or other materials used in connection with the promotion or transaction of securities business in this state, the identity of the broker-dealer or the issuer. For purposes of this paragraph, "other materials" includes, but is not limited to, business cards, business stationery and display signs.

(v) Disclosing the identity, investments, or other financial information of any customer or former client unless required by law to do so, or unless consented to by the client.

(w) Using any term or abbreviation thereof in a manner that misleadingly states or implies that a person has special expertise, certification, or training in financial planning, including the misleading use of a senior-specific certification or designation as set forth in ch. DFI-Sec 10.

(2) The following are deemed "dishonest or unethical business practices" or "taking unfair advantage of a customer" by an agent under s. 551.412 (4) (m), Stats., without limiting those terms to the practices specified in this subsection:

(a) Borrowing money or securities from, or lending money or securities to, a customer of the agent or the broker-dealer that employs the agent unless that customer is a financial institution or institutional investor designated in s. 551.401 (2) (b) or (c), Stats.

(b) Acting as a custodian for money, securities or an executed stock power of a customer;

(c) Effecting any securities transaction not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transaction is disclosed to, and authorized in writing by, the broker-dealer prior to execution of the transaction;

(d) Effecting transactions in securities for an account operating under a fictitious name, unless disclosed to, and permitted in writing by, the broker-dealer or issuer which the agent represents;

(e) Sharing directly or indirectly in profits or losses in the account of any customer without first obtaining written authorization of the customer and the broker-dealer which the agent represents;

(f) 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 also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control; and

(g) Failing to accurately describe or disclose in advertising or other materials used in connection with the promotion or transaction of securities business in this state, the identity of an agent's employing broker-dealer or issuer or the nature of the agent's securities services offered. For purposes of this paragraph, "other materials" include, but are not limited to, business cards, business stationery and display signs.

(h) Misrepresenting the services of a registered investment adviser on whose behalf the agent is soliciting business or accounts.

(i) Engaging in any of the practices specified in sub. (1) (a), (b), (c), (d), (e), (f), (g), (h), (o), (p), (q), (r), (t), (v) and (w).

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; r. (1) (u), Register, September, 1978, No. 273, eff. 10-1-78; am. (2) (g), Register, December, 1979, No. 288, eff. 1-1-80; renum. (1) (e) to (u) to be (1) (f) to (v) and am. (1) (f), (p) and (q), cr. (1) (e) and (2) (g), am. (2) (intro.), (a), (d) and (h), Register, December, 1980, No. 300, eff. 1-1-81; r. (1) (u) and am. (2) (h), Register, December, 1981, No. 312, eff. 1-1-82; am. (1) (h), renum. (2) (h) to be (2) (i) and cr. (2) (h), Register, December, 1982, No. 324, eff. 1-1-83; am. (2) (e), Register, December, 1983, No. 336, eff. 1-1-84; am. (1) (a), Register, December, 1984, No. 348, eff. 1-1-85; am. (1) (f), Register, December, 1986, No. 372, eff. 1-1-87; am. (1) (a), r. and recr. (2) (g), Register, December, 1988, No. 396, eff. 1-1-89; am. (2) (a), Register, December, 1992, No. 444, eff. 1-1-93; am. (1) (d) and (2) (c), cr. (1) (u), Register, December, 1994, No. 468, eff. 1-1-95; renum. (1) (c) to be (1) (c) 1., cr. (1) (c) 2., am. (1) (s) to (u), (2) (a), Register, December, 1996, No. 492, eff. 1-1-97; am. (2) (i), Register, December, 2000, No. 540, eff. 1-1-01; CR 02-102: am. (1) (d), Register, December 2002 No. 564, eff. 1-1-03; CR 08-077: am. (title), (1) (intro.), (c) 2. a., b., (d), (f), (o), (s), (t), (2) (intro.), (a), (f), (h) and (i), cr. (1) (v) Register, December 2008 No. 636, eff. 1-1-09; **EMR0829: emerg. cr. (1) (w), am. (2) (i), eff. 9-18-08; CR 08-095: cr. (1) (w), am. (2) (i) Register March 2009 No. 639, eff. 4-1-09.**

DFI-Sec 4.07 Registration period. (1) The registration of an agent is not effective during any period when any of the following apply:

(a) The broker-dealer that the agent represents is not registered.

(b) When the securities of the issuer that the agent represents are not subject to an effective registration statement or an effective exemption, or upon termination of the offering.

(c) The agent's status with the financial industry regulatory authority or a national securities exchange is deficient for failure to meet continuing education requirements.

(2) The division may by order limit the period of, or specify an earlier expiration date for, any registration.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. Register, December, 1980, No. 300, eff. 1-1-81; am. (1), Register, December, 1982, No. 324, eff. 1-1-83; am. (1), Register, December, 1983, No. 336, eff. 1-1-84; am. (2), Register, December, 1984, No. 348, eff. 1-1-85; am. (1) (a) and (b), r. (1) (c), renum. (1) (d) and (e) to be (1) (c) and (d), Register, December, 1985, No. 360, eff. 1-1-86; am. (1) (c), Register, December, 1994, No. 468, eff. 1-1-95; CR 02-102: r. and recr. (2), Register, December 2002 No. 564, eff. 1-1-03; CR 08-077: r. and recr. Register, December 2008 No. 636, eff. 1-1-09.

DFI-Sec 4.08 Withdrawal of registrations. (1) An application for withdrawal from the status of a registered broker-dealer under s. 551.409, Stats., shall be filed by the registrant on Form BDW with the central registration depository. If the registrant has any open customer accounts in this state, the settlement of those accounts is a condition of its withdrawal. Additional information may be required by the division and withdrawal is not effective until electronically noticed through the central registration depository.

(2) An application for withdrawal from the status of a registered agent shall be filed by the broker-dealer or issuer which the agent represents within 30 days of the termination of the agent's employment on Form U-5 prescribed in s. DFI-Sec 9.01 (1), together with any additional information required by the division.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) and (2), Register, December, 1979, No. 288, eff. 1-1-80; am. (2), Register, December, 1982, No. 324, eff. 1-1-83; am. (2), Register, December, 1984, No. 348, eff. 1-1-85; am. (1), Register, December, 1994, No. 468, eff. 1-1-95; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1999, No. 524; CR 08-077: am. Register, December 2008 No. 636, eff. 1-1-09.

DFI-Sec 4.085 Temporary agent licensing. **History:** Cr. Register, December, 1984, No. 348, eff. 1-1-85; correction made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1999, No. 524; CR 02-102: am. Register, December 2002 No. 564, eff. 1-1-03; CR 08-077: r. Register, December 2008 No. 636, eff. 1-1-09.

DFI-Sec 4.09 Denial, suspension, revocation and censure. (1) Any order denying, suspending or revoking the registration of a broker-dealer or agent or censuring a registrant may include such other sanctions as the division finds appropriate.

(2) For purposes of s. 551.412 (1), Stats., the public interest or protection of investors does not require a showing of ongoing harm to summarily deny an application for a registration as a broker-dealer or agent.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; renum. (1) and am., r. (2), Register, December, 1981, No. 312, eff. 1-1-82; CR 08-077: renum. to be (1) and am., cr. (2) Register, December 2008 No. 636, eff. 1-1-09.

DFI-Sec 4.10 Registration exemptions. (1) For purposes of ss. 551.401 (2) (h) and 551.402 (2) (i), Stats., a broker-dealer or agent is exempt from the registration requirement if the broker-dealer's or agent's only transactions effected in this state are with:

(a) This state or any of its agencies or political subdivisions or the state investment board.

(b) The federal government or any of its agencies or instrumentalities.

(2) For purposes of s. 551.402 (2), Stats., an agent is exempt from the registration requirement if the agent represents an issuer in effecting transactions in a security exempted by s. 551.201, Stats.

(3) A person who gives a group presentation relating to an issuer or the securities of an issuer at a meeting or seminar sponsored by a broker-dealer registered under this chapter is not required to register as an agent if the person makes no solicitations, offers or sales of the issuer's securities on an individual basis with any person in this state and if the person does not in any other way transact business in this state as an agent.

(4) (a) A broker-dealer that is registered in good standing in Canada and that does not have a place of business in this state is exempt from registration if it complies with all of the requirements of s. 551.401 (4) (a), Stats., and discloses to each customer in this state that the broker-dealer and its agents are not registered under ch. 551, Stats.

(b) An agent of a broker-dealer located in Canada that is exempt from registration on the basis of compliance with s. 551.401 (4) (a), Stats., is exempt from the registration requirement in s. 551.402, Stats.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) (b), (2) and (3), Register, December, 1980, No. 300, eff. 1-1-81; emerg. am. (1) (intro.), renum. (1) (a) and (b) to be (1) (c) and (d), cr. (1) (a) and (b) and (4), eff. 4-15-83; renum. (1) (a) and (b) to be (1) (c) and (d), cr. (1) (a) and (b) and (4), Register, August, 1983, No. 332, eff. 9-1-83; am. (4) (a), Register, December, 1984, No. 348, eff. 1-1-85; am. (1) (d), (2), Register, December, 1996, No. 492, eff. 1-1-97; CR 02-041: renum. (1) to (4) to be (1) (a) to (d), cr. (2) Register, August 2002 No. 560, eff. 9-1-02; correction in (1) (a) 1. made under s. 13.93 (2m) (b) 7., Stats., Register, August 2002 No. 560, December 2002 No. 564, eff. 1-1-03; CR 08-077: r. and recr. Register, December 2008 No. 636, eff. 1-1-09.

DFI-Sec 4.11 Brokered certificates of deposit. **History:** Emerg. cr. eff. 8-15-89; cr. Register, December, 1989, No. 408, eff. 1-1-90; am. (1) (c), Register, December, 1992, No. 444, eff. 1-1-93; CR 08-077: r. Register, December 2008 No. 636, eff. 1-1-09.