DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
Investor Protection Unit

Rules Pursuant to the Delaware Securities Act

Part A. General Provisions

100 General Statement and Statutory Authority

The Investor Protection Unit (hereinafter, the "Unit") was created in 1973 with the passage of the Delaware Securities Act (hereinafter, the "Act"), which is found at Chapter 73 of Title 6 of the Delaware Code. The Act is administered by the Attorney General through a Deputy Attorney General designated to act as Investor Protection Director (hereinafter, the "Director"). The Director is the principal executive officer of the Unit and acts for the Attorney General in administering the Act. The purpose of the Act is to prevent the public from being victimized by unscrupulous or over-reaching broker-dealers, investment advisers or agents in the context of selling securities or giving investment advice, as well as to remedy any harm caused by securities law violations.

14 DE Reg. 664 (01/01/11)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

101 References to the Act

A reference in these Rules Pursuant to the Delaware Securities Act (hereinafter, the "Rules") to a provision in the Act shall be deemed to be a reference to the same provision as re-designated under any amendment to the Act.

1 DE Reg. 1978 (06/01/98)
14 DE Reg. 664 (01/01/11)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

102 Interpretive Opinions

The Unit may, in its discretion, provide written no action guidance in response to written requests. No action guidance indicates that, based on the specific facts presented, the Unit would not recommend enforcement action if a proposed transaction or activity goes forward as presented to the Unit. Requests for no action should identify the parties involved, provide complete facts, be addressed to the Director and accompanied by a fee of $500 payable to the State of Delaware. When 1 request contains multiple questions or inquiries that require separate or additional research, each question or inquiry may be treated as a separate request for purposes of calculating the applicable fee. If the fee will be more than $500, the Unit will contact the requesting party regarding the additional cost. No guidance will be issued in the absence of fee payment. Fees are nonrefundable even where the Unit’s guidance declines to provide the requested relief.

The Unit does not provide guidance that involves the provision of legal advice or interpretation of provisions other than those in the Act and the Rules.

1 DE Reg 1978 (06/01/98)
13 DE Reg. 667 (11/01/09)
14 DE Reg. 664 (01/01/11)
18 DE Reg. 394 (11/01/14)
23 DE Reg. 776 (03/01/20)
29 DE Reg. 786 (03/01/26)
29 DE Reg. 786 (03/01/26)

103 Vicarious Liability for Violations of the Act

Any violation of the Act, or the Rules, by a person acting in an agency capacity shall, in any legal proceedings brought by the Unit, be deemed to be a violation by both that person and the person for whom the agent is acting, provided that the agent was acting within the scope of his agency.

14 DE Reg. 664 (01/01/11)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

Part B. Practice and Procedure in Administrative Hearings General Rules

200 Construction of Rules of Practice and Procedure

(a) Unless otherwise provided, Part B of the Rules (Rule 200 through Rule 272) governs proceedings before Presiding Officers (as defined in paragraph (d), below) under the Act. Part B does not apply to investigations by the Unit, which are governed by Part C of the Rules.

(b) Part B of the Rules shall be construed and administered to secure the just, speedy, and inexpensive determination of every proceeding.

(c) In any particular proceeding, to the extent that there is a conflict between these Rules and a procedural requirement contained in any statute, the latter shall control.

(d) For the purposes of these Rules, the "Presiding Officer" shall mean either the Director or the individual to whom the Director has delegated his or her authority pursuant to Rule 202 in a particular administrative proceeding commenced under the Act, as the case may be.

(e) For purposes of these Rules:

(1) any term in the singular includes the plural, and any term in the plural includes the singular, if such use would be appropriate;

(2) any use of a masculine, feminine, or neuter gender encompasses such other genders as would be appropriate; and

(3) unless the context requires otherwise, counsel for a party may take any action required or permitted to be taken by such party.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

201 Appearance and Practice in Administrative Proceedings

A person shall not be represented before a Presiding Officer except as stated in paragraphs (a) and (b) of this section or as otherwise permitted by the Presiding Officer:

(a) *Representing oneself.* In any proceeding, an individual may appear on his or her own behalf.

(b) *Representing others.* In any proceeding, a person may be represented by an attorney at law admitted to practice before the Supreme Court of the State of Delaware. Attorneys who are not members of the Delaware Bar may be admitted pro hac vice pursuant to Rule 72 of the Rules of the Supreme Court of the State of Delaware as set forth in paragraph (c), below.

(c) *Requirement of Delaware Counsel.* Pursuant to Rule 72(a) of the Delaware Supreme Court Rules, attorneys who are not members of the Delaware Bar may be admitted pro hac vice in a proceeding in the discretion of the administrative Presiding Officer upon written motion by a member of the Delaware Bar who maintains an office in this State for the practice of law ("Delaware Counsel"). Pursuant to Delaware Supreme Court Rule 72(c), Delaware Counsel for any party shall appear in the matter for which admission pro hac vice is filed and shall sign or receive service of all notices, orders, pleadings or other papers filed in the matter and shall attend all proceedings before the Presiding Officer, unless excused by that Presiding Officer.

(d) *Designation of address for service; notice of appearance; power of attorney; withdrawal.*

(1) *Representing oneself.* When an individual first makes any filing or otherwise appears on his or her own behalf before a Presiding Officer in a proceeding, he or she shall file with the Director or otherwise state on the record, and keep current, an address at which any notice or other written communication required to be served upon him or her or furnished to him or her may be sent and a telephone number where he or she may be reached during business hours.

(2) *Representing others.* When a person first makes any filing or otherwise appears in a representative capacity before a Presiding Officer in a proceeding, that person shall file with the Director, and keep current, a written notice stating the name of the proceeding; the representative's name, business address and telephone number; and the name and address of the person or persons represented.

(3) *Power of attorney.* Any individual appearing or practicing before a Presiding Officer in a representative capacity may be required to file a power of attorney with the Director showing his or her authority to act in such capacity.

(4) *Withdrawal.* Withdrawal by any individual appearing in a representative capacity shall be permitted only by written order of the Presiding Officer. A motion seeking leave to withdraw shall state with specificity the reasons for such withdrawal.

(e) Public Hearings. All hearings shall be public unless otherwise ordered by the Presiding Officer on his or her own motion or after considering the motion of a party.

202 Delegation of Power to Issue Orders and Revocation of Delegation

(a) Pursuant to Section 73-102(c) of the Act, in each administrative proceeding commenced under the Act, the Director delegates to the Presiding Officer appointed under Rule 225A the power and authority to issue a final

order, decision or other disposition of the proceeding. Any order issued by the Presiding Officer shall constitute an order of the Director for purposes of judicial review.

(b) In any proceeding involving a delegation under the preceding paragraph (a) of this Rule, the order (including any findings contained therein) of the Presiding Officer shall be treated as the order (and findings) of the Director for purposes of Section 73-502(b) of the Act.

(c) In any proceeding involving a delegation under the preceding paragraph (a) of this Rule, for purposes of appealing an order of the Presiding Officer other than the Director, the Director may have the status of an aggrieved party under Section 73-502 of the Act.

(d) The Director may, at his or her discretion, revoke all or part of a delegation under paragraph (a) of this Rule.

(e) *Procedures for Revocation*.

(1) The Director may revoke a delegation of a proceeding at any time before a ruling on a substantive issue by the Presiding Officer, or the taking of oral testimony from the first witness, whichever is earlier.

(2) The Director shall issue a written notice of revocation that states briefly the reason for the revocation and specifies whether all or part of the delegation has been revoked. If only part of the delegation has been revoked, the Director shall specify in the notice of revocation the portions of the proceeding for which the delegation has been revoked.

(3) The Director shall serve the notice of revocation on all parties and the Presiding Officer.

(4) A decision issued by the Director shall reflect the revocation of delegation, and a copy of the revocation notice shall be included as part of the record.

(f) *Withdrawal of Delegation with Consent of Parties*. The Director may withdraw all or part of a delegation of a case as to a respondent at any time with the consent of that respondent and the Unit.

(g) In any case where a delegation has been revoked or withdrawn, the Director shall be treated as the "Presiding Officer" for purposes of these Rules.

(h) Subparagraph (a) of this Rule shall not apply if an administrative complaint requests that a final determination of the case be made by the Director.

1 DE Reg 1978 (06/01/98)
14 DE Reg. 664 (01/01/11)
18 DE Reg. 394 (11/01/14)

203 Subpoenas and Oaths

(a) For the purpose of any proceeding under the Act, the Director, the Presiding Officer, or any officer designated by the Director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the Director or Presiding Officer deems relevant or material to the proceeding. The authority to subpoena witnesses and documents outside the State shall exist to the maximum extent permissible under federal constitutional law.

(b) Subpoenas issued under this Rule shall be subject to and comply with Rule 304.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

204 Disqualification and Recusal of Administrative Presiding Officer

(a) *Notice of disqualification*. At any time a Presiding Officer believes himself or herself to be disqualified from considering a matter, the Presiding Officer shall issue a notice stating that he or she is withdrawing from the matter and setting forth the reasons therefor.

(b) *Motion for Withdrawal*. Any party who has a reasonable, good faith basis to believe that a Presiding Officer has a personal bias, or is otherwise disqualified from hearing a proceeding, may make a motion to the Presiding Officer that the Presiding Officer withdraw. The motion shall be accompanied by an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification. If the Presiding Officer finds himself or herself not disqualified, he or she shall so rule and shall continue to preside over the proceeding.

18 DE Reg. 394 (11/01/14)

205 Ex Parte Communications

Unless on notice and opportunity for all parties to participate, or to the extent required for the disposition of ex parte matters as authorized by the Act:

(a) No party, or counsel to or representative of a party, shall make or knowingly cause to be made an ex parte communication relevant to the merits of a proceeding to the Presiding Officer with respect to that proceeding.

(b) No Presiding Officer with respect to a proceeding shall make or knowingly cause to be made to a party, or counsel to or representative of a party, an ex parte communication relevant to the merits of that proceeding.

13 DE Reg. 667 (11/01/09)
14 DE Reg. 664 (01/01/11)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

206 Orders and Decisions of Presiding Officer

(a) *Availability for inspection.* Each order, decision, and proposed decision of a Presiding Officer shall be available for inspection by the public from the date of entry, unless the order or decision is nonpublic. A nonpublic order or decision shall be available for inspection by any person entitled to inspect it from the date of entry.

(b) *Date of entry of orders.* The date of entry of an order shall be the date the order is signed. Such date shall be reflected in the order.

1 DE Reg 1978 (06/01/98)
13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

207 Motions

(a) *Generally*. Unless made during a hearing or conference, a motion shall be in writing, shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be accompanied by a written brief of the points and authorities relied upon. All written motions shall be served in accordance with Rule 210, be filed in accordance with Rule 211, meet the requirements of Rule 212, and be signed in accordance with Rule 213. The Presiding Officer may order that an oral motion be submitted in writing. Unless otherwise ordered by the Presiding Officer, if a motion is properly made, the proceeding shall continue pending the determination of the motion. No oral argument shall be heard on any motion unless the Presiding Officer otherwise directs.

(b) *Opposing and reply briefs*. Briefs in opposition to a motion shall be served and filed within ten days after service of the motion. Reply briefs shall be served and filed within 3 days after service of the opposition.

(c) *Length limitation*. A brief in support of or opposition to a motion shall not exceed 10 pages, exclusive of pages containing any table of contents, table of authorities, or addendum.

(d) *Interim orders.* The Presiding Officer shall rule on motions and make such other interim orders as are necessary and appropriate.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

Service and Filing of Papers

210 Service of Papers by Parties

(a) *When required.* In every administrative proceeding, each paper, including each notice of appearance, written motion, brief, or other written communication, shall be served upon each party in the proceeding in accordance with the provisions of this section; provided, however, that absent an order to the contrary, no service shall be required for motions which may be heard ex parte.

(b) *Upon a person represented by counsel.* Whenever service is required to be made upon a person represented by counsel, service shall be made pursuant to paragraph (c) of this section upon counsel at the address listed on the notice of appearance filed pursuant to Rule 201, unless service upon the person represented is ordered by the Presiding Officer.

(c) *How made.* Service shall be made by delivering a copy of the filing. Delivery means:

(1) Personal service by handing a copy to the person required to be served; or leaving a copy at the person's office with a clerk or other person in charge thereof, or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed, or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein;

(2) Mailing the papers through the U.S. Postal Service by first class, registered, or certified mail or Express Mail delivery addressed to the person;

(3) Sending the papers through a commercial courier service or express delivery service; or

(4) Transmitting the papers by e-mail or facsimile machine where the following conditions are met:

(A) The persons serving each other by e-mail or facsimile transmission have agreed to do so in a writing, signed by each party, and

(B) Receipt of each document served by e-mail or facsimile is confirmed by a receipt or other means agreed to by the parties.

(d) *When service is complete.* Personal service, service by U.S. Postal Express Mail or service by commercial courier or express delivery service is complete upon delivery. Service by mail is complete upon mailing. Service by e-mail or facsimile is complete upon confirmation of transmission by delivery of a receipt or other agreed-to method of confirmation.

(e) "*Long-arm" service of process to initiate a proceeding*. Any service of process that would be effective to create personal jurisdiction in the Superior Court under Section 3104 of Title 10 of the Delaware Code shall be effective to create personal jurisdiction in the Department of Justice administrative forum under these Rules.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

211 Filing of Papers with the Director: Procedures

(a) *When to file*. All papers required to be served by a party upon any person shall be filed with the Director at the time of service or promptly thereafter. Papers required to be filed with the Director must be received within the time limit, if any, for such filings.

(b) *Where to file*. Filing of papers with the Director shall be made by filing the original papers with the Director and (unless the Director is the Presiding Officer) 1 copy with the Presiding Officer.

(c) *To whom to direct the filing*. All motions, objections, applications or other filings made during a proceeding shall be directed to and decided by the Presiding Officer.

(d) *Certificate of service*. Papers filed with the Director and the Presiding Officer shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service and the mailing address, e-mail, or facsimile telephone number to which service was made, if not made in person.

18 DE Reg. 394 (11/01/14)

212 Filing of Papers: Form

(a) *Specifications.* Papers filed in connection with any administrative proceeding shall:

(1) Be on 1 grade of unglazed white paper measuring 8-1/2 x 11 inches, except that, to the extent that the reduction of larger documents would render them illegible, such documents may be filed on larger paper;

(2) Be typewritten or printed in 12-point typeface or otherwise reproduced by a process that produces permanent and plainly legible copies;

(3) Include at the head of the paper, or on a title page, the title of the proceeding, the names of the parties, the subject of the particular paper or pleading, and the file number assigned to the proceeding;

(4) Be paginated with left hand margins at least 1 inch wide, and other margins of at least 1 inch;

(5) Be double-spaced, with single-spaced footnotes and single-spaced indented quotations; and

(6) Be stapled, clipped or otherwise fastened in the upper left corner.

(b) *Signature required.* All papers must be dated and signed as provided in Rule 213.

(c) *Suitability for recordkeeping*. Documents which, in the opinion of the Director, are not suitable for computer scanning may be rejected.

(d) *Form of briefs*. All briefs containing more than 10 pages shall include a table of contents, an alphabetized table of cases, a table of statutes, and a table of other authorities cited, with references to the pages of the brief wherein they are cited.

(e) *Scandalous or impertinent matter*. Any scandalous or impertinent matter contained in any brief or pleading or in connection with any oral presentation in a proceeding may be stricken on order of the Presiding Officer.

18 DE Reg. 394 (11/01/14)

213 Filing of Papers: Signature Requirement and Effect

(a) *General requirements*. Every filing of a party represented by counsel shall be signed by Delaware Counsel of record in his or her name and shall state that counsel's business address, e-mail address, and telephone number. A party who acts as his or her own counsel shall sign his or her individual name and state his or her address, e-mail address, and telephone number on every filing.

(b) *Effect of signature*.

(1) The signature of a counsel or party shall constitute a certification that:

(A) the person signing the filing has read the filing;

(B) to the best of his or her knowledge, information and belief, formed after reasonable inquiry, the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(C) the filing is not made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of adjudication.

(2) If a filing is not signed, the Presiding Officer shall strike the filing, unless it is signed promptly after the omission is called to the attention of the person making the filing.

(3) Pursuant to Title 6, Chapter 12A-107(d) of the Delaware Code, an electronic signature may satisfy the signature requirement.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

214 Computation of Time

(a) *Computation.* In computing any period of time prescribed in or allowed by these Rules or by order of the Presiding Officer, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or State legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or State legal holiday. Intermediate Saturdays, Sundays and State legal holidays shall be excluded from the computation when the period of time prescribed or allowed is 7 days or less, not including any additional time allowed for service by mail in paragraph (b) of this section. If on the day a filing is to be made, weather or other conditions have caused the designated filing location to close, the filing deadline shall be extended to the end of the next day that is neither a Saturday, Sunday nor State legal holiday.

(b) *Additional time for service by mail.* If service is made by mail, 3 days shall be added to the prescribed period for response.

18 DE Reg. 394 (11/01/14)

Pleadings and Prehearing Practice

220 Complaints: General

If the Unit believes that any person is violating or has violated any provision of the Act or any rule, order, or condition lawfully imposed thereunder, it may issue a complaint as set forth in Rule 221. The complaint shall be served on each party as provided in Rule 210 and filed at the time of service with the Director pursuant to Rule 211. The service and filing of the complaint constitutes the commencement of the administrative proceeding. As set forth in Rule 225A, upon the filing of a complaint, the Director shall give notice to the Attorney General (or his or her designee) that the complaint has been filed and request that the Attorney General (or his or her designee) appoint a Presiding Officer to hear the matter, unless the Director decides to act as the Presiding Officer in the proceeding or the Unit's complaint has requested that the Director act as the Presiding Officer in the proceeding.

13 DE Reg. 667 (11/01/09)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

221 Complaints: Form and Content

Each complaint shall be in writing and signed by a Deputy Attorney General. The complaint shall specify in reasonable detail the conduct alleged to constitute the violative activity and the statutory provision, rule, order or other condition the respondent is alleged to be violating or to have violated. If the complaint consists of several causes of action, each cause shall be stated separately.

18 DE Reg. 394 (11/01/14)

222 Complaints: Amendment and Withdrawal

(a) At any time prior to the filing of a responsive pleading or the commencement of a hearing (whichever is earlier), the Unit may amend a complaint to include new matters of fact or law. After the filing of a responsive pleading or the commencement of a hearing, upon motion by the Unit, the Presiding Officer may permit amendment of a complaint to include new matters of fact or law.

(b) At any time prior to the filing of a responsive pleading or the commencement of a hearing (whichever is earlier), the Unit may withdraw its complaint. Such withdrawal shall be without prejudice to refiling, and the Unit shall be permitted to file a complaint based on allegations concerning the same facts and circumstances that are set forth in the withdrawn complaint. The Unit may withdraw its complaint after the filing of a responsive pleading or commencement of a hearing; however, upon motion of the respondent, the Presiding Officer, after considering the facts and circumstances of the withdrawal, shall determine whether the withdrawal shall be with prejudice.

18 DE Reg. 394 (11/01/14)

223 Repealed

13 DE Reg. 667 (11/01/09)

224 Answers to Complaints

(a) *Form, service, notice.* Each respondent named in a complaint shall answer and serve an answer to the complaint on the Unit, all other parties, and the Presiding Officer within 25 days after service of the complaint on such respondent pursuant to Rule 210 and at the time of service file such answer with the Director pursuant to Rules 211, 212 and 213. The Presiding Officer may extend such period for good cause.

(b) *Content, affirmative defenses.* Unless otherwise ordered by the Presiding Officer, an answer shall specifically admit, deny, or state that the respondent does not have and is unable to obtain sufficient information to admit or deny each allegation in the complaint. When a respondent intends to deny only part of an allegation, the respondent shall specify so much of it as is admitted and deny only the remainder. A statement of lack of information shall be deemed a denial. Any allegation not denied shall be deemed admitted. Any affirmative defense shall be asserted in the answer.

(c) *Amendments to Answer.* Upon motion by a respondent, the Presiding Officer may permit an answer to be amended.

(d) *Extension of Time to Answer Amended Complaint.* If a complaint is amended pursuant to Rule 222, the time for filing an answer or amended answer shall be extended to 10 days after service of the amended complaint. If any respondent has already filed an answer, such respondent shall have 15 days after service of the amended complaint, unless otherwise ordered by the Presiding Officer, within which to file an amended answer.

(e) *Failure to Answer, Default*.

(1) If the respondent does not file an answer within the time required, the Presiding Officer shall send a second notice to such respondent requiring an answer within 10 days after service of the second notice, or within such longer period as the Presiding Officer in his or her discretion may order. The second notice shall state that failure of the respondent to reply within the period specified shall allow the Presiding Officer, in the exercise of his or her discretion, to:

(A) treat as admitted by the respondent the allegations in the complaint; and

(B) enter a default decision against the respondent.

(2) If no answer is filed within the time required by the second notice, the Presiding Officer may treat as admitted by the respondent the allegations in the complaint and enter a default decision against the respondent.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

225 Request for Hearing

(a) *Investor Protection Unit Request for Hearing.* With the filing of its complaint or at any time later, the Unit may request a hearing. The Unit may request that the hearing be convened within a specified time after the filing of the complaint, but in no event shall that hearing be required to be held earlier than 30 days after service and filing of the complaint other than in summary proceedings under the Act.

(b) *Respondent Request for Hearing.* With the filing of respondent's answer such respondent may request a hearing. If a respondent requests a hearing, a hearing shall be granted. A respondent who fails to request a hearing with the filing of his or her answer waives the right to a hearing unless the Presiding Officer grants, for good cause shown, a later filed motion by such respondent requesting a hearing.

(c) *Presiding Officer Order Requiring Hearing.* Any complaint may be set down for a hearing upon order of the Presiding Officer. The Presiding Officer may set a complaint for hearing in the absence of a request for hearing by any party.

(d) *Notice of Hearing.* The Presiding Officer shall issue a notice stating the date, time and place of the hearing, and shall serve such notice on the parties at least 28 days before the hearing, unless in the discretion of the Presiding Officer, he or she determines that extraordinary circumstances require a shorter notice period, or the parties waive the notice period.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

225 A Appointment of a Presiding Officer

(a) The Director shall maintain a Register of Presiding Officers listing persons who may, upon designation, act as Presiding Officers in proceedings brought by the Unit under the Act. Persons eligible for listing on the Register of Presiding Officers shall include any Deputy Attorney General (other than a Deputy Attorney General assigned to the Investor Protection Unit) and any other attorney admitted to practice law in the State of Delaware. Any

person's listing on the Register of Presiding Officers shall be subject to the approval of the Attorney General (or his or her designee).

(b) Preference shall be given to Presiding Officers with experience practicing securities law, or those with an academic background in securities law.

(c) Upon receipt of a notice from the Director that a complaint has been filed, the Attorney General (or his or her designee) shall issue an Order delegating the responsibility for conducting the hearing (including, where relevant, the powers in Rule 202(a)) to a Presiding Officer selected by the Attorney General (or his or her designee) from the Register of Presiding Officers. The Order shall grant to the Presiding Officer all powers that are reasonably necessary to adjudicate the matter before him or her, provided, however, that the Presiding Officer's powers shall not include any power that these Rules specifically limit to the Attorney General or the Director.

(d) Notwithstanding the foregoing or anything in Rule 265(b), the Director may elect to be the Presiding Officer in any particular proceeding by providing notice to the Attorney General (or his or her designee) and each of the parties in the proceeding that the Director shall act as Presiding Officer in the proceeding. In such event, all references to a "Presiding Officer" in these Rules shall be treated as a reference to the Director, as the context may require.

(e) Part B of these Rules (Rules 200-272) shall govern all proceedings by and before the Presiding Officer.

13 DE Reg. 667 (11/01/09)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

226 Pre-hearing Conferences

(a) *Purpose of conferences.* The purpose of prehearing conferences include, but are not limited to:
(1) expediting the disposition of the proceeding;
(2) establishing early and continuing control of the proceeding by the Presiding Officer; and
(3) improving the quality of the hearing through more thorough preparation.

(b) *Procedure.* On his or her own motion or at the request of a party, the Presiding Officer may, in his or her discretion, direct counsel or any party to meet for an initial, final or other prehearing conference. Such conferences may be held with or without the Presiding Officer present as the Presiding Officer deems appropriate. Where such a conference is held outside the presence of the Presiding Officer, the Presiding Officer shall be advised promptly by the parties of any agreements reached. Such conferences also may be held with 1 or more persons participating by telephone or other remote means.

(c) *Subjects to be discussed.* At a prehearing conference consideration may be given and action taken with respect to any and all of the following:
(1) simplification and clarification of the issues;
(2) exchange of witness and exhibit lists and copies of exhibits;
(3) stipulations, admissions of fact, and stipulations concerning the contents, authenticity or admissibility into evidence of documents;
(4) matters of which official notice may be taken;
(5) the schedule for exchanging prehearing motions or briefs, if any;
(6) the method of service for papers;
(7) summary disposition of any or all issues;
(8) settlement of any or all issues;
(9) determination of hearing dates;
(10) amendments to the complaint or answers thereto;
(11) disclosure of anticipated evidence at the hearing; and
(12) such other matters as may aid in the orderly and expeditious disposition of the proceeding.

(d) *Prehearing orders*. At or following the conclusion of any conference held pursuant to this section, the Presiding Officer shall enter a ruling or order which recites the agreements reached and any procedural determinations made by the Presiding Officer.

(e) *Failure to appear: default*. Any person who is named as a respondent in a complaint and who fails to appear, in person or through a representative, at a prehearing conference of which he or she has been duly notified may be deemed in default pursuant to Rule 252(a). A party may make a motion to set aside a default pursuant to Rule 252(b).

(f) *Pre-hearing submissions*. In connection with the pre-hearing conference, the Presiding Officer, on his or her own motion or at the request of a party, may order any party to furnish such information as deemed appropriate.

18 DE Reg. 394 (11/01/14)

227 Repealed
14 DE Reg. 664 (01/01/11)

228 Repealed
13 DE Reg. 667 (11/01/09)
14 DE Reg. 664 (01/01/11)

229 Repealed
14 DE Reg. 664 (01/01/11)

230 Repealed
13 DE Reg. 667 (11/01/09)

231 Motion for Summary Disposition on the Pleadings

(a) After a respondent's answer has been filed, the respondent or the Unit may make a motion for summary disposition of any or all allegations of the complaint with respect to that respondent. Any motion for summary disposition on the pleadings shall be filed within 30 days after the filing of the respondent's answer unless otherwise ordered by the Presiding Officer. Notwithstanding the provisions of Rule 207, unless otherwise ordered by the Presiding Officer, any opposition or response to a motion for summary disposition shall be filed within 14 days after service of the motion. Unless otherwise ordered by the Presiding Officer, reply briefs shall be filed within 5 days after service of the opposition or response.

(b A motion for summary disposition pursuant to paragraph (a) shall be accompanied by a supporting memorandum of points and authorities. The motion for summary disposition and supporting memorandum of points and authorities shall not exceed 25 pages in length.

(c) Unless the Presiding Officer decides to defer decision on the motion, he or she may grant the motion for summary disposition if, considering the facts in a light most favorable to the nonmoving party, there is no material issue of fact and the moving party is entitled to a summary disposition as a matter of law. Otherwise, the Presiding Officer shall deny or defer the motion.

1 DE Reg. 1978 (06/01/98)
13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

232 Repealed
13 DE Reg. 677 (11/01/09)

Administrative Hearings

240 Hearings

Hearings for the purpose of taking evidence shall be held upon order of the Presiding Officer. All hearings shall be conducted in a fair, impartial, expeditious and orderly manner.
18 DE Reg. 394 (11/01/14)

241 Hearings to be Public

All hearings, except hearings on ex parte applications for a summary order under the Act, shall be public unless otherwise ordered by the Presiding Officer on his or her own motion or the motion of a party. No hearing shall be nonpublic where all respondents request that the hearing be made public.
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

242 Continuance of Hearing

Any motion for a continuance of the hearing date shall be filed as far in advance of the hearing date as practicable. Motions should state with specificity the reason for the continuance request.

243 Procedure

(a) Unless otherwise ordered by the Presiding Officer, no later than 20 days prior to the date of the hearing the Unit shall submit to each respondent and to the Presiding Officer copies of all documentary evidence and the names of the witnesses the Unit intends to present in its case-in-chief at the hearing. Unless otherwise ordered, no later than 10 days prior to the date of the hearing each respondent shall submit to the Unit and to the Presiding

Officer all documentary evidence and the names of the witnesses the respondent intends to present at the hearing. If a party intends to use the testimony of an expert witness, that party shall include as part of its documentary production a *curriculum vitae* or statement of the expert's qualifications and a written summary of the expert's opinions on the topic of the intended testimony.

(b) In the administrative hearing, each party is entitled to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as, in the discretion of the Presiding Officer, may be required for a full and true disclosure of the facts.

18 DE Reg. 394 (11/01/14)

244 Testimony

Witnesses shall testify under oath or affirmation. The oath or affirmation may be administered by a Deputy Attorney General, notary public or any other officer authorized to administer oaths and affirmations under Delaware law.

245 Evidence: Admissibility

The Presiding Officer shall receive relevant evidence and may exclude all evidence that is irrelevant, immaterial or unduly repetitious.

18 DE Reg. 394 (11/01/14)

246 Evidence: Objections and Offers of Proof

(a) *Objections*. Objections to the admission or exclusion of evidence must be made on the record and shall be in short form, stating the grounds relied upon. Exceptions to any ruling thereon by the Presiding Officer need not be noted at the time of the ruling. Such exceptions will be deemed waived on appeal to the Court of Chancery, however, unless raised in a proposed finding or conclusion filed pursuant to Rule 248.

(b) *Offers of proof*. Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record. Excluded material shall be retained pursuant to Rule 249.

18 DE Reg. 394 (11/01/14)

247 Evidence: Reference to Delaware Uniform Rules of Evidence

The Presiding Officer may make reference to and be guided by the Delaware Uniform Rules of Evidence in receiving relevant evidence under Rule 245 and ruling on objections under Rule 246. Notwithstanding those rules, the Presiding Officer may admit any evidence that reasonable and prudent individuals would commonly accept in the conduct of their affairs, and give probative effect to that evidence. Evidence may not be excluded solely on the ground that it is hearsay.

18 DE Reg. 394 (11/01/14)

248 Proposed Findings of Fact, Conclusions of Law, and Post-Hearing Briefs

(a) At the discretion of the Presiding Officer, the parties may be ordered to file proposed findings of fact and conclusions of law, or post-hearing briefs, or both. The Presiding Officer may order that such proposed findings and conclusions be filed together with, or as part of, post-hearing briefs.

(b) Proposed findings of fact or other statements of fact in briefs shall be supported by specific references to the record.

(c) In any case in which the Presiding Officer has ordered the filing of proposed findings of fact and conclusions of law, or post-hearing briefs, the Presiding Officer shall, after consultation with the parties, prescribe the period within which proposed findings of fact and conclusions of law or post-hearing briefs are to be filed. Such period shall be reasonable under all the circumstances but the total period allowed for the filing of post-hearing submissions shall not exceed 60 days after the conclusion of the hearing unless the Presiding Officer, for good cause shown, permits a different period and sets forth in an order the reasons why a longer period is necessary.

(d) Unless the Presiding Officer orders otherwise, each post-hearing submission shall not exceed 25 pages, exclusive of cover sheets, tables of contents and tables of authorities.

18 DE Reg. 394 (11/01/14)

249 Record of Hearings

(a) *Contents of the record*. The record shall consist of:

(1) The complaint and answers thereto; the notice of hearing; and any amendments to those documents;

(2) Each application, motion, submission or other paper, and any amendments, motions, objections, and exceptions to or regarding them;

(3) Each stipulation, transcript of testimony and document or other item admitted into evidence;

(4) With respect to a request to disqualify a Presiding Officer or to allow the Presiding Officer's withdrawal under Rule 204, each affidavit or transcript of testimony taken and the decision made in connection with the request;
(5) All proposed findings and conclusions;
(6) Each written order issued by the Presiding Officer; and
(7) Any other document or item accepted into the record by the Presiding Officer.

(b) *Retention of documents not admitted.* Any document offered in evidence but excluded, and any document marked for identification but not offered as an exhibit, shall not be considered a part of the record but shall be retained until the later of the date upon which an order ending the proceeding becomes final, or the conclusion of any judicial review of the Director's or Presiding Officer's order.

(c) *Substitution of copies.* A true copy of a document may be substituted for any document in the record or any document retained pursuant to paragraph (b) of this section.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

250 Supplementation of Record

Upon motion filed within 10 days of the conclusion of the hearing, any party may seek leave from the Presiding Officer to supplement the record with additional relevant material evidence. Where the party shows to the satisfaction of the Presiding Officer that there were reasonable grounds for failure to adduce the evidence in the hearing, the Presiding Officer may allow the evidence to be heard in such manner and upon such conditions as the Presiding Officer considers proper.

18 DE Reg. 394 (11/01/14)

251 Final Decision After a Hearing

(a) In any administrative proceeding in which a hearing is held and in which the delegation to the Presiding Officer to issue an order under Rule 202(a) has not been revoked:
(1) The Presiding Officer shall issue a final written decision, which shall be filed with the Director and served upon the parties. Such decisions should generally be issued within 60 days after the last day of the hearing or the filing of any post-hearing submission, whichever is later. The decision shall include:
(A) a summary of the evidence;
(B) findings of fact and the evidentiary bases therefor;
(C) conclusions of law and the legal bases therefor; and
(D) sanctions or relief, if any.
(2) The Presiding Officer may order any remedy authorized under the Act.
(3) Upon the filing of his or her decision, the Presiding Officer shall certify the administrative record and submit the record to the Director.

(b) In any administrative proceeding in which a hearing is held and in which the delegation to the Presiding Officer to issue an order under Rule 202(a) has been revoked:
(1) The Presiding Officer shall file with the Director and serve upon the parties a proposed decision containing:
(A) a summary of the evidence;
(B) proposed findings of fact and the evidentiary bases therefor;
(C) proposed conclusions of law and the legal bases therefor; and
(D) proposed sanctions or relief, if any.
(2) Upon the filing of his or her proposed decision, the Presiding Officer shall certify the administrative record and submit the record to the Director, who shall, at that time, have exclusive jurisdiction over the proceeding.
(3) Upon receipt of the record and the Presiding Officer's proposed decision, the Director shall give notice to the parties of receipt of the record and proposed decision and afford the parties, including the Unit, the opportunity to submit, within 30 days of the Director's receipt of the record and proposed decision, exceptions to the proposed decision.
(4) After review of the record, the Presiding Officer's proposed decision, and the parties' exceptions (if any), the Director shall issue a final decision in the matter.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

252 Final Decision Upon Default; Motion To Set Aside Default

(a) The Presiding Officer may issue an order deeming a party to be in default and determining the proceeding against that party upon consideration of the record, including the complaint, the allegations of which may be deemed to be true, without the requirement of findings of fact and law, if that party fails:

(1) to appear, in person or through a representative, at a hearing or conference of which that party has been notified;
(2) to answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding; or
(3) to cure a deficient filing within the time specified by the Presiding Officer.

(b) A motion to set aside a default may be filed with the Director within a reasonable time and shall state the reasons for the failure to appear or defend, and shall specify the nature of the proposed defense in the proceeding. In order to prevent injustice and on such conditions as may be appropriate, the Director may for good cause shown set aside a default.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

253 Contemptuous Conduct

If a party, counsel to a party or witness engages in conduct in violation of an order of the Presiding Officer, or other contemptuous conduct during an administrative proceeding, the Presiding Officer may impose sanctions therefor, including the issuance of an order: (i) excluding the party, his or her counsel, or both from any further participation in the proceeding; (ii) striking pleadings or evidence from the record; (iii) providing that certain facts shall be taken to be established for purposes of the proceeding; or (iv) providing for such other relief as is just and equitable under the circumstances.

18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

Practice and Procedure Regarding Summary Orders

260 Basis for Issuance of Summary Order Postponing or Suspending the Effectiveness of a Registration Statement

Except as provided in subsection (i) of this Rule, a summary order postponing or suspending the effectiveness of any registration statement may be issued, either on the initiative of the Director or upon application of the Unit, whenever such an order is in the public interest and any of the following criteria are met:

(a) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment or report, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;
(b) Any provision of the Act or any rule, order, or condition lawfully imposed under the Act has been violated, in connection with the offering, by
(1) the person filing the registration statement,
(2) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or
(3) any underwriter;
(c) The security registered or sought to be registered is the subject of an administrative stop order or similar order or permanent or temporary injunction of any court of competent jurisdiction entered under any federal or state act applicable to the offering;
(d) The issuer's enterprise or method of business includes or would include activities which are illegal where performed;
(e) The offering has worked or tended to work a fraud upon purchasers or would so operate;
(f) The offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of options;
(g) The applicant or registrant has failed to pay the proper filing fee; but the Director or Presiding Officer shall vacate any such order when the deficiency has been corrected;
(h) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by Section 73-203(b)(4) of the Act.
(i) A summary order may be issued suspending the offer or sale of a covered security under Section 18(b)(2) of the Securities Act of 1933 only if the order is in the public interest and the issuer has failed to comply with the requirements of Section 73-208 of the Act.

1 DE Reg 1978 (06/01/98)
13 DE Reg. 667 (11/01/09)
15 DE Reg. 529 (10/01/11)

18 DE Reg. 394 (11/01/14)

261 Basis for Issuance of Summary Order Denying or Revoking Exemption

A summary order may be issued, either on the initiative of the Director or upon application of the Unit, denying or revoking any exemption claimed under Sections 73-207(a)(9), (a)(11), or (b)(1)-(13) of the Act, whenever it appears that such exemption is inapplicable, either generally or with respect to a specific security or transaction.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

262 Basis for Issuance of Summary Order Postponing or Suspending the Registration of a Broker-Dealer, Broker-Dealer Agent, Investment Adviser or Investment Adviser Representative

A summary order may be issued, either on the initiative of the Director or upon application of the Unit, postponing or suspending the registration of a broker-dealer, broker-dealer agent, investment adviser or investment adviser representative if such an order is in the public interest and the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, director, or any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

(a) has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(b) has wilfully violated or wilfully failed to comply with any provision of the Act; or

(c) has been convicted of a felony, infamous crime, or other crime involving moral turpitude; or

(d) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business; or

(e) is the subject of a cease and desist order or of an order denying, suspending, or revoking registration as a broker-dealer, broker-dealer agent, investment adviser or investment adviser representative; or

(f) is the subject of an order entered within the past 10 years by the securities administrator of any other state, a state authority that supervises or examines banks, saving associations, or credit unions, a state insurance commission (or any agency or office performing like functions), the Securities and Exchange Commission, FINRA (or any agency or office performing like function), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, either ordering the person to cease and desist from engaging in or continuing any conduct or practice involving any aspect of the securities business, or suspending, denying or revoking registration (or similar punitive action) as a broker-dealer, broker-dealer agent, investment adviser or investment adviser representative or the substantial equivalent of those terms as defined in the Act and these Rules; or is suspended or expelled from or found to have violated a rule of a national securities exchange or national securities association registered under the Securities Exchange Act of 1934 (15 U.S.C. §78, et seq.) either by action of a national securities exchange or national securities association, the effect of which action has not been stayed by administrative or judicial order; or is the subject of a United States post office fraud order; or is subject to a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct; or

(g) has engaged in dishonest or unethical practices within or outside this State; or

(h) is insolvent, either in the sense that the person's liabilities exceed the person's assets or in the sense that the person cannot meet the person's obligations as they mature; or

(i) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business; or

(j) has failed reasonably to supervise (1) the person's agents or employees, if the person is a broker-dealer or broker-dealer agent with supervisory responsibilities, or (2) the person's adviser representatives or employees if the person is an investment adviser or investment adviser representative with supervisory responsibilities, and such failure may be inferred from an agent's, investment adviser representative's, or employee's violations;

(k) has failed to pay the proper filing fee, but the Presiding Officer or Director shall vacate any denial or suspension order when the deficiency has been corrected; or

(l) has violated or failed to comply with any lawful order issued by the Director or by a Presiding Officer acting pursuant to delegated authority under Rules 202 or 225A; or

(m) has within the past 10 years been a partner, officer, director, controlling person or any person occupying a similar status or performing similar functions in a broker-dealer or investment adviser whose registration in this State or any state, or with the SEC, has been revoked for disciplinary reasons, or whose membership in a national securities exchange or national securities association has been terminated for disciplinary reasons.

1 DE Reg. 1978 (06/01/98)
13 DE Reg. 667 (11/01/09)

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

263 Basis for Issuance of Summary Cease and Desist Order

Whenever it appears that a person has violated the Act by failing to register or engaging in fraud or other prohibited conduct, the Director may summarily issue a cease and desist order against that person under Section 73-601(c) of the Act.

1 DE Reg. 1978 (06/01/98)
13 DE Reg. 667 (11/01/09)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

264 Procedure for Issuance of Summary Order

(a) *Procedure.* A summary order may be issued either on the initiative of the Director or upon application of the Unit to the Director in the form of an administrative complaint filed by the Unit.

(b) *Information required with application.* Where the Unit has requested the issuance of a summary order upon application to the Director, the administrative complaint shall: set forth a statement of the facts upon which the application is based, together with supporting documentation; cite to the relevant statutory provision or rule that each respondent is alleged to have violated; and state the summary relief sought against each respondent. The application shall include a proposed order imposing the summary relief sought and notifying respondent of the right to a hearing provided in Rule 265.

(c) *Record of proceedings.* A record from which a verbatim transcript can be prepared shall be made of all hearings, including ex parte presentations made by the Unit.

1 DE Reg. 1978 (06/01/98)
13 DE Reg. 667 (11/01/09)
14 DE Reg. 664 (01/01/11)
18 DE Reg. 394 (11/01/14)

265 Procedure After Issuance of Summary Order

(a) *Notice.* Any person who is the subject of a summary order shall promptly be given notice of that order and of the reasons therefor. Notice shall be given by means reasonably calculated to give actual notice of issuance of the order, including telephone notification and service of the order pursuant to Rule 210. Such notice shall include notification that the subject of the order may request a hearing and that if such a request is made in writing the hearing shall be scheduled within 15 days from the date the written request is received.

(b) *Request for hearing.* Any person who is the subject of a summary order may request a hearing before a Presiding Officer on an application to set aside, limit or suspend the summary order. The request for hearing is to be filed with the Director and served on the Unit within 25 days of service of the notice of the order. If a hearing is requested, a Presiding Officer will be selected in accordance with the procedures set forth in Rule 225A.

(c) *Procedure at hearing*. The procedure at a hearing on a summary order shall be determined by the Presiding Officer, with the understanding that each party shall be entitled to be heard in person or through counsel. The Presiding Officer shall rule on the admissibility of evidence and other matters, including, but not limited to: whether oral testimony will be heard; the time allowed each party for the submission of evidence or argument; and whether post-hearing submission of briefs or proposed findings of fact and conclusions of law will be permitted and if so, the procedures for submissions.

(d) *Final Decision After Hearing - Delegated Powers.* In any hearing on a summary order in which the delegation to the Presiding Officer to issue an order under Rule 202(a) has not been revoked:

(1) After hearing evidence pursuant to subsection (c) of this Rule, the Presiding Officer shall, within 15 days of the hearing, issue a final written decision, which shall be filed with the Director and served upon the parties, containing:

(A) A summary of the evidence;
(B) Findings of fact and the evidentiary bases therefor;
(C) Conclusions of law and the legal bases therefor; and
(D) Relief, if any.

(2) Upon the filing of his or her decision, the Presiding Officer shall certify the administrative record and submit the record to the Director.

(e) *Final Decision After Hearing – Revoked Powers.* In any hearing on a summary order in which the delegation to the Presiding Officer to issue an order under Rule 202(a) has been revoked:

(1) After hearing evidence pursuant to subsection (c) of this Rule, the Presiding Officer shall, within 15 days of the hearing, file with the Director and serve upon the parties a proposed decision containing:
(A) A summary of the evidence;
(B) Proposed findings of fact and the evidentiary bases therefor;
(C) Proposed conclusions of law and the legal bases therefor; and
(D) Proposed relief, if any.
(2) Upon the filing of his or her proposed decision, the Presiding Officer shall certify the administrative record and submit the record to the Director, who shall, at that time, have exclusive jurisdiction over the proceeding.
(3) Upon receipt of the record and the Presiding Officer's proposed decision, the Director shall forthwith give notice to the parties of receipt of the record and proposed decision and afford the parties, including the Unit, the opportunity to submit, within 10 days of the Director's receipt of the record and proposed decision, exceptions to the proposed decision.
(4) After review of the record, the Presiding Officer's proposed decision, and the parties' exceptions (if any), the Director shall, no later than 45 days from the end of the hearing, issue a final decision in the matter.

(f) *Duration.* Unless set aside, limited or suspended, either by the Director or a court of competent jurisdiction, a summary order shall remain in effect until the completion of the proceedings on whether a permanent order shall be entered or, if no such proceedings occur, until otherwise modified or vacated by the Director.

1 DE Reg. 1978 (06/01/98)
13 DE Reg. 667 (11/01/09)
14 DE Reg. 664 (01/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

266 Violation of Cease and Desist Orders

If any person who is the subject of a cease and desist order, or any agent or employee of such person, subsequent to the issuance of the order engages in the prohibited conduct, the Director may certify the facts and apply for a contempt order to any Judge of the Superior Court, who shall upon such application hear the evidence as to the acts complained of. If the evidence warrants, the Judge shall punish such person, in the same manner and to the same extent as for a contempt committed before the Superior Court, or shall commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of, or in the presence of, the Superior Court.

18 DE Reg. 394 (11/01/14)

Appeal to the Court of Chancery

270 Right to Judicial Review

Any person aggrieved by an order of the Director or the Presiding Officer, as the case may be, may obtain a review of the order in the Court of Chancery. Upon review, the Court of Chancery has the authority to determine questions of law de novo. The factual findings of the Director or the Presiding Officer, as the case may be, if supported by material and substantial evidence, shall be conclusive on the Court of Chancery. The filing of a complaint seeking review does not operate as a stay of the Director's or the Presiding Officer's order, as the case may be, unless specifically ordered by the Court.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

271 Procedure

A party seeking review must file a written complaint with the Court of Chancery within 60 days of entry of the Director's or the Presiding Officer's order, as the case may be. The complaint shall be served forthwith on the Director (unless it is filed by the Director) and the other parties to the administrative proceeding. The party seeking review must pay the costs of transcribing the record. Upon completion of the record transcription, the Director shall certify and file with the Court of Chancery: a copy of the record transcription; all evidence upon which the order was entered; and any documents or other proffered evidence retained pursuant to Rule 249(b) relevant to the complaint (together, the "Administrative Record"). If the Administrative Record is not filed with the Chancery Court within 20 days of the filing of the complaint, the Director shall notify the Court and receive additional time in which to file and certify the record. A continued failure by the party seeking review to pay the costs of transcription shall result in dismissal of the complaint without any need for the Director to file the record in Court.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)

272 Repealed

13 DE Reg. 667 (11/01/09)

Part C. Investigations

300 Scope of Rules Regarding Investigations

The Rules of Part C (Rule 300 through Rule 307) apply only to investigations conducted by the Unit. They do not apply to administrative proceedings under the Act.

18 DE Reg. 394 (11/01/14)

301 Nature and Purpose of Investigations

(a) The Director may in his or her discretion make such public or private investigations within or outside the State as he or she deems necessary to determine whether any person has violated, is violating, or is about to violate any provision of the Act or the Rules or otherwise to aid in the enforcement of the Act. Where, from complaints received from members of the public, communications from Federal or State agencies, examination of filings made with the Unit, or otherwise, it appears that there may be violations of the Act or the Rules, a preliminary investigation is generally made. Unless otherwise ordered by the Unit, all investigations are non-public and the reports thereon are for the Unit's use only.

(b) After investigation or otherwise, the Unit may in its discretion take 1 or more of the following actions: initiation of administrative proceedings looking to the imposition of remedial sanctions, initiation of injunctive proceedings in the courts, and, in the case of a willful violation, criminal prosecution. The Unit may also, in an appropriate case, refer the matter to, or grant requests for access to its files made by, domestic and foreign governmental authorities or foreign securities authorities, self-regulatory organizations, and other persons or entities.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

302 Information Obtained in Investigations

(a) Information or documents obtained by the Unit in the course of any investigation or examination, unless made a matter of public record, shall be deemed non-public.

(b) The Director may in his or her discretion and upon a showing that such information is needed, provide nonpublic information in the Unit's possession to any of the following persons if the person receiving such nonpublic information provides such assurances of confidentiality as the Director deems appropriate:

(1) A federal, state, local or foreign government or any political subdivision, authority, agency or instrumentality of such government;

(2) A self-regulatory organization as defined in Section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. §78, et seq.) (the "Exchange Act"), or any similar organization empowered with self-regulatory responsibilities under the federal securities laws (as defined in Section 3(a)(47) of the Exchange Act), the Commodity Exchange Act (7 U.S.C. 1, et seq.) or any substantially equivalent foreign statute or regulation;

(3) A foreign financial regulatory authority as defined in Section 3(a)(52) of the Exchange Act;

(4) The Securities Investor Protection Corporation or any trustee or counsel for a trustee appointed pursuant to Section 5(b) of the Securities Investor Protection Act of 1970;

(5) A trustee in bankruptcy;

(6) A bar association, state accountancy board or other federal, state, local or foreign licensing or oversight authority, or a professional association or self-regulatory authority to the extent that it performs similar functions; or

(7) A duly authorized agent, employee or representative of any of the above persons.

(c) Nothing contained in this Rule shall affect:

(1) The Director's authority or discretion to provide or refuse to provide access to, or copies of, nonpublic information in the Unit's possession in accordance with such other authority or discretion as the Director possesses by statute, or rule; or

(2) The Director's responsibilities under the Freedom of Information Act, 29 **Del.C.** §10001 et seq.

18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

303 Rights of Witnesses

(a) Any person compelled to appear, or who appears by request or permission of the Unit, in person in any investigative proceeding may be accompanied, represented and advised by counsel, provided, however, that all witnesses shall be sequestered, and unless permitted in the discretion of the Unit, no witness or counsel

accompanying any such witness shall be permitted to be present during the examination of any other witness called in such proceeding.

(b) The right to be accompanied, represented and advised by counsel shall mean the right of a person testifying to have an attorney present during any investigative proceeding and to have this attorney advise such person before, during and after the conclusion of such examination, question such person briefly at the conclusion of the examination to clarify any of the answers such person has given, and make summary notes during such examination solely for the use of such person.

18 DE Reg. 394 (11/01/14)

304 Subpoenas

(a) For the purpose of any investigation under the Act, the Director, any Deputy Attorney General in the Unit, or any officer designated by the Director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the Director deems relevant or material to the inquiry. The Director's authority to subpoena witnesses and documents outside the State shall exist to the maximum extent permissible under federal constitutional law.

(b) Subpoenas may be issued to any person (provided, however, that no subpoena shall issue, except upon request by the Unit, to any complaining witness) and may require that person, among other things, to:

(1) Testify under oath;

(2) Answer written interrogatories under oath;

(3) Produce documents and tangible things; and

(4) Permit inspection and copying of documents.

(c) *Content of subpoena*. A subpoena shall:

(1) Describe generally the nature of the investigation;

(2) If the subpoena requires testimony under oath, specify the date, time and place for the taking of testimony;

(3) If the subpoena requires answers to written interrogatories, contain a copy of the written interrogatories;

(4) If the subpoena requires the production of tangible things or documents:

(A) describe the things and documents to be produced with reasonable specificity, and

(B) specify a date, time, and place at which the things and documents are to be produced;

(5) Notify the person to whom the subpoena is directed of the obligation to supplement responses under Rule 306;

(6) Advise the person to whom the subpoena is directed that the person may be represented by counsel; and

(7) Identify a member of the Unit who may be contacted in reference to the subpoena.

(d) Subpoenas to corporations and other entities.

(1) A subpoena directed to a corporation, partnership, or other entity that requires testimony under oath shall describe with reasonable particularity the subject matter of the testimony.

(2) An entity that receives a subpoena to answer written interrogatories or to testify under oath shall designate 1 or more of its officers, agents, employees, or other authorized persons familiar with the subject matter specified in the subpoena to respond to the subpoena on its behalf.

(3) The persons designated by an entity to respond to a subpoena on its behalf shall answer the interrogatories or testify as to all matters known or reasonably available to the entity.

(4) A subpoena directed to an entity that requires testimony under oath or answers to written interrogatories shall advise the entity of its obligations under this Rule.

(e) Service of subpoena.

(1) A subpoena may be served by personal service or by mail.

(2) The person who serves a subpoena shall complete a certificate of service attesting to the method and date of service.

(f) *Effect of other proceedings*. The pendency or beginning of administrative or judicial proceedings against a person by the Unit does not relieve the person of his or her obligation to respond to a subpoena issued under this Rule.

(g) *Refusal to testify or produce documents*.

(1) No person is excused from attending and testifying or from producing any document or record before the Director, or in obedience to the subpoena of the Director or any officer designated by the Director or in any proceeding instituted by the Director, on the ground that the testimony or evidence (documentary or otherwise) required may tend to incriminate the person or subject the person to penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she is compelled, after claiming his or her privilege against self-

incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(2) In case of contumacy by, or refusal to obey a subpoena issued to, any person registered under Section 73-302 the Act, the Director may suspend or revoke that registrant's license pursuant to the provisions of Section 73-304 of the Act.

(h) Petition to modify or quash subpoena.

(1) A person served with a subpoena under this Rule may request that the subpoena be modified or quashed.

(2) A petition to modify or quash a subpoena issued under this Rule shall be filed with the Director or, if one has been appointed, the Presiding Officer, within 10 days of service of the subpoena or by the date specified for compliance with the subpoena, whichever is earlier. The petition shall set forth good cause why the subpoena should be modified or quashed.

(3) A Presiding Officer may be appointed under Rule 225A to rule on the petition to modify or quash.

(i) *Application to Court of Chancery upon refusal to obey subpoena*. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Court of Chancery, upon application by the Director, may issue to the person an order requiring such person to appear before the Court of Chancery or the officer designated by the Director, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the Court may be punished by the Court as a contempt of court.

14 DE Reg. 664 (01/01/11)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

305 Testimony Under Oath

A witness may be required to provide testimony under oath as part of an investigation under the Act. A witness who provides testimony under oath may be accompanied and represented by counsel as provided for in Rule 303. Testimony shall be recorded by tape recorder, stenographer or other device. The recording of the testimony shall be maintained in the custody of the Unit.

18 DE Reg. 394 (11/01/14)

306 Production of Things and Documents

(a) Any person may be required to produce things or documents in response to a subpoena under the Act.

(b) If a person responding to a subpoena for production of things or documents withholds a record or document on the basis of a privilege, the person shall state, with respect to each document:

(1) the name and title of the author of the document;

(2) the names and titles of all persons to whom the document was addressed;

(3) the names and titles of all persons to whom copies of the document were sent;

(4) the date on which the document was written or otherwise produced and the date on which it was mailed, sent, or delivered to its addressee;

(5) the number of pages in the document;

(6) a brief description of the nature or subject matter of the document;

(7) the basis on which the document is being withheld; and

(8) the paragraph number of the subpoena to which the document is responsive.

(c) Obligation to supplement responses. If a person has responded to a subpoena under this Rule and later discovers or obtains additional documents or things responsive to the subpoena, the person shall supplement the response as soon as reasonably possible.

18 DE Reg. 394 (11/01/14)

307 Written Submissions by Interested Persons

(a) Persons who become involved in an investigation may, on their own initiative, submit a written statement to the Director setting forth their interests and position in regard to the subject matter of the investigation. Upon request, the Unit, in its discretion, may advise such persons of the general nature of the investigation, including the indicated violations as they pertain to them, and the amount of time that may be available for preparing and submitting a statement prior to the presentation of a Unit recommendation to the Director for the commencement of an administrative or injunction proceeding. Submissions by interested persons should be forwarded to the Director with a copy to the Unit's staff members conducting the investigation and should be clearly referenced to the specific investigation to which they relate. In the event a recommendation for the commencement of an enforcement proceeding is presented by the Unit, any submissions by interested persons will be considered prior to commencement of any proceeding.

(b) Regardless of any voluntary written submission provided under Rule 307(a), the Director may require any person to file a statement in writing, under oath or otherwise as the Director determines, as to any or all of the facts and circumstances concerning the matter under investigation.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

Part D. Securities Registration and Notice Filings

400 Registration by Coordination

(a) Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

(b) A person who seeks to register a security by coordination shall file with the Unit the following documents and information:

(1) A completed application Form U-1, Uniform Application to Register Securities;

(2) An irrevocable consent appointing the Investor Protection Director agent for service of process, executed by the issuer on Form U-2, Uniform Consent to Service of Process;

(3) One copy of the registration statement, as amended, filed with the SEC, which shall include (or which information shall otherwise be provided): a specification of the amount of the securities offered in Delaware; the states in which the offering has been or is being made; and any adverse order, judgment or decree entered in connection with the offering by any regulatory authority, court or the SEC;

(4) One copy of the prospectus in the latest form on file with the SEC;

(5) The appropriate filing fee as determined under Rule 404; and

(6) Any other document or information requested by the Unit.

(c) An application for registration by coordination shall become effective in Delaware simultaneously with the registration statement filed with the SEC provided the following conditions have been met:

(1) All documents and information required by (b) above have been filed with the Unit;

(2) No stop order is in effect and no proceeding is pending under Section 73-206 of the Act;

(3) The registration statement has been on file with the Unit for at least 10 days; and

(4) A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions have been on file for at least 2 business days and the offering is made within those limitations.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

401 Registration by Qualification

(a) Any security may be registered by qualification. A person who seeks to register a security by qualification shall file with the Unit the following documents and information:

(1) A completed application Form U-1, Uniform Application to Register Securities;

(2) An irrevocable consent appointing the Investor Protection Director agent for the service of process, executed by the issuer on Form U-2, Uniform Consent to Service of Process;

(3) One copy of an executed registration statement which complies with SEC Form S-1, together with all exhibits, which shall include all information required under Sections 73-204(b)(1)-(16) and 73-205(b) of the Act. For securities offerings pursuant to Tier 1 of Regulation A for which Form 1-A has been filed with the SEC, filing a copy of Form 1-A with the Unit will satisfy the registration statement filing requirement.

(4) One copy of the prospectus which is to be provided to offerees under Section 73-204(d) of the Act;

(5) The appropriate filing fee as determined under Rule 404; and

(6) Any other document or information requested by the Unit.

(b) Unless otherwise ordered by the Director, the prospectus which is sent or given to each person to whom an offer is made shall contain all the information contained in the registration statement filed with the Unit under subsection (a) of this Rule. The prospectus shall be written in plain English and presented in a format that is clear and easy to understand, with appropriate headings and subheadings.

(c) An application for registration by qualification shall become effective in Delaware when so ordered by the Director provided no order has been issued pursuant to Section 73-206 of the Act.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
20 DE Reg. 728 (03/01/17)

402 Repealed

14 DE Reg. 664 (01/01/11)

403 Notice Filings for Offerings of Investment Company Securities

(a) Except as provided in subsection (b) hereof, no investment company that is registered under the Investment Company Act of 1940 or that has currently filed a registration statement under the Securities Act of 1933 is required to file with the Director, either prior to the initial offer or after the initial offer in this state of a security which is a covered security under Section 18(b)(2) of the Securities Act of 1933, a copy of any document which is part of a federal registration statement filed with the SEC or is part of an amendment to such federal registration statement; provided, however, that if an investment company does not file with the Director a copy of its federal registration statement and any amendments thereto, together with a consent to service of process and the fees provided herein, such investment company shall, prior to the initial offer of such a covered security, file with the Director a Form NF for such security, together with a consent to service of process signed by the issuer and a filing fee equal to 1/2 of 1% of the maximum aggregate offering price of securities to be offered in Delaware in the initial offering, but not less than $200 or more than $1,000. An issuer that indicates on the Form NF that it is offering an "indefinite" amount of shares in Delaware shall pay a filing fee of $1,000.

(b) An investment company that is registered under the Investment Company Act of 1940 or that has filed a registration statement under the Securities Act of 1933 shall file, upon written request of the Director and within the time period set forth in the request, a copy of any document identified in the request that is part of the federal registration statement filed with the SEC or part of an amendment of such federal registration statement.

(c) An investment company offering in Delaware will be treated as a separate security where the offering involves a fund with a share price, asset value, class of shareholders, or set of assets that differs from those of other securities for which other notice filings have been made. Generally, this means that separate investment company "series" or "portfolios" will be treated as separate securities for purposes of notice filings under this section.

(d) The initial filing of a Form NF by an investment company pursuant to paragraph (a) hereof is effective for 1 year commencing upon the later of receipt by the Director of the Form NF and fees or the effectiveness of the offering with the Securities and Exchange Commission. The investment company must renew its notice filing (or notice filings, where multiple filings were made for multiple series or portfolios) annually by filing with the Director prior to the expiration of a current notice filing, either a copy of the issuer's registration statement or a Form NF and a filing fee in accordance with paragraph (a) hereof. A notice filing renewed pursuant to this subsection shall take effect upon the expiration of the notice filing being renewed.

1 DE Reg. 1978 (06/01/98)
18 DE Reg. 394 (11/01/14)

404 Fees

(a) Fees for registering securities by coordination or by qualification shall be 1/2 of 1.0% of the maximum aggregate offering price of securities to be offered in Delaware during the initial registration period, but not less than $200 or more than $1,000.

(b) The amount of securities to be registered in Delaware shall be specifically stated in the Form U-1. However, if the applicant pays the maximum filing fee of $1,000, the amount to be registered in Delaware may be stated in the Form U-1 as "indefinite" or "unlimited."

(c) The fee for notice filings for covered securities under Section 18(b)(4)(E) of the Securities Act of 1933 pursuant to Section 73-208(b) of the Act and Rule 406 shall be 1/2 of 1.0% of the maximum aggregate offering price of securities to be offered in Delaware during the initial registration period, but not less than $200 or more than $1,000.

(d) The fee for notice filings for covered securities under Section 18(b)(3) of the Securities Act of 1933 pursuant to Section 73-208(c) of the Act shall be 1/2 of 1% of the maximum aggregate offering price of securities to be offered in Delaware during the initial registration period, but not less than $200 or more than $1,000.

(e) The fee for notice filings for offerings pursuant to the Intrastate Crowdfunding exemption in Section 73-207(b)(15) and Rule 408 shall be $300.

(f) All filing fees are due at the time of the initial application. No application fee is refundable even though an application may be withdrawn or denied.

(g) Any filing fee required by these Rules that is not paid when due shall be doubled, unless the Director waives the late payment, but in no case shall the total fee be more than the relevant statutory maximum amount.

18 DE Reg. 394 (11/01/14)
20 DE Reg. 728 (03/01/17)

405 Filing of Sales Literature

Any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser, must be filed with the Director unless the security or transaction is exempted by Section 73-207 of the Act or the security is a federal covered security under Section 73-208 of the Act.

1 DE Reg 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

406 Notice Filings For Covered Securities Under Section 18(b)(4)(E) of the U.S. Securities Act of 1933

(a) An issuer offering a security that is a covered security under Section 18(b)(4)(E) of the Securities Act of 1933 (or as such section may be renumbered), including a security that is being offered under SEC Rule 506, 17 C.F.R. §230.506, shall file with the Director a notice on SEC Form D no later than 15 days after the first sale of such covered security in this state, or if an earlier filing is required by the SEC, at such earlier date, if a sale is contemplated in Delaware.

(b) For purposes of these Rules, "SEC Form D" is defined as the document adopted by the SEC and in effect on September 1, 1996 (and as may be amended by the SEC from time to time), entitled "FORM D; Notice of Sale of Securities pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption", including Part E and the Appendix.

(c) Form D notice filings and related fees may be filed electronically with and transmitted to the Electronic Filing Depository ("EFD"), an internet based filing service operated and developed by the North American Securities Administrators Association. Effective June 1, 2017, all such notice filings shall be submitted electronically through EFD.

(1) Any documents or fees required to be filed with the Director that are not permitted to be filed with, or cannot be accepted by, EFD shall be filed directly with the Director.

(2) A duly authorized person of the issuer shall affix his or her electronic signature to the Form D filing by typing his or her name in the appropriate fields and submitting the filing to the Electronic Data Gathering, Analysis and Retrieval System ("EDGAR"). Submission of a filing shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing.

1 DE Reg 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
20 DE Reg. 728 (03/01/17)

407 Notice Filings for SEC Tier 2 Regulation A Filings

(a) Initial filing. An issuer planning to offer or sell securities in Delaware exempt from registration under Tier 2 of Regulation A, Rule 251(a)(2) and Section 18(b)(3) of the Securities Act of 1933, shall submit the following prior to the initial offer or sale:

(1) A completed Regulation A - Tier 2 notice filing form or copies of all documents filed with the Securities and Exchange Commission;

(2) A consent to service of process on Form U-2 if not filing on the Regulation A - Tier 2 notice filing form; and

(3) The filing fee prescribed by Section 73-208(c) and Rule 404(d).

(b) Effective period. The initial notice filing is effective for 12 months.

20 DE Reg. 728 (03/01/17)
29 DE Reg. 786 (03/01/26)

408 Intrastate Crowdfunding

(a) Each issuer of securities relying on the intrastate crowdfunding exemption found in 6 **Del.C.** §73-207(b)(15) shall file a notice with the Investor Protection Unit pursuant to 6 **Del.C.** §73-207(b)(15)(h) on Form DCF. The notice must include all documentation required by Form DCF and shall be filed with the Investor Protection Unit no later than 10 days prior to the first offer of securities in reliance on the exemption. Incomplete filings will be rejected. The filing fee required by Section 73-207(b)(15)(o) and Rule 404(e) shall be submitted with the filing.

(b) Each internet site operator participating in a securities offering pursuant to the intrastate crowdfunding exemption found in 6 **Del.C.** §73-207(b)(15) shall register with the Investor Protection Unit by filing Form DIO, unless exempted from registration by 6 **Del.C.** §73-207(b)(15)(k)(2). Registrations must be received and approved prior to the internet site operator participating in a securities offering. Incomplete registrations will be rejected.

20 DE Reg. 728 (03/01/17)
29 DE Reg. 786 (03/01/26)

Part E. Exemptions from Registration

500 Registration Not Required of Federal Covered Securities

Federal covered securities, as defined in Section 73-103(a)(6) of the Act, are not required to be registered under Section 73-202 of the Act. Notwithstanding this Rule, however, notice filings are required for registered investment company offerings under Rule 403; and for offers or sales of securities in Delaware pursuant to SEC Rule 506 under the Securities Act of 1933, 17 C.F.R. §230.506.

1 DE Reg 1978 (06/01/98)
14 DE Reg. 664 (01/01/11)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

501 Designated Exchange Exemption

Any security listed or approved for listing upon notice of issuance on the Chicago Board Options Exchange is exempted from Sections 73-202, 73-208 and 73-211 of the Act pursuant to Section 73-207(a)(8) of the Act.

1 DE Reg 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

502 Limited Offering Exemption

(a) The exemption under Section 73-207(b)(9) of the Act is withdrawn as to any security offered or sold in Delaware.

(b) Except as provided otherwise in these Rules, an offer of securities in the State of Delaware that qualifies for exemption under any limited or private offering exemption in or promulgated pursuant to the Securities Act of 1933 or the Securities and Exchange Act of 1934, including Rule 504 of SEC Regulation D (17 C.F.R. §§230.504), shall be exempt from the requirements of Sections 73-202, 73-208 and 73-211 of the Act, so long as the issuer has filed with the Director a notice on Form LOE ("Notice of Limited Offering Exemption") no later than 15 days after the first sale of such security in this state.

14 DE Reg. 664 (01/01/11)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
23 DE Reg. 776 (03/01/20)

503 Accredited Investor Exemption

Any offer or sale of a security by an issuer in a transaction that meets the following requirements of this Rule is exempted from the securities registration requirements of the Act.

(a) Sales of securities shall be made only to persons who are or the issuer reasonably believes are "accredited investors" as that term is defined in SEC Rule 501(a) of Regulation D, 17 C.F.R. §230.501(a).

(b) The exemption is not available to an issuer that is in the development stage that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(c) The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under the securities registration requirements of the Act or to an accredited investor pursuant to another applicable exemption under the Act.

(d) *Disqualification*.

(1) This exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter:

(A) within the last 10 years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC;

(B) within the last 10 years, has been convicted of any criminal offense in connection with the offer, purchase or sale of any security, or involving fraud or deceit;

(C) is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last 10 years, temporarily, preliminarily or permanently restraining or enjoining such party

from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

(e) General Announcement.

(1) A general announcement of the proposed offering may be made by any means.

(2) The general announcement shall include only the following information, unless additional information is specifically permitted by the Director:

(A) The name, address and telephone number of the issuer of the securities;

(B) The name, a brief description and price (if known) of any security to be issued;

(C) A brief description of the business of the issuer in 25 words or less;

(D) The type, number and aggregate amount of securities being offered;

(E) The name, address and telephone number of the person to contact for additional information; and

(F) A statement that:

(1) sales will only be made to accredited investors;

(2) no money or other consideration is being solicited or will be accepted by way of this general announcement; and

(3) the securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold pursuant to an exemption from registration.

(f) The issuer, in connection with an offer, may provide information in addition to the general announcement under paragraph (e), if such information:

(1) is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or

(2) is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.

(g) No telephone solicitation shall be permitted unless prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

(h) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this rule.

(i) The issuer must file or cause to be filed with the Director a notice of exemption in the form prescribed by the Director and a copy of any general announcement, within 15 days after the first sale in this state.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

504 World Class Foreign Issuer Exemptions

Any security that meets all of the following conditions shall be exempt from the securities registration requirements of the Act:

(a)

(1) Equity securities, except options, warrants, preferred stock, subscription rights, securities convertible into equity securities or any right to subscribe to or purchase such options, warrants, convertible securities or preferred stock;

(2) Units consisting of equity securities permitted under subparagraph (1) and warrants to purchase the same equity security being offered in the unit;

(3) Non-convertible debt securities rated in 1 of the 4 highest rating categories of a nationally recognized statistical rating organization registered with the SEC under Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. § 780-7) or such other statistical rating organization the Director by rule or order may designate. For purpose of this subparagraph, the term "non-convertible debt securities" means securities that cannot be converted for at least 1 year from the date of issuance and then, only into equity shares of the issuer or its parent; or

(4) American Depository Receipts representing securities described in subparagraphs (1) and (2) above;

(b) The issuer is not organized under the laws of the United States, or of any state, territory or possession of the United States, or of the District of Columbia or Puerto Rico;

(c) The issuer, at the time an offer or sale is made in reliance on the securities exemption embodied in this Rule, has been a going concern engaged in continuous business operations for the immediate past 5 years and during that period has not been the subject of a proceeding relating to insolvency, bankruptcy, involuntary administration, receivership or similar proceeding. For purposes of this paragraph, the operating history of any predecessor that represented more than 50%of the value of the assets of the issuer that otherwise would have met the conditions of this Rule may be used toward the 5 year requirement;

(d) The issuer, at the time an offer or sale is made in reliance on the securities exemption embodied in this Rule, has a public float of US $1 billion or more. For purposes of this paragraph:

(1) The term "public float" means the market value of all outstanding equity shares owned by non-affiliates;
(2) The term "equity shares" means common shares, non-voting equity shares and subordinate or restricted voting equity shares, but does not include preferred shares; and
(3) An "affiliate" is anyone who owns beneficially, directly or indirectly, or exercises control or direction over, more than 10% of the outstanding equity shares of such person;

(e) The market value of the issuer's equity shares, at the time an offer or sale is made in reliance on the securities exemption embodied in this Rule, is US $3 billion or more. For purposes of this paragraph, the term "equity shares" means common shares, non-voting equity shares and subordinate or restricted voting equity shares, but does not include preferred shares; and

(f) The issuer, at the time an offer or sale is made in reliance on the securities exemption embodied in this Rule, has a class of equity securities listed for trading on or through the facilities of a foreign securities market included in SEC Rule 902(a)(1) or designated by the SEC under SEC Rule 902(a)(2) under the U.S. Securities Act of 1933, 17 C.F.R. §§230.902 & 901.

18 DE Reg. 394 (11/01/14)

505 Offers of Securities Through the Internet

(a) A communication that is placed on the internet by or on behalf of an issuer that is designed to raise capital or to distribute information on securities, products or services and that is directed generally to anyone having access to the internet, whether through postings on "Bulletin Boards," displays on webpages, the placement of internet advertisements, postings on or through application or social media websites, or otherwise (an "Internet Communication"), shall not constitute an offer within the meaning of Section 73-103(a) of the Act, and shall therefore not be required to be registered under the Act, provided that:
(1) The Internet Communication indicates by a prominent legend at the beginning of the Internet Communication that the securities are not being offered to any person in a state where such offer or sale would be in violation of the law;
(2) An offer of the issuer's securities is not otherwise directed to any person in Delaware by, or on behalf of, the issuer; and
(3) Unless otherwise exempt under the Act, no sale of the issuer's securities is made in Delaware, as a result of the Internet Communication.
(4) The Internet Communication contains a mechanism, including and without limitations, technical "firewalls" or other implemented policies and procedures, designed reasonably to ensure that no sale occurs in Delaware.

(b) Reliance on the exemption provided by this Rule does not preclude an issuer from relying on other available exemptions for offers provided under the Act.

(c) The term "internet" for the purposes of this Rule includes the internet, the world wide web and similar proprietary and common carrier electronic systems, including mobile and cellular internet technology.

1 DE Reg 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
23 DE Reg. 776 (03/01/20)
29 DE Reg. 786 (03/01/26)

506 Claim of Exemption by Persons Organized and Operated Not for Private Profit but Exclusively for Religious Purposes

Any security issued by a person organized and operated not for private profit but exclusively for religious, educational, benevolent or charitable purposes shall be exempt from the securities registration requirement of the Act provided as follows:

(a) The issuer is (1) a religious organization affiliated with, associated with, or authorized by a religious denomination or denominations; or (2) a religious organization that consists of or acts on behalf of individual or local churches or local or regional church organizations.

(b) The issuer is an organization that qualifies and operates under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(c) The issuer, alone or through its predecessor organization:
(1) has been in existence for over 10 years;
(2) has received audited financial statements with an unqualified opinion from a certified public accountant for its most recent 3 fiscal years; and
(3)has experienced no defaults on any outstanding obligations to investors for the period that it has issued securities.

(d) The issuer's:
(1) cash, cash equivalents and readily marketable assets have had a market value of at least 5% of the principal balance of its total outstanding debt securities for the last 3 fiscal years or 36 months prior to the issue; or
(2) net worth, as that term is used in Generally Accepted Accounting Principles, has been at least equal to 3% of its total assets for the last 3 fiscal years or 36 months prior to the issue.
(e) Prior to any sale of the securities, the issuer provides an investor with a disclosure document reflecting financial and other information concerning the issuer and relevant risks involved in the investment.
(f) The issuer makes loans to or otherwise utilizes the net proceeds of the offering in support of:
(1) local churches, or other religious organizations affiliated or associated with such churches; or
(2) related religious organizations.
(g) The issuer:
(1) has a net worth, as that term is used in Generally Accepted Accounting Principles, of $5 million or more which includes all church owned property; or
(2) makes loans, secured by either real property or by a pledge of readily marketable securities, at all times, having equal or greater value than the loan amount, to finance the purchase, construction or improvement of church related property, buildings, related capital expenditures, or to refinance existing debt to be secured by such property, or for other operating expenses of the entities described in (f) above, provided the obligation is secured by such property.

18 DE Reg. 394 (11/01/14)

507 Claim of Exemption for 9-Month Commercial Paper

Section 73-207(a)(10) of the Act exempts from registration any commercial paper which arises out of a current transaction (or the proceeds of which have been or are to be used for current transactions), and which evidences an obligation to pay cash within 9 months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal. This exemption is a narrow and specialized one. It applies only to prime quality negotiable commercial paper of a type not ordinarily purchased by the general public, that is, paper issued to facilitate well recognized types of current operational business requirements and of a type eligible for discounting by Federal Reserve Banks. The exemption is not available for the unregistered public offering of promissory or collateral trust notes or similar evidences of debt of any issuer directly to public investors through solicitation or otherwise. Pursuant to Section 73-202 of the Act, any such offering must be registered or exempt from registration under an exemption other than that provided by Section 73-207(a)(10) of the Act.

15 DE Reg. 529 (10/01/11)

508 Recognized Securities Manuals

(a) Each of the following manuals shall be deemed a "Recognized Securities Manual" for the purposes of Section 73-207(b)(2) of the Act:
(1) Mergent's Industrial Manual
(2) Mergent's Transportation Manual
(3) Mergent's Public Utility Manual
(4) Mergent's Bank and Finance Manual
(5) Fitch's Individual Stock Bulletin
(6) Mergent's OTC Industrial Manual
(7) OTCQB Market
(8) OTCQX Market
(b) The term "manual" for purposes of this rule includes all commonly recognized formats of publications, including electronically stored media and electronic dissemination over the internet.

1 DE Reg. 1978 (06/01/98)
4 DE Reg. 1184 (01/01/01)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
20 DE Reg. 728 (03/01/17)

509 Unsolicited Sales

Acknowledgment by letter from a customer that a sale was unsolicited is a prerequisite to the application of the exemption set forth at Section 73-207(b)(3) of the Act.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

510 Transactional Exemption for Certain Institutional Buyers

(a) Pursuant to Section 73-207(b)(8) of the Act, offers or sales to institutional buyers are exempted from Sections 73-202, 73-208 and 73-211 of the Act. For purposes of this exemption, "institutional buyers" include the following:

(1) an "accredited investor" as defined in SEC Rule 501(a)(1)-(4), (7) and (8), 17 C.F.R. §230.501(a)(1)-(4), (7), (8), excluding, however, any self-directed employee benefit plan with investment decisions made solely by persons that are "accredited investors" as defined in Rule 501(a)(5)-(6);

(2) any "qualified institutional buyer" as that term is defined in SEC Rule 144A(a)(1), 17 C.F.R. §230.144A(a)(1); and

(3) a corporation, partnership, trust, estate, or other entity (excluding individuals) having a net worth of not less than $5 million or a wholly-owned subsidiary of such entity, as long as the entity was not formed for the purpose of acquiring the specific securities.

(b) For purposes of determining a purchaser's total assets or net worth under this Rule, the issuer and the seller may rely upon the entity's most recent annual balance sheet or other financial statement which shall have been audited by an independent accountant or which shall have been verified by a principal of the purchaser.

(c) The offer or sale of securities is not exempt under Section 73-207(b)(8) of the Act or this Rule if the institutional buyer is in fact acting only as an agent for another purchaser that is not an institutional buyer or financial institution listed in Section 73-207(b)(8) of the Act.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

511 Confirmation of Availability of Exemption

No oral communication with the Unit may be relied upon as proving the availability of any exemption or any exclusion from a definition. Such confirmation may only be obtained by a written opinion from the Unit. A written opinion may be obtained by submitting the fee set forth in Rule 102 along with a full description of the subject matter, the party or parties on whose behalf relief is sought, copies of any relevant documents and the identity of the section or sections of the Act or the Rules on which the exemption or exclusion is based. The Unit will not issue opinions that create an exemption that is not set forth in the Act or Rules, and it will not advise on the availability of an exemption except on a case-by-case basis.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

Part F. Broker-Dealers, Broker-Dealer Agents, and Issuer Agents

600 Registration of Broker-Dealers

(a) A person applying for a license as a broker-dealer in Delaware shall make application for such license on Form BD (Uniform Application for Broker-Dealer Registration). Amendments to such applications shall also be made on Form BD.

(b) An applicant shall file its application, together with the fee required by Section 73-302 of the Act, and shall file with the Director such other information as the Director may reasonably require.

(c) Registration expires at the end of the calendar year. Any broker-dealer may renew its registration by filing with the Financial Industry Regulatory Authority's (hereinafter, "FINRA") Central Registration Depository (herineafter, "CRD") such information as is required by FINRA, together with the fee required by the Act.

(d) Except for a broker-dealer that is a sole proprietorship or the substantial equivalent, a broker-dealer registered with the Director shall register with the Director at least 1 broker-dealer agent.

(e) For the purposes of Section 73-302(a) of the Act, an application will not be deemed complete until a broker-dealer is also registered through CRD with FINRA, with the Securities and Exchange Commission, and with the principal state in which the broker-dealer does business (if registration in such state is required by that state), or at the discretion of the Director.

(f) An application for registration will not be effective until the registration has been approved by the Unit on CRD.

(g) If an applicant fails to provide information requested by the Unit in connection with the application within 60 days of the Unit's request, the Unit may mark the application "abandoned" on CRD. If the applicant wishes to continue to seek registration, it may submit a new application at any time.

1 DE Reg 1978 (06/01/98)
7 DE Reg 213 (08/01/03)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

601 Registration of Broker-Dealer Agents

(a) A person applying for a license as a broker-dealer agent in Delaware shall make application for such license on Form U-4 (Uniform Application for Securities Industry Registration or Transfer). Amendments to such application shall also be made on Form U-4.

(b) An applicant for registration as a broker-dealer agent shall file his or her application, together with the fee required by of the Act, with FINRA's CRD and shall file with the Director such other information as the Director may reasonably require.

(c) Registration expires at the end of the calendar year. Any broker-dealer may renew its registration by filing with FINRA, such information as is required by FINRA, together with the fee required by the Act.

(d) For the purposes of Section 73-302(a) of the Act, an application will not be deemed complete until a broker-dealer agent is also registered through CRD with FINRA and with the principal state in which the broker-dealer agent does business (if registration in such state is required by that state), or at the discretion of the Director.

(e) An application for registration will not be effective until the registration has been approved by the Unit on CRD.

(f) If an applicant fails to provide information requested by the Unit in connection with the application within 60 days of the Unit's request, the Unit may mark the application "abandoned" on CRD. If the applicant wishes to continue to seek registration, it may submit a new application at any time.

1 DE Reg. 1978 (06/01/98)
7 DE Reg. 213 (08/01/03)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

602 Registration of Issuer Agents

(a) A person applying for a license as an issuer agent in Delaware shall make application for such license on Form U-4 (Uniform Application for Securities Industry Registration or Transfer). Amendments to such application shall also be made on Form U-4.

(b) An applicant for registration as an issuer agent shall file the application and the fee required by the Act with the Director, together with further information as the Director may reasonably require.

(c) Any applicant for an issuer agent license must also pass or receive credit for the Uniform Securities Agent State Law Examination (Series 63) or the Uniform Combined State Law Examination (Series 66).

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

603 Continuing Obligation of Registrants to Keep Information Current

(a) Persons registering or registered as broker-dealers, broker-dealer agents or issuer agents are required to keep reasonably current the information set forth in their applications for registration and to notify the Director of any material change to any information reported in their application for registration. An applicant or registrant may notify the Director of such material change by filing an amendment through FINRA's CRD. All other persons shall notify the Director directly.

(b) Failure to keep current the information set forth in an application or to notify the Director of any material change to any information reported in the application shall constitute a waiver of any objection to or claim regarding any action taken by the Director in reliance on information currently on file with the Director.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

604 Minimum Financial Requirements and Financial Reporting Requirements of Broker-Dealers

(a) Each broker-dealer registered or required to be registered under the Act shall comply with SEC Rules 15c3-1 (17 C.F.R. §240.15c3-1), 15c3-2 (17 C.F.R. §240.15c3-2), and 15c3-3 (17 C.F.R. §240.15c3-3).

(b) Each broker-dealer registered or to be registered under the Act shall comply with SEC Rule 17a-11 (17 C.F.R. §240.17a-11) and shall file with the Director, upon request, copies of notices and reports required under SEC Rules 17a-5 (17 C.F.R. §240.17a-5), 17a-10 (17 C.F.R. §240.17a-10), and 17a-11 (17 C.F.R. §240.17a-11).

(c) To the extent that the SEC promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the Unit for violation of this Rule to the extent that the violation results solely from the broker-dealer's compliance with the amended SEC rule.

15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

605 Bonding Requirements of Intrastate Broker-Dealers

Every broker-dealer registered or required to be registered under the Act whose business is exclusively intrastate, who does not make use of any facility of a national securities exchange, and who is not registered under Section 15 of the Securities Exchange Act of 1934 shall be bonded in an amount of not less than $100,000 by a bonding company qualified to do business in this state.

606 Recordkeeping Requirements of Broker-Dealers

(a) Unless otherwise provided by order of the SEC, each broker-dealer registered or required to be registered under the Act shall make, maintain, and preserve books and records in compliance with SEC Rules 17a-3 (17 C.F.R. §240.17a-3), 17a-4 (17 C.F.R. §240.17a-4), and 15c2-11 (17 C.F.R. §240.15c2-11).

(b) To the extent that the SEC promulgates changes to the above-referenced rules, broker-dealers in compliance with such Rules as amended shall not be subject to enforcement action by the Unit for violation of this Rule to the extent that the violation results solely from the broker-dealer's compliance with the amended SEC rule.

18 DE Reg. 394 (11/01/14)

607 Use of the Internet for General Dissemination of Information on Products and Services

(a) Broker-dealers and broker-dealer agents who use the internet to distribute information on securities, products or services through communications made on the internet directed generally to anyone having access to the internet, and transmitted through postings on Bulletin Boards, displays on webpages, the placement of internet advertisements, postings on or through applications or social media websites, or otherwise (an "Internet Communication") shall not be deemed to be "transacting business" in Delaware for purposes of Section 73-301 of the Act based solely on the Internet Communication if the following conditions are met:

(1) The Internet Communication contains a legend in which it is clearly stated that:

(A) the broker-dealer or agent in question may only transact business in a state requiring registration if first registered, excluded or exempted from state broker-dealer or agent registration requirements, as the case may be; and

(B) follow-up, individual responses to persons in Delaware by such broker-dealer, or agent that involve either the effecting or attempting to effect transactions in securities, will not be made absent compliance with state broker-dealer or agent registration requirements, or an applicable exemption or exclusion;

(2) The Internet Communication contains a mechanism, including and without limitations, technical "firewalls" or other implemented policies and procedures, designed reasonably to ensure that prior to any subsequent, direct communication with prospective customers or clients in Delaware, said broker-dealer or agent is first registered in Delaware or qualifies for an exemption or exclusion from such requirement. Nothing in this paragraph shall be construed to relieve a state registered broker-dealer or agent from any applicable securities registration requirement in Delaware;

(3) The Internet Communication does not involve either effecting or attempting to effect transactions in securities in Delaware over the internet, but is limited to the dissemination of general information on securities, products or services; and

(4) In the case of an agent:

(A) the affiliation with the broker-dealer is prominently disclosed within the Internet Communication;

(B) the broker-dealer with whom the agent is associated retains responsibility for reviewing and approving the content of any Internet Communication by the agent;

(C) the broker-dealer with whom the agent is associated first authorizes the distribution of information on the securities, products or services through the Internet Communication; and

(D) in disseminating information through the Internet Communication, the agent acts within the scope of the authority granted by the broker-dealer;

(b) The position expressed in this Rule extends to state broker-dealer and agent registration requirements only, and does not excuse compliance with applicable securities registration, antifraud or related provisions;

(c) Nothing in this Rule shall be construed to affect the activities of any broker-dealer and agent engaged in business in Delaware that is not subject to the jurisdiction of the Director as a result of the National Securities Markets Improvement Act of 1996, as amended.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

608 Registration Exemption for Certain Canadian Broker-Dealers

(a) A Canadian broker-dealer which meets the conditions of this Rule as set forth below shall be exempt from the registration requirement of Section 73-301 of the Act.

(b) To be eligible for this exemption, the broker-dealer must be resident in Canada, have no office or other physical presence in Delaware, and comply with the following conditions:

(1) Only effects or attempts to effect transactions in securities with, or for, 1 or more of the following:

(A) a person from Canada who is temporarily present in Delaware, with whom the Canadian broker-dealer had a bona fide business-client relationship before the person entered Delaware;

(B) a person from Canada who is present in Delaware, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor; or

(C) as otherwise permitted by the Act; and

(2) Is registered in its home province or territory, and a member in good standing of a self-regulatory organization or stock exchange in Canada;

(3) Files with the Director a notice in the form of the current application required by the jurisdiction in which its head office is located;

(4) Files with the Director a consent to service of process in a form which complies with the requirements of Section 73-702 of the Act.

(5) Discloses to its clients in Delaware that it is not subject to the full regulatory requirements of the Act; and

(6) Is not in violation of Section 73-201 of the Act or any rules promulgated thereunder.

(c) *Exempt transactions*. Offers or sales of any security effected by a broker-dealer who is exempt from registration under this Rule are exempt from the registration requirements of Section 73-202 of the Act and the filing requirements of Section 73-211 of the Act.

(d) *Agent exemption*. An agent who represents a Canadian broker-dealer that is exempt from registration under this Rule is also exempt from the registration requirement of Section 73-301 of the Act, provided such agent maintains his or her provincial or territorial registration in good standing.

(e) *Denial, Suspension or Revocation*. The Director may by order deny, suspend, or revoke the exemption of a particular Canadian broker-dealer provided pursuant to Rule 608 if he or she finds that the order is in the public interest and that the Canadian broker-dealer (or any partner, officer, director, or any person occupying a similar status or performing similar functions, or any person directly or indirectly, controlling the broker-dealer) has done anything prohibited by Section 73-304(a)(1) to (8),(12) or (13) of the Act.

7 DE Reg. 213 (08/01/03)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

609 Dishonest or Unethical Practices

(a) Each broker-dealer and broker-dealer agent registered in Delaware is required to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. The acts and practices described below in this Rule, among others, are considered contrary to such standards and may constitute grounds for denial, suspension or revocation of registration or such other action authorized by the Act.

(b) *Broker-Dealers*. For the purposes of Section 73-304(a)(7) of the Act, dishonest or unethical practices by a broker-dealer shall include, but not be limited to, the following conduct:

(1) Engaging in an unreasonable and unjustifiable delay in the delivery of securities purchased by any of its customers or in the payment, upon request, of free credit balances reflecting completed transactions of any of its customers, or failing to notify customers of their right to receive possession of any certificate of ownership to which they are entitled;

(2) Inducing trading in a customer's account that is excessive in size or frequency in view of the customer's investment objective, level of sophistication in investments, and financial situation and needs;

(3) Recommending a transaction or investment strategy involving a security or securities without reasonable grounds to believe that such transaction or investment strategy is suitable for the customer, in light of the customer's investment profile, including but not limited to, age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information material to the investment, based on the information obtained through the reasonable diligence of the broker-dealer or agent to ascertain the customer’s investment profile along with such other information about the customer’s investment profile known to the broker-dealer or agent;

(4) Failing to reasonably supervise such broker-dealer's agents or employees. Reasonable supervision shall include, but not be limited to:
  (A) maintaining and enforcing written procedures that will enable the broker-dealer to supervise properly the activities of each registered agent and that are reasonably designed to assure such agent's compliance with the Act;
  (B) maintaining and preserving appropriate records for carrying out such broker-dealer's supervisory procedures, including but not limited to records required to maintained pursuant to Rule 606;
  (C) periodically reviewing the activities of each office, which shall include an examination of customer accounts to detect and prevent irregularities or abuses;
  (D) taking steps to ascertain the good character, business repute, qualifications and experience of any person prior to making such a certification in the application of such person for registration under the Act;
  (E) maintaining a copy of the written supervisory procedures in each office or instantaneously accessible to agents or employees in such office, such as through the internet.
(5) Executing a transaction on behalf of a customer without prior authorization to do so;
(6) 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;
(7) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;
(8) Failing to segregate and identify customer's free securities or securities held in safekeeping;
(9) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by SEC regulations;
(10) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit (commissions or profits equal to 10% or more of the price of a security are presumed to be unreasonable);
(11) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which, together with the preliminary prospectus, includes all information set forth in the final prospectus;
(12) Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;
(13) Charging any fee for which no notice is given to the customer, and consent obtained, prior to the event incurring the fee;
(14) Offering to buy from or sell to any person any security at a stated price, unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell;
(15) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price, unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by such broker-dealer, or by any person for whom he is acting or with whom he is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer;
(16) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative or deceptive device, practice, plan, program, design or contrivance, that may include but not be limited to:
  (A) effecting any transaction in a security that involves no change in the beneficial ownership thereof;
  (B) entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or false or misleading appearance with respect to the market for the security; provided, however, nothing in this subparagraph shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customers; or
  (C) effecting, alone or with 1 or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security for the purpose of inducing the purchase or sale of such security by others;
(17) Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(18) Publishing or circulating or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind that purports to report any transaction as a purchase or sale of any security, unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or that purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona-fide bid for, or offer of, such security;

(19) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material, or presentation based on conjecture, unfounded or unrealistic claims or assertions in a brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

(20) Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, and, if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

(21) Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter or a selling group member, or from a member participating in the distribution as an underwriter or selling group member;

(22) Failing or refusing to furnish a customer, upon reasonable request, information to which he is entitled, including:

(A) with respect to a security recommended by the broker-dealer, material information that is reasonably available; and

(B) a written response to any written request or complaint;

(23) Making a recommendation that 1 customer buy a particular security and that another customer sell that security, where the broker-dealer acts as a principal and such recommendations are made within a reasonably contemporaneous time period, unless individual suitability considerations or preferences justify the different recommendations;

(24) Where the broker-dealer holds itself out as a market maker in a particular security, or publicly quotes bid prices in a particular security, failing to buy that security from a customer promptly upon the customer's request to sell;

(25) Recommending a security to its customers without conducting a reasonable inquiry into the risks of that investment or communicating those risks to its agents and its customers in a reasonably detailed manner and with such emphasis as is necessary to make the disclosure meaningful;

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

(27) Falsifying any record or document or failing to create or maintain any required record or documents;

(28) Violating any rule governing the conduct of a firm or individual promulgated by FINRA or its predecessor entities; or

(29) Aiding or abetting any of the conduct listed above.

(c) *Broker-Dealer Agents and Issuer Agents*. For the purposes of Section 73-304(a)(7) of the Act, dishonest or unethical practices by a broker-dealer agent or an issuer agent shall include, but not be limited to, the following conduct:

(1) Engaging in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

(2) Effecting securities transactions not recorded on the regular books or records of the broker-dealer that the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

(3) Establishing or maintaining an account containing fictitious information in order to execute transactions that would otherwise be prohibited;

(4) 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 that the agent represents;

(5) Dividing or otherwise splitting the agent's commissions, profits or other compensation from the purchase or sale of securities 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;

(6) Where a recommendation is made that an unsophisticated customer purchase an over-the-counter security that (A) trades sporadically or in small volume, and (B) is not traded on any United States securities

exchange, failing to inform the customer that he or she may not be able to find a buyer if the customer would subsequently want to sell the security;

(7) Where a recommendation is made to purchase an over-the-counter security in which the asked price is greater than the bid by 25% or more, failing to inform the customer of the bid and the asked prices and of the significance of the spread between them should the customer wish to resell the security;

(8) Using excessively aggressive or high pressure sales tactics, such as repeatedly telephoning and offering securities to individuals who have expressed disinterest and have requested that the calls cease, or using profane or abusive language, or calling prospective customers at home at an unreasonable hour at night or in the morning;

(9) Conducting or facilitating securities transactions outside the scope of the agent's relationship with his or her broker-dealer employer unless he or she has provided prompt written notice to his or her employer;

(10) Acting or registering as an agent of more than 1 broker-dealer without giving written notification to and receiving written permission from all such broker-dealers; or

(11) Holding himself or herself out as an objective investment adviser or financial consultant without fully disclosing his or her financial interest in a recommended securities transaction at the time the recommendation is made;

(12) Engaging in any of the conduct specified in subparagraph (b) above; or

(13) Aiding or abetting any of the conduct listed above.

(d) *Prohibited practices in connection with investment company shares*. For purposes of Section 73-304(a)(7) of the Act, unethical practices by a broker-dealer, broker-dealer agent or issuer agent shall include, but not be limited to, the following conduct:

(1) In connection with the offer or sale of investment company shares, failing to adequately disclose to a customer all sales charges, including asset based and contingent deferred sales charges, which may be imposed with respect to the purchase, retention or redemption of such shares;

(2) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing, that the shares are sold without a commission, are "no load" or have "no sales charge" if there is associated with the purchase of the shares a front-end load, a contingent deferred sales load, a SEC Rule 12 b-1 fee or a service fee which exceeds 0.25% of average net fund assets per year, or in the case of closed-end investment company shares, underwriting fees, commissions or other offering expenses;

(3) In connection with the offer or sale of investment company shares, failing to disclose to a customer any relevant sales charge discount on the purchase of shares in dollar amounts at or above a breakpoint or the availability of a letter of intent feature which will reduce the sales charges to the customer;

(4) In connection with the offer or sale of investment company shares, recommending to a customer a transaction or investment strategy involving a specific class of investment company shares in connection with a multi-class sales charge or fee arrangement without reasonable grounds to believe that the sales charge or fee arrangement associated with such transaction or investment strategy is suitable for the customer, in light of the customer's investment profile, including but not limited to, age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, the associated transaction or other fees, and any other information material to the charge or fee arrangement;

(5) In connection with the offer or sale of investment company shares, recommending to a customer a transaction or investment strategy involving the purchase of investment company shares which results in the customer simultaneously holding shares in different investment company portfolios having similar investment objectives and policies without reasonable grounds to believe that such transaction or investment strategy is suitable and appropriate, in light of the customer's investment profile, including but not limited to, age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, any associated transaction charges or other fees, and any other information material to the investment;

(6) In connection with the offer or sale of investment company shares, recommending to a customer a transaction or investment strategy involving the liquidation or redemption of investment company shares for the purpose of purchasing shares in a different investment company portfolio having similar investment objectives and policies without reasonable grounds to believe that such recommendation is suitable and appropriate, in light of the customer's investment profile, including but not limited to, age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, any associated transaction charges or other fees, and any other information material to the investment;

(7) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing, the fund's current yield or income without disclosing the fund's most recent average annual total return, calculated in a manner prescribed in SEC Form N-1A, for 1, 5 and 10 year periods and fully explaining the difference between current yield and total return; provided, however, that if the fund's registration statement under the Securities Act of 1933 has been in effect for less than 1, 5, or 10 years, the time during which the registration statement was in effect shall be substituted for the periods otherwise prescribed;

(8) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing, that the investment performance of an investment company portfolio is comparable to that of a savings account, certificate of deposit or other bank deposit account without disclosing to the customer that the shares are not insured or otherwise guaranteed by the FDIC or any other government agency and the relevant differences regarding risk, guarantees, fluctuation of principal or return, and any other factors which are necessary to ensure that such comparisons are fair, complete and not misleading;

(9) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing, the existence of insurance, credit quality, guarantees or similar features regarding securities held, or proposed to be held, in the investment company's portfolio without disclosing to the customer other kinds of relevant investment risks, including but not limited to, interest rate, market, political, liquidity, or currency exchange risks, which may adversely affect investment performance and result in loss or fluctuation of principal notwithstanding the creditworthiness of such portfolio securities;

(10) In connection with the offer or sale of investment company shares, stating or implying to a customer, either orally or in writing,

(A) that the purchase of such shares shortly before an ex-dividend date is advantageous to such customer unless there are specific, clearly described tax or other advantages to the customer, or

(B) that a distribution of long-term capital gains by an investment company is part of the income yield from an investment in such shares;

(11) In connection with the offer or sale of investment company shares, making representations to a customer, either orally or in writing, that the broker-dealer or agent knows or has reason to know are based in whole or in part on information contained in dealer-use-only material which has not been approved for public distribution; or

(12) Aiding or abetting any of the conduct listed above.

(13) In connection with the offer or sale of investment company shares, the delivery of a prospectus shall not be dispositive that the broker-dealer or agent has fulfilled the duties set forth in the subparagraphs of this Rule.

(e) The conduct set forth above is not exclusive. Engaging in other conduct such as forgery, embezzlement, theft, exploitation, nondisclosure, incomplete disclosure or misstatement of material facts, manipulative or deceptive practices, or aiding or abetting any unethical practice, shall be deemed an unethical business practice and shall also be grounds for denial, suspension or revocation of registration.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

610 Examination Requirement

An individual applying to be registered as a broker-dealer or a broker-dealer agent under the Act must pass or receive credit for the following examinations within 2 years of the date of application and which has not expired:

(a) The Uniform Securities Agent State Law Examination Series 63; or

(b) The Uniform Combined State Law Examination Series 66 and the General Securities Representative Qualification Examination Series 7.

Applicants who are new to the securities industry as of October 1,2018, must also pass or receive credit for the Securities Industry Essentials examination ("SIE") and it must not have expired as of the date of application.

7 DE Reg. 213 (08/01/03)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
22 DE Reg. 609 (01/01/19)
29 DE Reg. 786 (03/01/26)

611 Public Notice of Delaware Registration for Broker-Dealers

(a) Broker-dealers registered under the Act with a place of business in Delaware shall prominently display in the public area of each such place of business in 20 point font or greater in a location visible to all customers and potential customers, a notice stating:
"NOTICE REQUIRED BY LAW
Investment firms and professionals in Delaware must be registered with the Investor Protection Unit of the Delaware Department of Justice. This firm has been so registered. Registration does not mean this business is being endorsed by the Investor Protection Unit.
To check the registration status of any investment firm or professional in Delaware, or to file a complaint with the Investor Protection Unit, please call (302) 577-8424 or e-mail Investor.Protection@delaware.gov."

(b) Upon request the Unit will provide each place of business a sign satisfying this Rule.

18 DE Reg. 394 (11/01/14)
18 DE Reg. 575 (01/01/15)
23 DE Reg. 776 (03/01/20)

Part G. Investment Advisers and Investment Adviser Representatives

700 Registration of Investment Advisers

(a) A person applying for a license as an investment adviser in Delaware shall make application for such license on Form ADV (Uniform Application for Investment Adviser Registration under the Investment Advisers Act of 1940). Amendments to such application shall also be made on Form ADV.

(b) An applicant shall file its application, together with the fee required by the Act, with Investment Adviser Registration Depository ("IARD") and shall file with the Director such other information as the Director may reasonably require.

(c) Registration expires at the end of the calendar year. Any investment adviser may renew its registration by filing with the IARD such information as is required by IARD and the Director, together with the fee required by the Act.

(d) An investment adviser registered with the Director shall register with the Director at least 1 investment adviser representative.

(e) For the purposes of Section 73-302(a) of the Act, an application will not be deemed complete until a investment adviser is also registered through IARD with the principal state in which the investment adviser does business (if registration in such state is required by that state), or at the discretion of the Director.

(f) An application for registration will not be effective until the registration on IARD has been approved by the Unit.

(g) If an applicant fails to provide information requested by the Unit in connection with the application within 60 days of the Unit's request, the Unit may mark the application "abandoned" on CRD. If the applicant wishes to continue to seek registration, it may submit a new application at any time.

4 DE Reg. 510 (09/01/00)
7 DE Reg. 213 (08/01/03)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
23 DE Reg. 776 (03/01/20)
29 DE Reg. 786 (03/01/26)

701 Registration of Investment Adviser Representatives

(a) A person applying for a license as an investment adviser representative in Delaware shall make application for such license on Form U-4 (Uniform Application for Securities Industry Registration or Transfer). Amendments to such application shall also be made on Form U-4.

(b) An applicant for registration as an investment adviser representative shall file his or her application, together with the fee required by the Act, with FINRA's CRD and shall file with the Director such other information as the Director may reasonably require.

(c) Registration expires at the end of the calendar year. Any investment adviser representative may renew his or her registration by filing with FINRA's CRD such information as is required by FINRA, together with the fee required by the Act.

(d) For the purposes of Section 73-302(a) of the Act, an application will not be deemed complete until a investment adviser representative is also registered through CRD with the principal state in which the investment adviser representative does business (if registration in such state is required by that state), or at the discretion of the Director.

(e) An application for registration will not be effective until the registration has been approved by the Unit on CRD.

(f) If an applicant fails to provide information requested by the Unit in connection with the application within 60 days of the Unit's request, the Unit may mark the application "abandoned" on CRD. If the applicant wishes to continue to seek registration, it may submit a new application at any time.

4 DE Reg. 510 (09/01/00)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

702 Notice Filing Requirements for Federal Covered Advisers

(a) A federal covered adviser wishing to provide notice of its intention to do business in Delaware shall provide such notice on Form ADV (Uniform Application for Investment Adviser Registration under the Investment Advisers Act of 1940). Amendments to such notice shall also be made on Form ADV.

(b) The federal covered adviser shall file its Form ADV, together with the fee required by the Act, with IARD.

(c) The federal covered adviser's notice filing expires at the end of the calendar year. The federal covered adviser may renew its notice filing by filing with the IARD such information as is required by the IARD, together with the fee required by the Act.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

703 Continuing Obligation of Registrants and Notice Filers to Keep Information Correct

(a) Persons registering as investment advisers or investment adviser representatives are required to keep reasonably current the information set forth in their applications for registration and to notify the Director of any material change to any information reported in their applications for registration.

(b) A federal covered adviser who has made a notice filing under the Act shall file with IARD a copy of any amendment to its Form ADV or any schedule thereto as and when such amendment is filed with the SEC.

(c) Failure to keep current the information set forth in an application shall constitute a waiver of any objection to or claim regarding any action taken by the Director in reliance on information currently on file.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

704 Minimum Financial Requirements for Investment Advisers

(a) Except as otherwise provided in subsection (c) of this Rule, unless an investment adviser posts a bond pursuant to Rule 705, an investment adviser registered or required to be registered under the Act who has custody of client funds or securities shall maintain at all times a minimum net worth of $35,000, and an investment adviser registered or required to be registered under the Act who has discretionary authority over client funds or securities but does not have custody of client funds or securities, shall maintain at all times a minimum net worth of $10,000.

(b) Unless otherwise exempted, as a condition of the right to continue to transact business in this state, every investment adviser registered or required to be registered under the Act whose total net worth falls below the minimum required shall notify the Director by the close of business on the next day of such net worth deficiency. After transmitting such notice, each investment adviser shall, by the close of business on the next business day, file a report with the Director of its financial condition, including the following:

(1) A trial balance of all ledger accounts;
(2) A statement of all client funds, securities or assets which are not segregated;
(3) A computation of the aggregate amount of client ledger debit balances; and
(4) A statement as to the number of client accounts.

(c) For purposes of this Rule, the term "net worth" shall mean the excess of assets over liabilities, as determined by generally accepted accounting principles, but shall not include as assets: prepaid expenses (except as to items properly classified as current assets under generally accepted accounting principles), deferred charges, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, any asset of intangible nature, home, home furnishings, automobiles, any personal item not readily marketable (in the case of an individual), advances or loans to stockholders and officers (in the case of a corporation), and advances or loans to partners (in the case of a partnership). For purposes of this Rule, the term "net capital" in Section 222(c) of the Investment Advisers Act of 1940 shall have the same meaning as "net worth" as defined in this subsection.

(d) The Director may require that a current appraisal be submitted in order to establish the worth of any asset.

(e) Every investment adviser that has its principal place of business in a state other than this state shall maintain such minimum capital as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is licensed in such state and is in compliance with such state's minimum capital requirements.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

705 Bonding Requirements of Certain Investment Advisers

(a) Any bond required by this Rule shall be issued by a company qualified to do business in this state in the form determined by the Director and shall be subject to the claims of all clients of the investment adviser regardless of the client's state of residence.

(b) Every investment adviser having custody of or discretionary authority over client funds or securities shall be bonded in an amount of not less than $35,000 by a bonding company qualified to do business in Delaware. The requirements of this Rule shall not apply to those applicants or registrants who comply with the requirements of Rule 704.

(c) An investment adviser that has its principal place of business in a state other than Delaware shall be exempt from the requirements of subsection (a) of this Rule, provided that the investment adviser is registered as an investment adviser in the state where it has its principal place of business and is in compliance with such state's requirements relating to bonding.

1 DE Reg. 1978 (06/01/98)
18 DE Reg. 394 (11/01/14)

706 Recordkeeping Requirements of Investment Advisers

(a) Every investment adviser registered or required to be registered under the Act shall make and keep true, accurate and current the following books, ledgers and records:

(1) A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger.

(2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.

(3) A memorandum of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. Such memoranda: shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed such order; and shall show the account for which entered, the date of entry, and the bank or broker-dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.

(4) All check books, bank statements, cancelled checks and cash reconciliations of the investment adviser.

(5) All bills or statements (or copies thereof) paid or unpaid, relating to the business of the investment adviser as such.

(6) All trial balances, financial statements, and internal audit working papers relating to the business of such investment adviser.

(7) Originals of all written communications received and copies of all written communications sent by such investment adviser relating to:

(A) any recommendation made or proposed to be made and any advice given or proposed to be given;

(B) any receipt, disbursement or delivery of funds or securities; or

(C) the placing or execution of any order to purchase or sell any security, provided, however that the investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser, and if the investment adviser sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than 10 persons, the investment adviser shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if such notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain with the copy of such notice, circular or advertisement a memorandum describing the list and the source thereof.

(8) A list or other record of all accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client.

(9) All powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser, or copies thereof.

(10) All written agreements (or copies thereof) entered into by the investment adviser with any client or otherwise relating to the business of such investment adviser as such.

(11) A copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication recommending the purchase or sale of a specific security, which the investment adviser circulates or distributes, directly or indirectly, to 10 or more persons (other than clients receiving investment supervisory services or persons connected with such investment adviser), and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication does not state the reasons for such recommendation, a memorandum of the investment adviser indicating the reasons therefor.

(12)

(A) A record of every transaction in a security in which the investment adviser or any advisory representative of such investment adviser has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except:

(i) transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(ii) transactions in securities which are direct obligations of the United States.

Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording or any such transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

(B) For purposes of this paragraph (a)(12) the term "advisory representative" shall mean: any partner, officer or director of the investment adviser; any employee who makes any recommendation, who participates in the determination of which recommendation shall be made, or whose functions or duties relate to the determination of which recommendation shall be made; any employee who, in connection with his or her duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of such recommendations or of the information concerning such recommendations; and any of the following persons who obtain information concerning securities recommendations being made by such investment adviser prior to the effective dissemination of such recommendations or of the information concerning such recommendations:

(i) any person in a control relationship to the investment adviser;

(ii) any affiliated person of such controlling person; and

(iii) any affiliated person of such affiliated person. "Control" shall have the same meaning as that set forth in Section 2(a)(9) of the Investment Company Act of 1940, as amended.

(C) An investment adviser shall not be deemed to have violated the provisions of this paragraph (a)(12) because of his or her failure to record securities transactions of any investment adviser representative if he or she establishes that he or she instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

(13)

(A) Notwithstanding the provisions of paragraph (a)(12) above, where the investment adviser is primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, a record must be maintained of every transaction in a security in which the investment adviser or any advisory representative of such investment adviser has, or by reason of such transaction requires, any direct or indirect beneficial ownership, except:

(i) transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and

(ii) transactions in securities which are direct obligations of the United States.

Such record shall state: the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was

effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

(B) An investment adviser is "primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients" when, for each of its most recent 3 fiscal years or for the period of time since organization, whichever is lesser, the investment adviser derived, on an unconsolidated basis, more than 50% of (i) its total sales and revenues, and (ii) its income (or loss) before income taxes and extraordinary items, from such other business or businesses.

(C) For purposes of this paragraph (a)(13) the term "advisory representative", when used in connection with a company primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, shall mean: any partner, officer, director or employee of the investment adviser who makes any recommendation, who participates in the determination of which recommendation shall be made, or who, in connection with his or her duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of such recommendations or of the information concerning such recommendations; and any of the following persons who obtain information concerning securities recommendations being made by such investment adviser prior to the effective dissemination of such recommendations or of the information concerning such recommendations:

(i) any person in a control relationship to the investment adviser;

(ii) any affiliated person of such controlling person; and

(iii) any affiliated person of such affiliated person. "Control" shall have the same meaning as that set forth in Section 2(a)(9) of the Investment Company Act of 1940, as amended.

(D) An investment adviser shall not be deemed to have violated the provisions of this paragraph (a)(13) because of his or her failure to record securities transactions of any advisory representative if he or she establishes that he or she instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

(14) A copy of each written statement and each amendment or revision thereof, given or sent to any client or prospective client of such investment adviser in accordance with the provisions of Rule 709(a)(17), and a record of the dates that each written statement, and each amendment or revision thereof, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

(b) If an investment adviser subject to subsection (a) of this Rule has custody or possession of securities or funds on any client, the records required to be made and kept under subsection (a) above shall also include:

(1) a journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for such accounts and all other debits and credits to such accounts;

(2) a separate ledger account for each such client showing all purchases, sales, receipts and deliveries of securities, the date and price of each such purchase and sale, and all debits and credits;

(3) copies of confirmations of all transactions effected by or for the account of any such client; and

(4) a record for each security in which any such client has a position, which record shall show the name of each such client having any interest in each security, the amount of interest of each such client, and the location of each such security.

(c) Every investment adviser subject to subsection (a) of this Rule who renders any investment supervisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate and current:

(1) records showing separately for each such client the securities purchased and sold, and the date, amount and price of each such purchase and sale; and

(2) for each security in which any such client has a current position, information from which the investment adviser can promptly furnish the name of each such client, and the current amount or interest of such client.

(d) Any books or records required by this Rule may be maintained by the investment adviser in such manner that the identity of any client to whom such investment adviser renders investment advisory services is indicated by numerical or alphabetical code or some similar designation.

(e)

(1) All books and records required to be made under the provisions of subsections (a) to (c), inclusive, of this Rule shall be maintained and preserved in an easily accessible place for a period of not less than 5 years

from the end of the fiscal year during which the last entry was made on such record, the first 2 years in an appropriate office of the investment adviser.

(2) Partnership articles and any amendments thereto, articles of incorporation, charters, minute books, and stock certificate books of the investment adviser and of any predecessor, shall be maintained in the principal office of the investment adviser and preserved until at least 3 years after termination of the enterprise.

(f) An investment adviser subject to subsection (a) of this Rule, before ceasing to conduct or discontinuing business as an investment adviser shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this Rule, and shall notify the Director in writing of the exact address where such books and records will be maintained during such period.

(g)

(1) The records required to be maintained and preserved pursuant to this Rule may be immediately produced or reproduced by photograph on film or, as provided in paragraph (g)(2) below, on magnetic disk, tape or other computer storage medium, and be maintained and preserved for the required time in that form. If records are produced or reproduced by photographic film or computer storage medium, the investment adviser shall:

(A) arrange the records and index the films or computer storage medium so as to permit the immediate location of any particular record;

(B) be ready at all times to provide, and promptly provide, any facsimile enlargement of film or computer printout or copy of the computer storage medium the Director by its examiners or other representatives may request;

(C) store separately from the original 1 other copy of the film or computer storage medium for the time required;

(D) with respect to records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records so as to reasonable safeguard records from loss, alteration, or destruction; and

(E) with respect to records stored on photographic film, at all times have available for the Director's examination of its records pursuant to Section 73-303(e) of the Act, facilities for immediate, easily readable projection of the film and for producing easily readable facsimile enlargements.

(2) Pursuant to this paragraph (g) an adviser may maintain and preserve on computer tape or disk or other computer storage medium records which, in the ordinary course of the adviser's business, are created by the adviser on electronic media or are received by the adviser solely on electronic media or by electronic data transmission.

(h) For purposes of this Rule "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client.

(i) Every investment adviser that has its principal place of business in a state other than Delaware shall be exempt from the requirements of this section, provided the investment adviser is licensed in the state of its principal place of business and is in compliance with that state's recordkeeping requirements.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

707 Use of the Internet for General Dissemination of Information on Products and Services

(a) Investment advisers and investment adviser representatives who use the internet to distribute information on available products and services through communications made on the internet directed generally to anyone having access to the internet, and transmitted through postings on "Bulletin Boards", displays on webpages, the placement of internet advertisements, postings on or through applications or social media websites or otherwise (an "Internet Communication") shall not be deemed to be "transacting business" in Delaware for purposes of Section 73-301 of the Act based solely on the Internet Communication if the following conditions are met:

(1) The Internet Communication contains a legend in which it is clearly stated that:

(A) the investment adviser or representative in question may only transact business in a state requiring registration if first registered, excluded or exempted from state investment adviser or representative registration requirement, as the case may be; and

(B) follow-up individualized responses to persons in Delaware by such investment adviser or representative that involve the rendering of personalized investment advice for compensation will not be made absent compliance with state investment adviser or representative registration requirements, or an applicable exemption or exclusion;

(2) The Internet Communication contains a mechanism, including and without limitation, technical "firewalls" or other implemented policies and procedures, designed reasonably to ensure that prior to any subsequent, direct communication with prospective customers or clients in this state, said investment adviser or representative is first registered in Delaware or qualifies for an exemption or exclusion from such requirement. Nothing in this paragraph shall be construed to relieve a state registered investment adviser or representative from any applicable securities registration requirement in Delaware;

(3) The Internet Communication does not involve the rendering of personalized advice for compensation in Delaware over the internet, but is limited to the dissemination of general information on products and services; and

(4) In the case of a representative:

(A) the affiliation with the investment adviser is prominently disclosed within the Internet Communication;

(B) the investment adviser with whom the representative is associated retains responsibility for reviewing and approving the content of any Internet Communication by the representative;

(C) the investment adviser with whom the representative is associated first authorizes the distribution of information on the particular products and services through the Internet Communication; and

(D) in disseminating information through the Internet Communication, the representative acts within the scope of the authority granted by the investment adviser;

(b) The position expressed in this Rule extends to state investment adviser and representative registration requirements only, and does not excuse compliance with applicable securities registration, antifraud or related provisions;

(c) Nothing in this Rule shall be construed to affect the activities of any investment adviser and representative engaged in business in Delaware that is not subject to the jurisdiction of the Director as a result of the National Securities Markets Improvements Act of 1996, as amended.

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

708 Custody of Client Funds or Securities

(a) *Safekeeping required.* It is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice, or course of business for an investment adviser, registered or required to be registered, to have custody of client funds or securities unless:

(1) *Notice to Director.* The investment adviser notifies the Director promptly in writing that the investment adviser has or may have custody. Such notification is required to be given on Form ADV;

(2) *Qualified Custodian*. A qualified custodian maintains those funds and securities:

(A) in a separate account for each client under that client's name; or

(B) in accounts that contain only the investment adviser's clients' funds and securities, under the investment adviser's name as agent or trustee for the clients, or, in the case of a pooled investment vehicle that the investment adviser manages, in the name of the pooled investment vehicle.

(3) *Notice to clients*. If an investment adviser opens an account with a qualified custodian on its client's behalf, under the client's name, under the name of the investment adviser as agent, or under the name of a pooled investment vehicle, the investment adviser must notify the client in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information. If the investment adviser sends account statements to a client to which the investment adviser is required to provide this notice, the investment adviser must include in the notification provided to that client and in any subsequent account statement the investment adviser sends that client a statement urging the client to compare the account statements from the custodian with those from the investment adviser.

(4) *Account Statements.* The investment adviser has a reasonable basis, after due inquiry, for believing that the qualified custodian sends an account statement, at least quarterly, to each client for which it maintains funds or securities, identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period.

(5) *Special rule for limited partnerships and limited liability companies*. If the investment adviser or a related person is a general partner of a limited partnership (or managing member of a limited liability company, or holds a comparable position for another type of pooled investment vehicle), the account statements required under paragraph (a)(4) of this Rule must be sent to each limited partner (or member or other beneficial owner).

(6) *Independent Verification*. The client funds and securities of which the investment adviser has custody are verified by actual examination at least once during each calendar year, by an independent certified public accountant, pursuant to a written agreement between the investment adviser and the independent certified public accountant, at a time that is chosen by the independent certified public accountant without prior notice or announcement to the investment adviser and that is irregular from year to year. The written agreement must provide for the first examination to occur within 6 months of becoming subject to this paragraph, except that, if the investment adviser maintains client funds or securities pursuant to this rule as a qualified custodian, the agreement must provide for the first examination to occur no later than 6 months after obtaining the internal control report. The written agreement must require the independent certified public accountant to:

(A) file a certificate on Form ADV-E with the Director within 120 days of the time chosen by the independent certified public accountant in paragraph (a)(6) of this rule, stating that it has examined the funds and securities and describing the nature and extent of the examination;

(B) notify the Director within 1 business day of the finding of any material discrepancies during the course of the examination, by means of a facsimile transmission or e-mail, followed by first class mail, directed to the attention of the Director; and

(C) file within 4 business days of the resignation or dismissal from, or other termination of, the engagement, or removing itself or being removed from consideration for being reappointed, Form ADV-E accompanied by a statement that includes:

(i) the date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and

(ii) an explanation of any problems relating to examination scope or procedure that contributed to such resignation, dismissal, removal, or other termination.

(7) *Investment advisers acting as qualified custodians*. If the investment adviser maintains, or if the investment adviser has custody because a related person maintains, client funds or securities pursuant to this Rule as a qualified custodian in connection with advisory services the investment adviser provides to clients:

(A) the independent certified public accountant the investment adviser retains to perform the independent verification required by paragraph (a)(6) of this rule must be registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules; and

(B) the investment adviser must obtain, or receive from its related person, within 6 months of becoming subject to this paragraph and thereafter no less frequently than once each calendar year a written internal control report prepared by an independent certified public accountant:

(i) The internal control report must include an opinion of an independent certified public accountant as to whether controls have been placed in operation as of a specific date, and are suitably designed and are operating effectively to meet control objectives relating to custodial services, including the safeguarding of funds and securities held by either the investment adviser or a related person on behalf of the investment advisers clients, during the year;

(ii) The independent certified public accountant must verify that the funds and securities are reconciled to a custodian other than the investment adviser or the investment advisers related person; and

(iii) The independent certified public accountant must be registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules.

(8) *Independent representatives*. A client may designate an independent representative to receive, on his behalf, notices and account statements as required under paragraphs (a)(3) and (a)(4) of this rule.

(b) *Exceptions*.

(1) *Shares of mutual funds*. With respect to shares of an open-end company as defined in Section 5(a)(1) of the Investment Company Act of 1940 ("mutual fund"), the investment adviser may use the mutual fund's transfer agent in lieu of a qualified custodian for purposes of complying with paragraph (a) of this Rule;

(2) *Certain privately offered securities.*

(A) The investment adviser is not required to comply with paragraph (a)(2) of this Rule with respect to securities that are:

(i) acquired from the issuer in a transaction or chain of transactions not involving any public offering;

(ii) uncertificated and ownership thereof is recorded only on the books of the issuer or its transfer agent in the name of the client; and

(iii) transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(B) Notwithstanding paragraph (b)(2)(A) of this Rule, the provisions of this paragraph (b)(2) are available with respect to securities held for the account of a limited partnership (or limited liability company, or other type of pooled investment vehicle) only if the limited partnership is audited, and the audited financial statements are distributed, as described in paragraph (b)(4) of this Rule and the investment adviser notifies the Director in writing that the investment adviser intends to provide audited financial statements, as described above. Such notification is required to be provided on Form ADV.

(3) *Fee Deduction*. Notwithstanding paragraph (a)(6) of this Rule, an investment adviser is not required to obtain an independent verification of client funds and securities maintained by a qualified custodian if all of the following are met:

(A) the investment adviser has custody of the funds and securities solely as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee;

(B) the investment adviser has written authorization from the client to deduct advisory fees from the account held with the qualified custodian;

(C) each time a fee is directly deducted from a client account, the investment adviser

(i) sends the qualified custodian an invoice or statement of the amount of the fee to be deducted from the client's account, and

(ii) sends the client an invoice or statement itemizing the fee. Itemization includes the formula used to calculate the fee, the amount of assets under management the fee is based on, and the time period covered by the fee; and

(D) the investment adviser notifies the Director in writing that the investment adviser intends to use the safeguards provided above. Such notification is required to be given on Form ADV.

(4) *Limited partnerships subject to annual audit*. An investment adviser is not required to comply with paragraphs (a)(3) and (a)(4) and shall be deemed to have complied with paragraph (a)(6) of this Rule with respect to the account of a limited partnership (or limited liability company, or another type of pooled investment vehicle) if each of the following conditions are met:

(A) the adviser sends to all limited partners (or members or other beneficial owners) at least quarterly, a statement showing:

(i) the total amount of all additions to and withdrawals from the fund as a whole as well as the opening and closing value of the fund at the end of the quarter based on the custodian's records,

(ii) a listing of all long and short positions on the closing date of the statement in accordance with FASB Rule ASC 946-210-50, and

(iii) the total amount of additions to and withdrawals from the fund by the investor as well as the total value of the investor's interest in the fund at the end of the quarter; and

(B) at least annually the fund is subject to an audit and distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) within 120 days of the end of its fiscal year;

(C) the audit is performed by an independent certified public accountant that is registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules;

(D) upon liquidation, the adviser distributes the fund's final audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) and the Director promptly after the completion of such audit;

(E) the written agreement with the independent certified public accountant requires the independent certified public accountant to, upon resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed, notify the Director within 4 business days accompanied by a statement that includes

(i) the date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant, and

(ii) an explanation of any problems relating to audit scope or procedure that contributed to such resignation, dismissal, removal, or other termination; and

(F) the investment adviser notifies the Director in writing that the investment adviser intends to employ the use of the statement delivery and audit safeguards described above. Such notification is required to be given on Form ADV.

(5) *Registered Investment Companies*. The investment adviser is not required to comply with this Rule with respect to the account of an investment company registered under the Investment Company Act of 1940.

(c) *Delivery to Related Persons*. Sending an account statement under paragraph (a)(5) of this Rule or distributing audited financial statements under paragraph (b)(4) of this Rule shall not satisfy the requirements of this Rule if such account statements or financial statements are sent solely to limited partners (or members or other beneficial owners) that themselves are limited partnerships (or limited liability companies, or another type of pooled investment vehicle) and are related persons of the investment adviser.

(d) *Definitions*. For purposes of Part G of these Rules (Rule 700 through Rule 712):

(1) "Control" means the power, directly or indirectly, to direct the management or policies of a person whether through ownership of securities, by contract, or otherwise. Control includes, but is not limited to:

(A) Each of the investment adviser's officers, partners, or directors exercising executive responsibility (or persons having similar status or functions) is presumed to control the investment adviser;

(B) A person is presumed to control a corporation if the person:

(i) directly or indirectly has the right to vote 25% or more of a class of the corporation's voting securities; or

(ii) has the power to sell or direct the sale of 25% or more of a class of the corporation's voting securities;

(C) A person is presumed to control a partnership if the person has the right to receive upon dissolution, or has contributed, 25% or more of the capital of the partnership;

(D) A person is presumed to control a limited liability company if the person:

(i) directly or indirectly has the right to vote 25% or more of a class of the interests of the limited liability company;

(ii) has the right to receive upon dissolution, or has contributed, 25% or more of the capital of the limited liability company;

(iii) is an elected manager of the limited liability company; or

(E) A person is presumed to control a trust if the person is a trustee or managing agent of the trust.

(2) "Custody" means holding directly or indirectly, client funds or securities, or having any authority to obtain possession of them (or has the ability to appropriate them). The investment adviser has custody if a related person holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, in connection with advisory services the investment adviser provides to clients.

(A) Custody includes, but is not limited to:

(i) possession of client funds or securities unless the investment adviser receives them inadvertently and returns them to the sender promptly but in any case within 3 business days of receiving them;

(ii) any arrangement (including a general partner of attorney) under which the investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and

(iii) any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives the investment adviser or its supervised person legal ownership of or access to client funds or securities.

(B) Receipt of checks drawn by clients and made payable to third parties will not meet the definition of custody if forwarded to the third party within 3 business days of receipt and the investment adviser maintains the records required under these rules.

(3) "Independent certified public accountant" means a certified public accountant that meets the standards of independence described in rule 2-01(b) and (c) of Regulation S-X (17 CFR 210.2-01(b) and (c)).

(4) "Independent representative" means a person who:

(A) acts as agent for an advisory client, including in the case of a pooled investment vehicle, for limited partners or a limited partnership, members of a limited liability company, or other beneficial owners of another type of pooled investment vehicle and by law or contract is obliged to act in the best interest of the advisory client or the limited partners, members, or other beneficial owners;

(B) does not control, is not controlled by, and is not under common control with investment adviser; and

(C) does not have, and has not had within the past 2 years, a material business relationship with the investment adviser.

(5) "Qualified custodian" means the following:
(A) a bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;
(B) a broker-dealer registered in Delaware and with the SEC holding the client assets in customer accounts;
(C) a registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act, holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and
(D) A foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.
(6) "Related person" means any person, directly or indirectly, controlling or controlled by the investment adviser, and any person that is under common control with the investment adviser.

18 DE Reg. 394 (11/01/14)

709 Dishonest or Unethical Practices

(a) A person who is an investment adviser, a federal covered adviser, or an investment adviser representative is a fiduciary and has a duty to act primarily for the benefit of the client. While the extent and nature of this duty varies according to the nature of the relationship with the client and the circumstances of each case, no investment adviser, federal covered adviser or representative shall engage in any dishonest or unethical business practice. The provisions of this section apply to federal covered advisers only to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). For purposes of Section 73-304(a)(7) of the Act, the term "dishonest or unethical practices" by an investment adviser, a federal covered adviser, or an investment adviser representative shall include but not be limited to the following:
(1) Recommending to a client, to whom investment supervisory, management or consulting services are provided, the purchase, sale, or exchange of any security, or other investment strategy, without reasonable grounds to believe that the recommendation is suitable for the client, in light of the client's investment profile, including but not limited to, age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information material to the investment, based on the information obtained through the reasonable diligence of the investment adviser or investment adviser representative to ascertain the client's investment profile along with such other information about the client's investment profile known to such investment adviser or investment adviser representative.
(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specific security that shall be executed, or both.
(3) Inducing trading in a client's account that is excessive in size or frequency in view of the client's financial resources and investment objectives and the character of the account.
(4) With respect to an investment adviser or a federal covered adviser, failing to reasonably supervise such investment adviser's representatives or employees. Reasonable supervision shall include, but not be limited to:
(A) maintaining and enforcing written procedures that will enable the investment adviser to supervise properly the activities of each registered investment adviser representative and that are reasonably designed to assure such representative's compliance with the Act;
(B) maintaining and preserving appropriate records for carrying out such investment adviser's supervisory procedures, including but not limited to records required to maintained pursuant to Rule 706;
(C) periodically reviewing the activities of each office, which shall include an examination of customer accounts to detect and prevent irregularities or abuses;
(D) taking steps to ascertain the good character, business repute, qualifications and experience of any person prior to making such a certification in the application of such person for registration under the Act;
(E) maintaining a copy of the written supervisory procedures in each office or instantaneously accessible to agents or employees in such office, such as through the internet.
(5) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(6) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third party trading authorization from the client.

(7) Borrowing money or securities from a client, unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds.

(8) Extending arranging for, or participating in arranging for credit to a customer in violation of the provisions of Regulation T promulgated by the Federal Reserve Board, 12 C.F.R. §§220.1-220.131.

(9) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employee of the investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omitting to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they are made, not misleading.

(10) Providing a report or recommendation prepared by someone other than the adviser to any advisory client without disclosing the fact; provided, however, that this prohibition does not apply to a situation where the adviser uses published research reports or statistical analyses to render advice or where an adviser orders such a report in the normal course of providing service.

(11) Charging a client an advisory fee that is unreasonable in light of the type of services to be provided, the experience and expertise of the adviser, the sophistication and bargaining power of the client, and whether the adviser has disclosed that lower fees for comparable services may be available from other sources.

(12) Failing to disclose to clients, in writing, before any advice is rendered, any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice, including:

(A) Compensation arrangements connected with advisory services which are in addition to compensation from such clients for such services; and

(B) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees.

(13) Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice to be rendered.

(14) Publishing, circulating, or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

(15) Disclosing the identity, affairs, or investments of any client, unless required by law to do so, or unless consented to by the client.

(16) Violating Rule 206(4)-2 under the Investment Advisers Act of 1940, irrespective of whether such investment adviser is registered under the Investment Advisers Act of 1940.

(17) Entering into, extending, or renewing any investment advisory contract, unless such contract is in writing and discloses, in substance, the information required by Part II of Form ADV, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the adviser, and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract. The information required by Part II of form ADV may be disclosed in a document advisory contract, so long as it is disclosed at the time the contract is entered into, extended or renewed.

(18) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information in violation of Section 204A of the Investment Advisers Act of 1940.

(19) Entering into, extending, or renewing any advisory contract which would violate Section 205 of the Investment Advisers Act of 1940. This provision shall apply to all advisers registered or required to be registered under the Act.

(20) Including in an advisory contract any condition, stipulation, or provision binding any person to waive compliance with any applicable provision of the Act, any rule promulgated thereunder, the Investment Advisers Act of 1940, or any rule promulgated thereunder, or engaging in any other practice that would violate Section 215 of the Investment Advisers Act of 1940.

(21) Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contravention of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940.

(22) Engaging in any conduct, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Act or any Rule thereunder.

(23) Aiding or abetting any of the conduct listed above.

(b) The conduct set forth in subparagraph (a) of this Rule is not exclusive. Engaging in other conduct such as forgery, embezzlement, theft, exploitation, non-disclosure, incomplete disclosure or misstatement of material facts, manipulative or deceptive practices, or aiding or abetting any unethical practice, shall be deemed an unethical business practice and shall also be grounds for denial, suspension or revocation of registration. The federal statutory and regulatory provisions referenced herein shall apply to all investment advisers, federal covered advisers and investment adviser representatives only to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

1 DE Reg. 1978 (06/01/98)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)

710 Examination Requirements

(a) *Examination Requirements*. An individual applying to be registered as an investment adviser or investment adviser representative under the Act must pass or receive credit fort the following examinations within 2 years of the date of application and which has not expired:
(1) The Uniform Investment Adviser Law Examination (Series 65 examination); or
(2) The General Securities Representative Examination (Series 7 examination) and the Uniform Combined State Law Examination (Series 66 examination), and, for applicants who are new to the securities industry as of October 1, 2018, the Securities Industry Essentials examination ("SIE").

(b) *Waivers*. The examination requirements shall not apply to an individual who currently holds 1 of the following professional designations:
(1) Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.
(2) Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania;
(3) Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;
(4) Charted Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts;
(5) Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.; or
(6) Other professional designation as the Director may by rule or order recognize.

4 DE Reg. 510 (09/01/00)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
22 DE Reg. 609 (01/01/19)
29 DE Reg. 786 (03/01/26)

711 Exemption From Registration; Exempt Reporting Advisers

(a) *Definitions*. For purposes of the exemption set forth in this Rule:
(1) "Private Fund Adviser" means an investment adviser who provides advice solely to 1 or more qualifying private funds, other than a private fund that qualifies for the exclusion from the definition of "investment company" provided in section 3(c)(1) of the Investment Company Act of 1940, 15 U.S.C. §80a-3(c)(1);
(2) "Qualifying private fund" means a private fund that meets the definition of a qualifying private fund in SEC Rule 203(m)-1, 17 C.F.R. §275.203(m)-1;

(b) *Exemption for Private Fund Advisers*. A Private Fund Adviser shall be exempt from the registration requirements of Section 73-301 of the Act if the adviser satisfies each of the following conditions:
(1) neither the Private Fund Adviser nor any of its advisory affiliates are subject to an event that would disqualify an issuer under Rule 506(d)(1) of SEC Regulation D, 17 C.F.R. §230.506(d)(1);
(2) the Private Fund Adviser files with the Director through IARD each report and amendment thereto that an exempt reporting adviser is required to file with the SEC pursuant to SEC Rule 204-4, 17 C.F.R. §275.204-4; and
(3) the Private Fund Adviser pays the filing fee required to be paid by investment advisers as set forth in Section 73-302(l)(2) of the Act.

(c) [RESERVED]

(d) *Federal covered investment advisers*. If a Private Fund Adviser is registered with the SEC, the adviser shall not be eligible for this exemption and shall comply with the state notice filing requirements applicable to federal covered adviser in Sections 73-301(f) and 73-302(g) through (k) of the Act.

(e) *Investment adviser representatives.* A person is exempt from the investment adviser representative registration requirements of Section 73-301 of the Act if he or she is employed by or associated with an investment adviser that is exempt from registration in Delaware pursuant to this Rule and he or she does not otherwise act as an investment adviser representative.

(f) [RESERVED]

(g) An investment adviser who becomes ineligible for the exemption provided by this Rule must comply with all applicable laws and rules requiring registration or notice filing within 90 days from the date the investment adviser's eligibility for this exemption ceases.

18 DE Reg. 394 (11/01/14)

712 Public Notice of Delaware Registration for Investment Advisers

(a) Investment Advisers registered under the Act with a place of business in Delaware shall prominently display in the public area of each such place of business in 20 point font or greater in a location visible to all customers and potential customers, a notice stating:

"NOTICE REQUIRED BY LAW

Investment firms and professionals in Delaware must be registered with the Investor Protection Unit of the Delaware Department of Justice. This firm has been so registered. Registration does not mean this business is being endorsed by the Investor Protection Unit.

To check the registration status of any investment firm or professional in Delaware, or to file a complaint with the Investor Protection Unit, please call (302)577-8424 or e-mail Investor.Protection@delaware.gov."

(b) Upon request the Unit will provide each place of business a sign satisfying this Rule.

18 DE Reg. 394 (11/01/14)
18 DE Reg. 575 (01/01/15)
23 DE Reg. 776 (03/01/20)

Part H. Provisions Applicable to Broker-Dealers, Agents, Investment Advisers and Investment Adviser Representatives

800 Senior Specific Designations

(a) The use of a senior specific certification or designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical practice within the meaning of Section 73-304(a)(7) of the Act. The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

(1) use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) use of a nonexistent or self-conferred certification or professional designation;

(3) use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(4) use of a certification or professional designation that was obtained from a designating or certifying organization that:

(A) is primarily engaged in the business of instruction in sales or marketing;

(B) does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

(C) does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

(D) does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

(b) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of paragraph (a)(4) above when the organization has been accredited by:

(1) the American National Standards Institute; or

(2) the National Commission for Certifying Agencies; or

(3) an organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales or marketing.

(c) In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

(1) use of 1 or more words such as "senior," "retirement," "elder," or like words, combined with 1 or more words such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(2) the manner in which those words are combined.

(d)

(1) For purposes of this Rule, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(A) indicates seniority or standing within the organization; or

(B) specifies an individual's area of specialization within the organization.

(2) For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

(e) Nothing in this Rule shall limit the Director's authority to enforce existing provisions of law.

13 DE Reg. 667 (11/01/09)
18 DE Reg. 394 (11/01/14)
29 DE Reg. 786 (03/01/26)

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1 DE Reg. 1978 (06/01/98)
4 DE Reg. 510 (09/01/00)
4 DE Reg. 1184 (01/01/01)
7 DE Reg 213 (08/01/03)
13 DE Reg. 667 (11/01/09)
14 DE Reg. 664 (01/01/11)
15 DE Reg. 529 (10/01/11)
18 DE Reg. 394 (11/01/14)
18 DE Reg. 575 (01/01/15)
20 DE Reg. 728 (03/01/17)
22 DE Reg. 609 (01/01/19)
23 DE Reg. 776 (03/01/20)
29 DE Reg. 786 (03/01/26)