

502.411 Postregistration requirements.

1. *Financial requirements.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(h), or section 222 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-22, a rule adopted or order issued under this chapter may establish minimum financial requirements for broker-dealers registered or required to be registered under this chapter and investment advisers registered or required to be registered under this chapter.

2. *Financial reports.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(h), or section 222(b) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-22, a broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall file such financial reports as are required by a rule adopted or order issued under this chapter. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment. The administrator may, by rule, assess a reasonable charge for the late filing of a financial report under this subsection.

3. *Recordkeeping.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(h), or section 222 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-22, all of the following apply:

a. A broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this chapter.

b. Broker-dealer records required to be maintained under paragraph "a" may be maintained in any form of data storage acceptable under section 17(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78q(a), if they are readily accessible to the administrator.

c. Investment adviser records required to be maintained under paragraph "a" may be maintained in any form of data storage required by rule adopted or order issued under this chapter.

4. *Audits or inspections.* The records of a broker-dealer registered or required to be registered under this chapter and of an investment adviser registered or required to be registered under this chapter are subject to such reasonable periodic, special, or other audits or inspections by a representative of the administrator, within or without this state, as the administrator considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The administrator may copy, and remove for audit or inspection copies of, all records the administrator reasonably considers necessary or appropriate to conduct the audit or inspection. The administrator may assess a reasonable charge for conducting an audit or inspection under this subsection.

5. *Custody and discretionary authority bond or insurance.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(h), or section 222 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-22, a rule adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount the administrator shall prescribe. The administrator may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security shall not be required of a broker-dealer registered under this chapter whose net capital exceeds, or of an investment adviser registered under this chapter whose minimum financial requirements exceed, the amounts required by rule or order under this chapter. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in section 502.509, subsection 10, paragraph "b".

6. *Requirements for custody.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(h), or section 222 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-22, an agent shall not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser representative shall not have

custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this chapter may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

7. *Investment adviser brochure rule.* With respect to an investment adviser registered or required to be registered under this chapter, a rule adopted or order issued under this chapter may require that information or other records be furnished or disseminated to clients or prospective clients in this state as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

8. *Continuing education.* A rule adopted or order issued under this chapter may require an individual registered under section 502.402 or 502.404 to participate in a continuing education program approved by the securities and exchange commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this chapter may require continuing education for an individual registered under section 502.404.

2004 Acts, ch 1161, §36, 68

Referred to in §502.412, 502.509, 502.607