

**Department of State
Division of Publications**

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Sequence Number: 03-11-15
Rule ID(s): 5888
File Date: 3/16/15
Effective Date: 6/14/15

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Commerce and Insurance
Division:	Securities Division
Contact Person:	Barbara Doak
Address:	500 James Robertson Parkway, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-9467
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-04-01	General Administration
Rule Number	Rule Title
0780-04-01-.01	Retained Powers
0780-04-01-.02	Short Title
0780-04-01-.03	Definitions
0780-04-01-.04	Administration of the Act
0780-04-01-.05	No Action Letters and Interpretive Opinions
0780-04-01-.06	Repealed

Amendment

Chapter 0780-04-01 General Administration is amended by deleting the Chapter in its entirety and replacing it with the following language:

0780-04-01-.01 RETAINED POWERS.

It is the express intent of these rules that such powers as are herein delegated by the commissioner are also retained and may be exercised by the commissioner at the commissioner's election.

Authority: T.C.A. §§48-1-115 and 48-1-116.

0780-04-01-.02 SHORT TITLE.

These rules may be cited as the Tennessee Securities Rules.

Authority: T.C.A. §§48-1-115 and 48-1-116.

0780-04-01-.03 DEFINITIONS.

- (1) When used in these rules and in the Tennessee Securities Act of 1980, as amended, unless the context otherwise requires:
 - (a) "Act" shall mean Chapter 866 of the Public Acts of 1980, otherwise known as the Tennessee Securities Act of 1980, as amended, and its codification in the Tennessee Code Annotated.
 - (b) "Assistant commissioner" shall mean the assistant commissioner for the Securities Division of the Department of Commerce and Insurance of the state of Tennessee, or any successor person authorized to exercise similar functions.
 - (c) "CRD System" shall mean the NASAA/FINRA Central Registration Depository System, commonly known as "CRD" and/or "Web CRD".
 - (d) "Division" shall mean the assistant commissioner, staff, employees, and agents of the Securities Division of the Department of Commerce and Insurance of the state of Tennessee or such other agency as shall administer the Act or any successor statute.
 - (e) "FINRA" shall mean the Financial Industry Regulatory Authority.
 - (f) "Government Securities Broker-Dealer" shall mean a broker-dealer who effects transactions only in securities issued or guaranteed by the United States or an instrumentality thereof.
 - (g) "IARD" shall mean the Investment Adviser Registration Depository as operated by the FINRA in cooperation with NASAA, other states, and the United States.
 - (h) "NASAA" shall mean the North American Securities Administrators Association, Inc.
 - (i) "NASD" shall mean the National Association of Securities Dealers, Inc. and/or the National Association of Securities Dealers Regulation, Inc. (now known as FINRA).
 - (j) "Nasdaq National Market" shall mean a distinct tier of The Nasdaq Stock Market comprised of securities that meet the requirements of and are authorized as a Nasdaq National Market security.
 - (k) "Rules" shall mean the Rules of the Department of Commerce and Insurance, Securities Division, as set forth in Chapter 0780-04.
 - (l) "SEC" shall mean the Securities and Exchange Commission of the United States or its staff, as appropriate.
 - (m) "Security" shall include the practice of "equity funding", "security funding", or "life funding" whereby mutual fund shares and insurance contracts are sold as a package with mutual fund shares being pledged as collateral for loans, the proceeds of which are used to pay the premium on life insurance policies.

- (n) "State" shall mean any state, territory, or possession of the United States, the District of Columbia, and Puerto Rico.
 - (o) "Substantially all of the voting securities of the bank or other bank holding company" as used in T.C.A. §48-1-103(b)(10) shall mean eighty percent (80%) or more of each class of such voting securities.
 - (p) "UAPA" shall mean the Uniform Administrative Procedures Act as set forth in T.C.A. §4-5-101, et seq., and any rules promulgated thereunder to the extent such rules are not inconsistent with the Act or these Rules.
- (2) In construing terms used in these Rules and in the Act, the commissioner, to the extent consistent with the purposes fairly intended by the policy and provisions of the Act, will consider definitions, case law, SEC rules, and interpretive releases under the following federal statutes:
- (a) The Securities Act of 1933 (the "1933 Act");
 - (b) The Securities Exchange Act of 1934 (the "1934 Act");
 - (c) The Trust Indenture Act of 1939 (the "Trust Indenture Act");
 - (d) The Investment Company Act of 1940 (the "Investment Company Act"); and
 - (e) The Investment Advisers Act of 1940 (the "Investment Advisers Act").
- (3) Unless the context otherwise requires or a rule expressly provides otherwise, terms defined in the Act shall have the same meaning when used in these Rules.

Authority: T.C.A. §§48-1-103(b)(10), 48-1-115, 48-1-116, and Public Acts of 2001, Chapter 61.

0780-04-01-.04 ADMINISTRATION OF THE ACT.

- (1) General.
- (a) The commissioner delegates to the assistant commissioner all of the power and duties granted to and imposed upon the commissioner by the Act, except the power:
 1. To impose any sanction pursuant to T.C.A. §§48-1-104, 48-1-108, 48-1-109, 48-1-112, 48-1-116, or 48-1-121 in any contested case, as such term is defined in the UAPA;
 2. To adopt any rule as such term is defined in the UAPA;
 3. To grant immunity to any person pursuant to T.C.A. §48-1-118(d); and
 4. To appoint any investigative agent pursuant to T.C.A. §48-1-118.
 - (b) Without limiting the foregoing delegation, the assistant commissioner is expressly empowered to:
 1. Issue orders of investigation pursuant to T.C.A. §48-1-118(a);
 2. Conduct investigations as provided by T.C.A. §48-1-118(b);
 3. Issue exemption orders pursuant to T.C.A. §48-1-103(b)(11);
 4. Issue orders of effective registration, orders of denial, and other orders not involving any sanctions; and
 5. Accept, on behalf of the commissioner, settlement agreements reached between the Division and any person pursuant to T.C.A. §4-5-105.

- (c) The Division's office hours shall be between 8:00 a.m. and 4:30 p.m. (Central Time) on weekdays, except legal holidays. Normally, appointments will not be made before 8:30 a.m. or after 4:00 p.m.
- (d) Unless expressly required or requested otherwise, only the original executed copy of each form is required. If a document or form pertains to more than one security, subject, or application, a separate copy and transmittal letter for each security, subject, or application shall be filed, except as expressly provided otherwise elsewhere in these Rules.

(2) Filing Fees.

- (a) All fees required by the Act that are submitted directly to the Division shall be made by check payable to the order of the Tennessee Department of Commerce and Insurance. Certified checks are not required.
- (b) Pursuant to T.C.A. §48-1-107(b), the minimum non-refundable filing fee for all applications for securities registration shall be three hundred dollars (\$300). If an application is withdrawn prior to effectiveness or before a pre-effective stop order is entered, the Division shall retain the minimum filing fee and refund the remainder, if any, to the applicant in accordance with subparagraph (2)(c) of this Rule.
- (c) Refunds of refundable fees will not be made unless a written request is filed with the Division specifying the following:
 - 1. The name of the applicant;
 - 2. The law under which the application was filed and the approximate date of filing; and
 - 3. The amount of the funds claimed as due and the grounds upon which the claim is made.

(3) Filing Requirements.

- (a) Applications, reports, and registration statements, including exhibits, shall be filed on good quality white paper, eight and one-half (8 ½) inches by eleven (11) inches or eight and one-half (8 ½) inches by fourteen (14) inches in size. Tables, charts, maps, and financial statements may be on larger paper if folded to those sizes and the final prospectus may be on smaller paper if the registrant so desires.
- (b) All documents filed with the Division shall be in clear and easily readable form and suitable for photocopying and/or scanning.
- (c) Exhibits may be attached or filed separately, properly marked or identified.
- (d) Each copy of registration statements, prospectuses, offering circulars, and offering memoranda must be bound securely. The Division reserves the right to reject any such document the pages of which are not securely bound together.
- (e)
 - 1. All applications, reports, registration statements, financial statements, correspondence, exhibits, and/or other information required or requested pursuant to the Act or these Rules may be submitted to the Division in the paper format prescribed in this paragraph (3) or through the CRD System or other electronic data gathering, access, and retrieval methods acceptable to the Division.
 - 2. Applications, reports, registration statements, financial statements, correspondence, exhibits, and/or other information filed through the CRD System or other electronic data gathering, access, and retrieval methods acceptable to the Division shall be in clear, easily accessible, and readable formats which shall be suitable for reproduction on good quality white paper eight and one-half (8 ½) inches by eleven (11) inches or eight and one-half (8 ½) inches by fourteen (14) inches in size.

3. Upon conversion and preservation through the CRD System or the Division's electronic data gathering, access, and retrieval methods, all original applications, reports, registration statements, financial statements, correspondence, exhibits, and/or other information filed in the paper format prescribed in this paragraph (3) may be stored and subsequently destroyed pursuant to records management procedures consistent with those adopted and amended by the Division from time to time.

(4) Forms.

- (a) An application shall be prepared in accordance with the form prescribed thereof as in effect on the date of filing. An application shall be deemed filed on the proper form unless objection to the form is made by the Division prior to the effective date of the application. The following forms, as in effect at the time of use, are approved for filing with the Division:

1. "Form U-1", Uniform Application to Register Securities;
2. "Form U-2", Uniform Consent to Service of Process (naming the Commissioner of Commerce and Insurance as the party to be served);
3. "Form U-2A", Uniform Form of Corporate Resolution;
4. "Form U4", Uniform Application for Securities Industry Registration or Transfer;
5. "Form U5", Uniform Termination Notice for Securities Industry Registration;
6. "Form BD", Uniform Application for Broker-Dealer Registration;
7. "Form BDW", Uniform Request for Broker-Dealer Withdrawal;
8. "Form ADV", Uniform Application for Investment Adviser Registration;
9. "Form ADV-E", Certificate of Accounting of Client Securities and Funds in the Possession or Custody of an Investment Adviser;
10. "Form ADV-W", Notice of Withdrawal From Registration as an Investment Adviser;
11. "Form D", Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption;
12. "IN-0911", Application for Registration as an Oil and Gas Issuer-Dealer;
13. "Form NF", Uniform Investment Company Notice Filing;
14. "IN-1460", Form for Accredited Investors Notice Filing;
15. "IN-1461", Form for Employee Stock Option/Purchase Plan Notice Filing; and
16. "IN-1493", Designation of Accountant.

- (b) All instructions on the above named forms are applicable, except as expressly provided elsewhere in these Rules, and are adopted verbatim and incorporated herein by reference.

- (c) In cases where a form, as set out in this subparagraph (4)(a), directly or indirectly requires the maintenance of certain books and records, the registrant shall maintain adequate books and records to comply with the filing requirements of the form and all books and records requirements as provided in the Act and the Rules.

(5) Division Records.

- (a) In compliance with the Tennessee Public Records Act, T.C.A. §10-7-503(a)(2)(A-B), the Division shall make available to the public for inspection any part of an application to register securities, notice filing, or a filing pursuant to a claim of exemption from securities registration, except as set forth in subparagraph (5)(f) of this Rule.
- (b) 1. The Division shall make available to the public for inspection in connection with any registered broker-dealer or investment adviser or applicant for broker-dealer or investment adviser registration or notice filing by an investment adviser:
- (i) The current Form BD or the current Form ADV and all schedules and exhibits thereto; and
 - (ii) Financial statements filed pursuant to these Rules within the preceding five (5) years.
2. Any noncurrent Form BD filings, noncurrent Form ADV filings, noncurrent schedules and exhibits to such forms and financial statements filed pursuant to these Rules prior to the preceding five (5) years may be preserved by the Division in paper or electronic format for public inspection or may be stored and subsequently destroyed pursuant to records management procedures consistent with those adopted and amended by the Division from time to time.
- (c) With respect to any registered agent or investment adviser representative or application for an agent's or investment adviser representative's registration, the Division shall make available to the public for inspection the Form U4 and Form U5 of such agent or investment adviser representative, together with all exhibits.
- (d) The Division shall not make available to the public for inspection any document or other material it obtains in connection with any matter which is the subject of a private investigation or that it obtains for the purpose of determining whether to commence a private or public investigation until such time, if ever, such document or other material is used in litigation or in a contested case.
- (e) Any document which is available for inspection shall also be available for copying (including electronic reproduction through the CRD System or other electronic data gathering, access, and retrieval method acceptable to the Division) upon payment of the cost of copies as determined by the Division from time to time.
- (f) Requests for Confidentiality.
1. Introduction. Upon the grant of a request made pursuant to part (5)(f)2. of this Rule, the assistant commissioner will withhold from public inspection, for such time as in the assistant commissioner's judgment is necessary, information received in connection with a registration statement, application, or report, if the assistant commissioner finds that such information is reasonably shown to be:
- (i) Proprietary information that is in fact confidential, including, but not limited to, trade secrets, the release of which would be damaging or prejudicial to the business concerned; or
 - (ii) Financial information that is in fact confidential, the release of which would be damaging or prejudicial to the person concerned.
2. Request for Confidentiality. A request for confidential treatment of any information received in connection with any registration statement, application, or report submitted to the assistant commissioner should accompany the submission of such information and such information must be submitted separately from other parts of the filing and marked "Confidential Treatment Requested". The request for confidentiality will itself be available for public inspection and should not contain information for which confidential treatment is

requested. Such request must be signed by the person filing the registration statement, application, or report and contain the following:

- (i) A statement identifying the information which is the subject of the request and the registration statement, application, or report relating thereto;
 - (ii) A statement of the grounds upon which the request is made, including a statement as to the confidentiality of the information and the measures taken to protect its confidentiality, and a statement of the adverse consequences which are expected to result if the information is disclosed through the public records of the Division;
 - (iii) A statement of the specific time for which confidential treatment of the information is necessary and the basis for such conclusions; and
 - (iv) A statement of the extent to which such information has been or will be disclosed to present or proposed investors, franchisees, lenders, or other persons.
3. Denial of Request. Material for which confidential treatment is requested shall not be deemed filed unless the request is granted, and may be withdrawn by the applicant if the request is denied, unless (i) the assistant commissioner has already taken an official action in reliance on such information prior to receiving the request for confidential treatment, (ii) the assistant commissioner determines that the withdrawal of such information is otherwise contrary to the public interest or the protection of investors, or (iii) the material for which confidential treatment is requested is otherwise required to be filed with the Division elsewhere in these Rules. If withdrawn, such information will not be considered by the assistant commissioner in connection with the registration statement, application, or report.
4. Granting Request. If a request for confidential treatment is granted, the person making such request will be notified in writing, the information will be marked "confidential" and kept separate from the public file, and the registration statement, application, or report will be noted with substantially the following legend: "Additional portions of this filing have been granted confidential treatment and are contained in a separate confidential file."
5. Disclosure of Confidential Information.
- (i) Information held confidential pursuant to part (5)(f)4. of this Rule may be disclosed by the assistant commissioner, at any time and in the assistant commissioner's sole discretion, whether on the assistant commissioner's own motion or upon the request of any person.
 - (I) To other state or federal regulatory agencies, in accordance with law;
 - (II) When necessary or appropriate in any proceeding or investigation pursuant to the law under which the information was filed; or
 - (III) Upon a determination by the assistant commissioner that continued confidential treatment is no longer justified because the reasons therefore no longer exist or because public interest in disclosing such information outweighs the public interest in not doing so. If the assistant commissioner concludes that the disclosure of such information is necessary and in the public interest and that it is impractical under the circumstances to give notice to the person who requested confidential treatment of the information, the information may be disclosed without notice. Otherwise, the person who requested confidential treatment of such information will be given notice that the release of such information is under consideration and the reasons therefore, and an opportunity to make written representations promptly, within not more than five (5) business days, regarding the continued need and justification for continued confidentiality.

- (ii) Requests to Inspect Confidential Information. A request to inspect confidential information pursuant to subitem (5)(f)5.(i)(III) of this Rule should be in writing, signed by the person making the request, and must state the justification for the request. A copy of the request for inspection will ordinarily be forwarded to the person who requested confidential treatment of the information in accordance with subitem (5)(f)5.(i)(III) of this Rule. If a request for inspection should be held confidential, the reasons therefore must be stated in such request, in accordance with part (5)(f)2. of this Rule.
- (iii) Nothing contained herein shall be interpreted as affording any person a right to withdraw information once it has been received by the assistant commissioner, except as provided in part (5)(f)3. of this Rule.

6. All documents described in paragraph (5) of this Rule may be maintained or submitted to the Division through the CRD System or other electronic data gathering, access, and retrieval methods acceptable to the Division.

Authority: T.C.A. §§48-1-103(b)(11), 48-1-104, 48-1-107(b), 48-1-108, 48-1-109, 48-1-110, 48-1-111, 48-1-112, 48-1-115, 48-1-116, 48-1-117, 48-1-118, 48-1-121, 48-1-125, 4-5-105, 10-7-503(a)(2)(A-B), Public Acts of 1997, Chapter 164, §8, and Public Acts of 2001, Chapter 61.

0780-04-01-.05 NO-ACTION LETTERS AND INTERPRETIVE OPINIONS.

- (1) In case of any question concerning the Act, the Division staff may in its sole discretion entertain a request for a no-action letter or interpretive opinion. If issued, a no-action letter or an interpretive opinion only expresses the current position of the Division staff with respect to enforcement, and is not binding on the commissioner or third parties. A request for a no-action letter or interpretive opinion must be in writing and in the format described in SEC Release No. 33-6269.
- (2) The Division will maintain an index, chronologically and by statutory section, of all no-action letters and interpretive opinions issued. Copies of such letters may be reviewed in the Division's office and copies thereof obtained upon payment of reasonable costs of duplication.

Authority: T.C.A. §§48-1-115, 48-1-116, and 48-1-117(e).

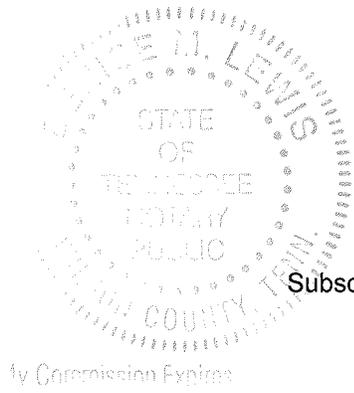
0780-04-01-.06 REPEALED.

Authority: Public Acts of 1980, Chapter 866, §16(a).

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 2/20/15 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.



Date: 2/20/15

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of the Dept. of Commerce & Insurance

Subscribed and sworn to before me on: 2/20/15

Notary Public Signature: Denise M Lewis

My commission expires on: 2/15/16

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
March 11, 2015
 Date

Department of State Use Only

Filed with the Department of State on: 3/16/15

Effective on: 6/4/15

Tre Hargett
 Tre Hargett
 Secretary of State

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 PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A.

§ 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

These proposed rules will correct typographical, grammatical, and rulemaking drafting inconsistencies and update the rules pursuant to statutory changes that have occurred since the last general update to Chapter 0780-04-01 and, therefore, will not have an economic impact on small businesses (businesses with fifty (50) or fewer employees).

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These proposed rules will not impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This Proposed Rulemaking will make housekeeping changes to Chapter 0780-04-01 of the Tennessee Securities Rules.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

These proposed rules are promulgated pursuant to T.C.A. §48-1-116.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The housekeeping changes in this rulemaking will not affect persons, organizations, corporations, or governmental entities and, therefore, these parties are not expected to urge adoption or rejection of these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

State and local government revenues and expenditures will not be affected by the proposed rules.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Daphne D. Smith, Assistant Commissioner for Securities.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Barbara Doak, Chief Counsel for Securities.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

500 James Robertson Parkway, Nashville, TN 37243; (615) 741-9467; Barbara.Doak@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

RULES
OF
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF SECURITIES

CHAPTER 0780-04-01
GENERAL ADMINISTRATION

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Amendment

Chapter 0780-04-01 General Administration is amended by deleting the Chapter in its entirety and replacing it with the following language:

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It is the express intent of these rules that such powers as are herein delegated by the Commissioner are also retained and may be exercised by the Commissioner at the Commissioner's election.

Authority: T.C.A. §§48-1-115 and 48-1-116(a).

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These rules may be cited as the Tennessee Securities Rules.

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 - (b) "Assistant Commissioner" shall mean the Assistant Commissioner for the Securities Division of the Department of Commerce and Insurance of the state of Tennessee, or any successor person authorized to exercise similar functions.
 - (c) "CRD System" shall mean the NASAA/FINRA/NASD Central Registration Depository System, commonly known as "CRD" and/or "Web CRD".
 - (d) "Division" shall mean the Assistant Commissioner, staff, employees, and agents of the Securities Division of the Department of Commerce and Insurance of the state of Tennessee or such other agency as shall administer the Act or any successor statute.
 - (e) "FINRA" shall mean the Financial Industry Regulatory Authority.

- (fe) "Government Securities Broker-Dealer" shall mean a broker-dealer who effects transactions only in securities issued or guaranteed by the United States of America or an instrumentality thereof.
 - (gf) "IARD" shall mean the Investment Adviser Registration Depository as operated by the FINRANASD in cooperation with NASAA, other states, and the United States of America.
 - (hg) "NASAA" shall mean the North American Securities Administrators Association, Inc.
 - (ih) "NASD" shall mean the National Association of Securities Dealers, Inc. and/or the National Association of Securities Dealers Regulation, Inc. (now known as FINRA).
 - (ji) "Nasdaq National Market" shall mean a distinct tier of The Nasdaq Stock Market comprised of securities that meet the requirements of and are authorized as a Nasdaq National Market security.
 - (k) "Rules" shall mean the Rules of the Department of Commerce and Insurance, Securities Division, as set forth in Chapter 0780-04.
 - (lj) "SEC" shall mean the Securities and Exchange Commission of the United States of America or its staff, as appropriate.
 - (mk) "Security" shall include the practice of "equity funding", "security funding", or "life funding" whereby mutual fund shares and insurance contracts are sold as a package with mutual fund shares being pledged as collateral for loans, the proceeds of which are used to pay the premium on life insurance policies.
 - (nl) "State" shall mean any state, territory, or possession of the United States of America, the District of Columbia, and Puerto Rico.
 - (om) "Substantially all of the voting securities of the bank or other bank holding company" as used in T.C.A. §48-1-103(b)(10) shall mean eighty percent (80%) or more of each class of such voting securities.
 - (pn) "UAPA" shall mean the Uniform Administrative Procedures Act as set forth in T.C.A. §4-5-101, et seq., and any rules promulgated thereunder to the extent such rules are not inconsistent with the Act or these Rules.
- (2) In construing terms used in these Rules and in the Act, the Commissioner, to the extent consistent with the purposes fairly intended by the policy and provisions of the Act, will consider definitions, case law, SEC rules, and interpretive releases under the following federal statutes:
- (a) The Securities Act of 1933 (the "1933 Act");
 - (b) The Securities Exchange Act of 1934 (the "1934 Act");
 - (c) The Trust Indenture Act of 1939 (the "Trust Indenture Act");
 - (d) The Investment Company Act of 1940 (the "Investment Company Act"); and
 - (e) The Investment Advisers Act of 1940 (the "Investment Advisers Act").
- (3) Unless the context otherwise requires or a rule expressly provides otherwise, terms defined in the Act shall have the same meaning when used in these Rules.

Authority: T.C.A. §§~~48-1-103(b)(10)~~, 48-1-115, 48-1-116(a), and Public Acts of 2001, Chapter 61.

0780-04-01-.04 ADMINISTRATION OF THE ACT.

(1) General.

- (a) The ~~C~~ommissioner delegates to the ~~A~~ssistant ~~C~~ommissioner all of the power and duties granted to and imposed upon the ~~C~~ommissioner by the Act, except the power:
1. To impose any sanction pursuant to T.C.A. §§~~48-1-104~~, 48-1-108, 48-1-109, 48-1-112, ~~or 48-1-116, or 48-1-121~~ in any contested case, as such term is defined in the UAPA;
 2. To adopt any rule as such term is defined in the UAPA;
 3. To grant immunity to any person pursuant to T.C.A. §48-1-118(d); and
 4. To appoint any investigative agent pursuant to T.C.A. §48-1-118(e) and (f).
- (b) Without limiting the foregoing delegation, the ~~A~~ssistant ~~C~~ommissioner is expressly empowered to:
1. Issue orders of investigation pursuant to T.C.A. §48-1-118-(a);
 2. Conduct investigations as provided by T.C.A. §48-1-118(b);
 3. Issue exemption orders pursuant to T.C.A. §48-1-103(b)(11);
 4. Issue orders of effective registration, orders of denial, and other orders not involving any sanctions; and
 5. Accept, on behalf of the ~~C~~ommissioner, settlement agreements reached between the Division and any person pursuant to T.C.A. §4-5-105.
- (c) The Division's office hours shall be between 8:00 a.m. and 4:30 p.m. (Central Time) on weekdays, except legal holidays. Normally, appointments will not be made before 8:30 a.m. or after 4:00 p.m.
- (d) Unless expressly required or requested otherwise, only the original executed copy of each form is required. If a document or form pertains to more than one security, subject, or application, a separate copy and transmittal letter for each security, subject, or application shall be filed, except as expressly provided otherwise elsewhere in these ~~r~~Rules.

(2) Filing Fees.

- (a) All fees required by the Act that are submitted directly to the Division shall be made by check payable to the order of the Tennessee Department of Commerce and Insurance. Certified checks are not required.
- (b) Pursuant to T.C.A. §48-1-107(b), the minimum non-refundable filing fee for all applications for securities registration shall be three hundred dollars (\$300). If an application is withdrawn prior to effectiveness or before a pre-effective stop order is entered, the Division shall retain the minimum filing fee and refund the remainder, if any, to the applicant in accordance with subparagraph (2)(c) of this Rule below.

- (c) Refunds of refundable fees will not be made unless a written request is filed with the Division specifying the following:
1. The name of the applicant;
 2. The law under which the application was filed and the approximate date of filing; and
 3. The amount of the funds claimed as due and the grounds upon which the claim is made.

(3) Filing Requirements.

- (a) Applications, reports, and registration statements, including exhibits, shall be filed on good quality white paper, eight and one-half (8 ½) inches ~~by eleven (11) inches~~ or eight and one-half (8 ½) inches by fourteen (14) inches in size. Tables, charts, maps, and financial statements may be on larger paper if folded to those sizes and the final prospectus may be on smaller paper if the registrant so desires.
- (b) All documents filed with the Division shall be in clear and easily readable form and suitable for photocopying and/or scanning.
- (c) Exhibits may be attached or filed separately, properly marked or identified.
- (d) Each copy of registration statements, prospectuses, offering circulars, and offering memoranda must be bound securely. The Division reserves the right to reject any such document the pages of which are not securely bound together.
- (e) 1. All applications, reports, registration statements, financial statements, correspondence, exhibits, and/or other information required or requested pursuant to the Act or ~~these Tennessee Securities Rules~~ may be submitted to the Division in the paper format prescribed in this paragraph (3) or through the CRD System or other electronic data gathering, access, and retrieval methods acceptable to the Division.
2. Applications, reports, registration statements, financial statements, correspondence, exhibits, and/or other information filed through the CRD System or other electronic data gathering, access, and retrieval methods acceptable to the Division shall be in clear, easily accessible, and readable formats which shall be suitable for reproduction on good quality white paper eight and one-half (8 ½) inches by eleven (11) inches or eight and one-half (8 ½) inches by fourteen (14) inches in size.
3. Upon conversion and preservation through the CRD System or the Division's electronic data gathering, access, and retrieval methods, all original applications, reports, registration statements, financial statements, correspondence, exhibits, and/or other information filed in the paper format prescribed in this paragraph (3) may be stored and subsequently destroyed pursuant to records management procedures consistent with those adopted and amended by the Division from time to time.

(4) Forms.

(a) An application shall be prepared in accordance with the form prescribed thereof as in effect on the date of filing. An application shall be deemed filed on the proper form unless objection to the form is made by the Division prior to the effective date of the application. The following forms, as in effect at the time of use, are approved for filing with the Division:

1. "Form U-1", Uniform Application to Register Securities;
2. "Form U-2", Uniform Consent to Service of Process (naming the Commissioner of Commerce and Insurance as the party to be served);
3. "Form U-2A", Uniform Form of Corporate Resolution;
4. "Form U4", Uniform Application for Securities Industry Registration or Transfer;
5. "Form U5", Uniform Termination Notice for Securities Industry Registration;
6. ~~U-7, Registration Form for Small Corporate Offerings;~~
67. "Form BD", Uniform Application for Broker-Dealer Registration;
78. "Form BDW", Uniform Request for Broker-Dealer Withdrawal;
89. "Form ADV", Uniform Application for Investment Adviser Registration;
940. "Form ADV-EH", Certificate of Accounting of Client Securities and Funds in the Possession or Custody of an Investment Adviser ~~Application for a Temporary or Continuing Hardship Exemption;~~
104. "Form ADV-W", Notice of Withdrawal From Registration as an Investment Adviser;
112. "Form D", Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption;

~~123. IN-0555, Surety Bond for Securities Dealers or Investment Advisers, or a Uniform Surety Bond as adopted by NASAA;~~

1324. "IN-0911", Application for Registration as an Oil and Gas Issuer-Dealer;
1435. "Form NF", Uniform Investment Company Notice Filing;
1546. "IN-1460", Form for Accredited Investors Notice Filing; ~~and~~
1657. "IN-1461", Form for Employee Stock Option/Purchase Plan Notice Filing; and
176. "IN-1493", Designation of Accountant.

(b) All instructions on the above named forms are applicable, except as expressly provided elsewhere in these rRules, and are adopted verbatim and incorporated herein by reference.

(c) In cases where atthe form, as set out in this subparagraph (4)(a), directly or indirectly requires the maintenance of certain books and records, the registrant shall maintain

adequate books and records to comply with the filing requirements of the form and all books and records requirements as provided in the Act and the Rules.

(5) Division Records.

- (a) In compliance with the Tennessee Public Records Act, T.C.A. §10-7-503(a)(2)(A-B), ~~the~~ Division shall make available to the public for inspection any part of an application to register securities, notice filing, or a filing pursuant to a claim of exemption from securities registration, except as set forth in subparagraph (5)(f) of this Rule below.
- (b) 1. The Division shall make available to the public for inspection in connection with any registered broker-dealer or investment adviser or applicant for broker-dealer or investment adviser registration or notice filing by an investment adviser:
- (i) The current Form BD or the current Form ADV and all schedules and exhibits thereto; and
 - (ii) Financial statements filed pursuant to these ~~R~~Rules within the preceding five (5) years.
2. ~~Any N~~noncurrent Form BD's filings, noncurrent Form ADV's filings, noncurrent schedules and exhibits to such forms and financial statements filed pursuant to these ~~R~~Rules prior to the preceding five (5) years may be preserved by the Division in paper or electronic format for public inspection or may be stored and subsequently destroyed pursuant to records management procedures consistent with those adopted and amended by the Division from time to time.
- (c) With respect to any registered agent or investment adviser representative or application for an agent's or investment adviser representative's registration, the Division shall make available to the public for inspection the Form U4 and Form U5 of such agent or investment adviser representative, together with all exhibits.
- (d) The Division shall not make available to the public for inspection any document or other material it obtains in connection with any matter which is the subject of a private investigation or that it obtains for the purpose of determining whether to commence a private or public investigation until such time, if ever, such document or other material is used in litigation or in a contested case.
- (e) Any document which is available for inspection shall also be available for copying (including electronic reproduction through the CRD System or other~~a~~an electronic data gathering, access, and retrieval method acceptable to the Division) upon payment of the cost of copies as determined by the Division from time to time.
- (f) Requests for Confidentiality.
1. Introduction. Upon the grant of a request made pursuant to part (5)(f)2. of this ~~Rule~~below, the ~~A~~Assistant ~~C~~ommissioner will withhold from public inspection, for such time as in the ~~A~~Assistant ~~C~~ommissioner's judgment is necessary, information received in connection with a registration statement, application, or report, if the ~~A~~Assistant ~~C~~ommissioner finds that such information is reasonably shown to be:
- (i) Proprietary information that is in fact confidential, including, but not limited to, trade secrets, the release of which would be damaging or prejudicial to the business concerned; or

- (ii) Financial information that is in fact confidential, the release of which would be damaging or prejudicial to the person concerned.
2. Request for Confidentiality. A request for confidential treatment of any information received in connection with any registration statement, application, or report submitted to the Assistant Commissioner should accompany the submission of such information and such information must be submitted separately from other parts of the filing and marked "Confidential Treatment Requested". The request for confidentiality will itself be available for public inspection and should not contain information for which confidential treatment is requested. Such request must be signed by the person filing the registration statement, application, or report and contain the following:
- (i) A statement identifying the information which is the subject of the request and the registration statement, application, or report relating thereto;
 - (ii) A statement of the grounds upon which the request is made, including a statement as to the confidentiality of the information and the measures taken to protect its confidentiality, and a statement of the adverse consequences which are expected to result if the information is disclosed through the public records of the Division;
 - (iii) A statement of the specific time for which confidential treatment of the information is necessary and the basis for such conclusions; and
 - (iv) A statement of the extent to which such information has been or will be disclosed to present or proposed investors, franchisees, lenders, or other persons.
3. Denial of Request. Material for which confidential treatment is requested shall not be deemed filed unless the request is granted, and may be withdrawn by the applicant if the request is denied, unless (i) the Assistant Commissioner has already taken an official action in reliance on such information prior to receiving the request for confidential treatment, (ii) the Assistant Commissioner determines that the withdrawal of such information is otherwise contrary to the public interest or the protection of investors, or (iii) the material for which confidential treatment is requested is otherwise required to be filed with the Division elsewhere in these Rules. If withdrawn, such information will not be considered by the Assistant Commissioner in connection with the registration statement, application, or report.
4. Granting Request. If a request for confidential treatment is granted, the person making such request will be notified in writing, the information will be marked "confidential" and kept separate from the public file, and the registration statement, application, or report will be noted with substantially the following legend: "Additional portions of this filing have been granted confidential treatment and are contained in a separate confidential file."
5. Disclosure of Confidential Information.
- (i) Information held confidential pursuant to part (5)(f)4. of this Rule above may be disclosed by the Assistant Commissioner, at any time and in the Assistant Commissioner's sole discretion, whether on the Assistant Commissioner's own motion or upon the request of any person.

- (I) To other state or federal regulatory agencies, in accordance with law;
- (II) When necessary or appropriate in any proceeding or investigation pursuant to the law under which the information was filed; or
- (III) Upon a determination by the Assistant Commissioner that continued confidential treatment is no longer justified because the reasons therefore no longer exist or because public interest in disclosing such information outweighs the public interest in not doing so. If the Assistant Commissioner concludes that the disclosure of such information is necessary and in the public interest and that it is impractical under the circumstances to give notice to the person who requested confidential treatment of the information, the information may be disclosed without notice. Otherwise, the person who requested confidential treatment of such information will be given notice that the release of such information is under consideration and the reasons therefore, and an opportunity to make written representations promptly, within not more than five (5) business days, regarding the continued need and justification for continued confidentiality.

- (ii) Requests to Inspect Confidential Information. A request to inspect confidential information pursuant to subitem (5)(f)5.(i)(III) of this Rule should be in writing, signed by the person making the request, and must state the justification for the request. A copy of the request for inspection will ordinarily be forwarded to the person who requested confidential treatment of the information in accordance with subitem (5)(f)5.(i)(III) of this Rule. If a request for inspection should be held confidential, the reasons therefore must be stated in such request, in accordance with part (5)(f)2. of this Rule above.
- (iii) Nothing contained herein shall be interpreted as affording any person a right to withdraw information once it has been received by the Assistant Commissioner, except as provided in part (5)(f)3. of this Rule above.

6. All documents described in paragraph (5) of this Rule may be maintained or submitted to the Division through the CRD System or other electronic data gathering, access, and retrieval methods acceptable to the Division.

Authority: T.C.A. §§48-1-103(b)(11), 48-1-104, 48-1-107(b), 48-1-108, 48-1-109, 48-1-110, 48-1-111, 48-1-112, 48-1-115(f), 48-1-116(a), 48-1-117, 48-1-117(c), 48-1-117(d), 48-1-118, 48-1-121, 48-1-125, 48-1-125(a), 4-5-105, 10-7-503(a)(2)(A-B), Public Acts of 1997, Chapter 164, §8, and Public Acts of 2001, Chapter 61.

0780-04-01-.05 NO-ACTION LETTERS AND INTERPRETIVE OPINIONS.

- (1) In case of any question concerning the Act, the Division staff may in its sole discretion entertain a request for a no-action letter or interpretive opinion. If issued, a no-action letter or an interpretive opinion only expresses the current position of the Division staff with respect to enforcement, and is not binding on the Commissioner or third parties. A request for a no-action letter or interpretive opinion must be in writing and in the format described in SEC Release No. 33-6269.
- (2) The Division will maintain an index, chronologically and by statutory section, of all no-action letters and interpretive opinions issued. Copies of such letters may be reviewed in the

Division's office and copies thereof obtained upon payment of reasonable costs of duplication.

| Authority: T.C.A. §§48-1-1157(e), and 48-1-116(a), and 48-1-117(e).

0780-04-01-.06 REPEALED.

Authority: Public Acts of 1980, Chapter 866, §16(a).

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