



OHIO SECURITIES BULLETIN

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91:2

Hearing Set for July 30

On June 12, 1991 the Ohio Division of Securities promulgated a series of amendments to Ohio Administrative Code 1301:6-3., the rules adopted under the Ohio Securities Act. A public hearing will be held in Columbus on July 30, 1991 at 10:00 a.m. in Hearing Room 3-A of the Ohio Departments Building, 65 South Front Street in Columbus. The hearing will be conducted under the Ohio Administrative Procedure Act

The current amendments incorporate changes first proposed by the Division at the October 1990 Ohio Securities Conference. The promulgated amendments also include revisions to those first proposals as suggested by the Division's Advisory Committees and other securities industry professionals.

In part, this Special Issue of the Ohio Securities Bulletin is intended to provide public notice in accordance with O.A.C. 1301:6-1-03. The text of the proposed amendments and public notice are also printed here, starting on page 3.

Both the substance and style of the Division's rules are changed by the amendments. Some of the more than 100 changes are more substantial than others, but all are intended to help meet the Division's goal of making its standards and procedures more accessible to professionals and the public, regardless of where they are located.

"Our rules are an essential guide to the Ohio Securities Act and the operations of the Division of Securities," said Mark Holderman, Commissioner of Securities. "Access to the Securities Act and the Division should not be limited to a few specialists who deal with the Division on a daily basis. We hope that these amendments will help to clarify Ohio's Blue Sky Law for everyone who has a stake in our activities: Investors, general practitioners, and out-of-state issuers, as well as the Ohio counsel who specialize in securities law."

With that goal in mind, the amended rules have been stated in the plainest language possible and they have also been reorganized so that, wherever possible, the Ohio Administrative Code section number coordinates with the number of the Ohio Revised Code section it clarifies. Some sections still contain specialized language of the securities business, but the Division has attempted to limit industry jargon to situations where specialized terminology is so entrenched that a change to plain language would be counterproductive.

"We invite comments on these proposals, as well as any suggestions for future changes in the rules of the Division," said Commissioner Holderman. "The Division rules should be tools for practitioners that do not require additional instructions. We will continue to make improvements as necessary."

Rules Contain Substantive Changes

In addition to the reorganization of the rules and innumerable improvements in language, there are a number of substantive changes represented throughout amendments proposed by the Division of Securities:

1301:6-3-01(C)

Definitions: Provides for the term "Division" to mean "Ohio Division of Securities" throughout the rules.

1301:6-3-02(A)

Exempt Securities: Includes the Chicago Board Options Exchange as an approved exchange for the exemption in 1707.02(E).

1301:6-3-02(C)

Commercial Paper and Promissory Notes: Includes a change requested by the Exemption Committee at the 1989 Securities Conference: to expand the exemption for promissory notes.

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1301:6-3-03

Exempt Transactions: The term "Date of Sale" has been redefined for form 3-O and 3-Q filings. References to federal law have been updated.

1301:6-3-06

Registration by Description: Reporting requirements have been increased and specified, and a delivery requirement for offering circulars has been added.

1301:6-3-08

Registration by Description: An absolute maximum has been established for the period of effectiveness for a registration by description.

1301:6-3-09(D)

Registration by Qualification: Investment Company renewal procedures have been modified, and some asset maintenance standards have been revised for conformity with current federal regulations.

1301:6-3-09(H)

Registration by Qualification: Establishes a disclosure document delivery requirement for all form 9s.

1301:6-3-15(B)

Dealer Licensing: The requirement of SEC Registration and SIPC coverage for all Dealers proposed at the 1990 Ohio Securities Conference has been dropped by the Division as a rules proposal. Legislation to require SEC registration for Ohio intrastate dealers who deal directly with the public and have significant income as a result is being considered by the Securities Law Subcommittee of the Ohio State Bar Association, and House Bill 346, currently before the House Financial Institutions Committee of the 119th General Assembly, imposes a similar requirement on Ohio intrastate dealers.

1301:6-3-15(D)

Dealer Licensing: Specifies the licensing examinations that the Division will accept for securities dealers. A similar listing appears in O.A.C. 1301:6-3-16 for securities salesmen. In both cases, the list, giving notice to potential applicants, replaces the vague language, "acceptable to the Division."

1301:6-3-15(D)

Dealer Licensing: The term "net worth" has been deleted and replaced by the term "net capital" (in keeping with the terminology used in the securities industry and the accounting profession) and there have been significant adjustments to the items which will and will not be allowed as assets of a dealer (in O.A.C. 1301:6-3-15(E)).

1301:6-3-15(G)

Dealer Licensing: Branch Office requirements have been revised and expanded.

1301:6-3-16

Salesman Licensing: Lists the licensing examinations that the Division will accept for securities salesmen. A similar listing appears in O.A.C. 1301:6-3-15 for securities dealers. The list replaces the vague language, "acceptable to the Division."

1301:6-3-19(A)(11)

Deceptive Practices and Good Business Repute: An Ohio rule incorporating the federal penny stock rule is proposed at the

suggestion of the Enforcement Advisory Committee. The Division initially proposed a simpler rule to improve enforcement of "cold call" complaints, but in this case, less was not more. The Committee was favorably impressed with the success of the SEC rule 15c-6, and supports this proposal to allow the Division to take action against violations of the federal rule that take place in Ohio.

1301:6-3-19(B)(1)

Deceptive Practices and Good Business Repute: Establishes increased supervisory responsibilities for dealers.

1301:6-3-19(B)(10)

Deceptive Practices and Good Business Repute: Prohibits brokerage agreements that require litigation, arbitration, or mediation of customer complaints to take place outside Ohio.

1301:6-3-19(B)(11)

Deceptive Practices and Good Business Repute: The rule has been substantially reorganized to incorporate provisions which had appeared in both O.A.C. 1301:6-3-15 and O.A.C. 1301:6-3-19 in order to provide clearer reference to R.C. 1707.19, and to add provisions specifying practices proscribed for both Dealers and Salesmen.

1301:6-3-23

Enforcement Powers: Eliminates the requirement that a transcript be prepared of every investigative hearing held under R.C. 1707.23.

1301:6-3-391

Retroactive Exemption, Qualification, or Registration: Redefines the term "excusable neglect" as used in 1707.391 and revises some of the time periods for filings under that section.

Public Notice

At 10:00 a.m. on July 30, 1991 the Ohio Division of Securities will hold a hearing regarding proposed changes to rules of the Division. The hearing will be held in Hearing Room 3-A on the Front Street level of the Ohio Departments Building, 65 South Front Street, Columbus, Ohio 43215.

The Division of Securities has proposed the following amendments to the indicated rules:

O.A.C. Rule 1301:6-3-01 has been amended to incorporate the following change: Paragraph C defining "Division" has been added.

O.A.C. Rule 1301:6-3-02 has been amended to incorporate the following changes: Language has been improved throughout the rule, and the rule has been reorganized. The Chicago Board of Options Exchange has been included in the exchange exemption, and the availability of an exemption for commercial paper and promissory notes has been expanded in Paragraph C of the rule

O.A.C. Rule 1301:6-3-03 has been amended to incorporate the following changes: Language has been improved throughout the rule, and the rule has been substantially reorganized. Definitions are now consolidated in A, the time period for determining the date of sale for a form 3-O or form 3-Q claim of exemption has been amplified, and references to additional exemptions have been updated to reflect changes in federal law.

O.A.C. Rule 1301:6-3-06 has been amended to incorporate the following changes: Language has been improved throughout the rule, and the rule has been substantially reorganized. A delivery requirement for offering circulars has been added, and reporting requirements during the effectiveness of a registration by description have been specified.

O.A.C. Rule 1301:6-3-08 has been amended to incorporate the following changes: A maximum period of effectiveness for registrations by description, after good cause is shown, of twenty four months has been established.

O.A.C. Rule 1301:6-3-09 has been amended to incorporate the following changes: Language has been improved throughout the rule, and the rule has been substantially reorganized. Investment Company filing procedures, and limitations on use of proceeds have been revised for increased uniformity. Issuers relying on Rule 504 or Regulation D of the S.E.C. must now deliver an offering circular to purchasers of its securities.

O.A.C. Rule 1301:6-3-15 has been amended to incorporate the following changes: Language has been improved throughout the rule, and the rule has been substantially reorganized. Provisions defining dealer and salesman good business repute have been moved to O.A.C. 1301:6-3-19. Language providing greater specificity of application, examination, financial, record-keeping and reporting requirements has been added, and branch office and inactive status requirements are increased.

O.A.C. Rule 1301:6-3-16 has been amended to incorporate the following changes: Language has been improved throughout the rule, and the rule has been reorganized. License examinations and application forms acceptable to the Division have been specified.

O.A.C. Rule 1301:6-3-19 has been amended to incorporate the following changes: Language has been improved throughout the rule, and the rule has been reorganized. Prohibitions against specific sales practices in the areas of Penny Stocks, dealer supervision, out-of-state dispute resolution, and self-dealing have been added. The definition of "good business repute", which previously appeared in O.A.C.1301:6-3-15, has been placed in Paragraph D of this rule and has been amplified.

O.A.C. Rule 1301:6-3-23 has been amended to incorporate the following changes: Language has been improved throughout the rule. The requirement that a transcript be prepared for every hearing held under R.C. 1707.23 has been eliminated from the rule.

O.A.C. Rule 1301:6-3-391 has been amended to incorporate the following changes: Language has been improved throughout the rule, and the rule has been substantially reorganized. The definition of "excusable neglect" has been restated. Time periods for the acceptance of filings under O.R.C. 1707.391 have been changed, and the previous limit on the number of filings under 1707.391 which could be made by a law firm has been eliminated.

Copies of the proposed rules may be obtained by contacting the Ohio Division of Securities, 77 South High Street, 22nd Floor, Columbus, Ohio 43266-0548

Proposed Rules

The following rules were filed with the Joint Committee on Agency Rule Review, the Legislative Service Commission, the Office of Small Business, and the Secretary of State on June 12, 1991. Incorporated in the rules are comments received from the Ohio Legislative Service Commission on June 25, 1991.

1301:6-3-01 Definitions

(A) "Having no readily determinable value," as used in division (L)(1) of section 1707.01 of the Revised Code, means any securities not listed on a major exchange or securities not actively traded in the over-the-counter market.

(B) "The distribution by a corporation of its securities," as used in division (K)(1) of section 1707.03 of the Revised Code, includes the distribution of a pro rata basis of shares of a subsidiary to shareholders of the parent corporation.

(C) FOR THE PURPOSES OF CHAPTER 1301:6-3 OF THE ADMINISTRATIVE CODE, "DIVISION" SHALL, WHERE THE CONTEXT INDICATES, MEAN THE OHIO DIVISION OF SECURITIES.

Prior effective dates: 10/26/84, 12/31/75

1301:6-3-02 Exempt securities

(A) Exemption of listed securities; securities listed upon notice of issuance

~~(1) Securities~~ ANY SECURITY listed OR LISTED UPON NOTICE OF ISSUANCE on the CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED, Cincinnati stock exchange, Midwest stock exchange, New York stock exchange, and OR American stock exchange, OR ANY SECURITY WHICH IS DESIGNATED OR APPROVED FOR DESIGNATION UPON NOTICE OF ISSUANCE AS A NATIONAL MARKET SECURITY ON THE NATIONAL ASSOCIATION OF SECURITIES DEALERS AUTOMATED QUOTATION SYSTEM ~~are~~ IS AN exempt securities SECURITY under the provisions of DIVISION (E) OF section 1707.02(E) of the Revised Code.

~~(2) Securities listed upon notice of issuance on such exchanges are exempt securities under the provisions of section 1707.02(E) of the Revised Code.~~

(B) Statement required before sale of revenue bonds

(1) Prior to THE sale of a security exempted by the first paragraph of section 1707.02(B) of the Revised Code ~~and~~

Key

1. ~~Crossed out language~~ is being removed.
2. ALL CAPITALS AND UPPER CASE LANGUAGE IS NEW.
3. Underlined letters stay upper case, underlined numbers and punctuation stay as they appear.

which is not payable out of the proceeds of a general tax, the issuer or a licensed dealer shall execute and file form 2-B with the division on behalf of all dealers proposing to sell such THE security. Form 2-B shall be deemed to be filed "prior to the sale of a security" within the meaning of this regulation when such THE CORRECTLY EXECUTED form 2-B containing complete and accurate information therein required and correctly executed is RECEIVED BY THE DIVISION OR IS DEPOSITED IN MAILED BY CERTIFIED OR registered mail, postage prepaid, addressed to the division of securities prior to the sale of any such THE security.

(2) A security is not deemed "payable out of the proceeds of a general tax" unless at the time of issuance, machinery has been set up for the servicing of such THE security out of the proceeds of a general tax in the event that revenues collected or administered by the issuer and allocated to the payment thereof prove to be insufficient. It is not sufficient for this purpose that the full faith and credit of a state is pledged to the payment of such A security if it will be necessary, on the failure of specified revenues to meet security charges, to obtain legislative action which would make the security in question payable out of the proceeds of a general tax.

(C) Commercial paper AND PROMISSORY NOTES; SALE TO THE public offering

(1) ~~Exemption for sale of commercial paper and promissory notes as provided in PURSUANT TO DIVISION (G) OF section 1707.02(G) 1707.02 of the Revised Code, is restricted to sale to officers and directors only.~~ COMMERCIAL PAPER AND PROMISSORY NOTES ARE NOT OFFERED FOR SALE DIRECTLY OR INDIRECTLY TO THE PUBLIC WHERE THEIR SALE IS RESTRICTED TO:

(a) SALES TO OFFICERS OR DIRECTORS OF THE ISSUER, OF THE PARENT CORPORATION OF THE ISSUER, OR OF A CORPORATE GENERAL PARTNER OF THE ISSUER;

(b) SALES TO GENERAL PARTNERS OF THE ISSUER;

(c) SALES TO PERSONS WHO DIRECTLY OR INDIRECTLY CONTROL THE MANAGEMENT AND POLICIES OF THE ISSUER BY OWNERSHIP OF VOTING SECURITIES, BY CONTRACT, OR OTHERWISE; OR

(d) SALES BY THE ISSUER OF THE SECURITY TO NOT MORE THAN TEN PERSONS IN THIS STATE DURING ANY TWELVE MONTH PERIOD, PROVIDED THAT:

(i) THE ISSUER REASONABLY BELIEVES AFTER REASONABLE INVESTIGATION THAT THE PERSON IS PURCHASING FOR INVESTMENT;

(ii) NO ADVERTISEMENT, ARTICLE, NOTICE, OR OTHER COMMUNICATION SHALL BE PUBLISHED OR BROADCAST OR CAUSED TO BE PUBLISHED OR BROADCAST BY THE ISSUER IN CONNECTION WITH THE SALE OTHER THAN AN OFFERING CIRCULAR OR OTHER COMMUNICATION DELIVERED BY THE ISSUER TO SELECTED INDIVIDUALS;

(iii) THE AGGREGATE COMMISSION, DISCOUNT, AND OTHER REMUNERATION PAID OR GIVEN DIRECTLY OR INDIRECTLY FOR SALE OF THE COMMERCIAL PAPER AND PROMISSORY NOTES OF THE ISSUER, EXCLUDING LEGAL, ACCOUNTING AND PRINTING COSTS, DOES NOT EXCEED TEN PERCENT

OF THE INITIAL OFFERING PRICE OF THE COMMERCIAL PAPER AND PROMISSORY NOTES; AND

(iv) ANY COMMISSION, DISCOUNT, OR OTHER REMUNERATION FOR SALES OF COMMERCIAL PAPER AND PROMISSORY NOTES IN RELIANCE ON THIS EXEMPTION IN THIS STATE IS PAID OR GIVEN ONLY TO DEALERS OR SALESMEN LICENSED PURSUANT TO CHAPTER 1707. OF THE REVISED CODE; AND

(E) FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH PARAGRAPH (C)(1)(d) OF THIS RULE, A HUSBAND AND WIFE, A CHILD AND ITS PARENT OR GUARDIAN WHEN THE PARENT OR GUARDIAN HOLDS THE SECURITY FOR THE BENEFIT OF THE CHILD, A PARTNERSHIP, ASSOCIATION OR OTHER UNINCORPORATED ENTITY, OR A TRUST NOT FORMED FOR THE PURPOSE OF PURCHASING THE SECURITY SHALL BE DEEMED TO BE A SINGLE PURCHASER.

(F) FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH PARAGRAPH (C)(1)(d) OF THIS RULE, SALES OF COMMERCIAL PAPER AND PROMISSORY NOTES REGISTERED OR SOLD PURSUANT TO AN EXEMPTION UNDER SECTIONS 1707.01 TO 1707.45 OF THE REVISED CODE OTHER THAN DIVISION (G) OF SECTION 1707.02 OF THE REVISED CODE OR SOLD PURSUANT TO PARAGRAPH (C)(1)(a), (C)(1)(b) OR (C)(1)(c) OF THIS RULE SHALL NOT BE INTEGRATED WITH SALES MADE PURSUANT TO PARAGRAPH (C)(1)(d) OF THIS RULE.

(2) Commercial paper and promissory notes otherwise offered to ~~existing security holders, employees, and all other natural persons~~ are deemed to be offered to the public FOR PURPOSES OF DIVISION (G) OF SECTION 1707.02 OF THE REVISED CODE.

Prior effective dates: 12/31/75

1301:6-3-03 Exempt transactions

(A) ~~Disposition of report of sales improperly made under division (O) or (Q) of section 1707.03 of the Revised Code.~~ DEFINITIONS.

FOR THE PURPOSES OF THIS RULE AND SECTION 1707.03 OF THE REVISED CODE:

(1) "BANK" SHALL HAVE THE MEANING SPECIFIED IN DIVISION (O) OF SECTION 1707.01 OF THE REVISED CODE.

(2) "ESCROW AGREEMENT" SHALL MEAN A WRITTEN INSTRUMENT ESTABLISHED BY A DEALER REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION IN ACCORDANCE WITH THE STANDARDS SET FORTH IN 17 CFR 15C2-4(B), OR A WRITTEN INSTRUMENT WHICH PROVIDES FOR THE ESTABLISHMENT OF AN ESCROW ACCOUNT WHICH SHALL BE SEGREGATED FROM ALL OTHER ACCOUNTS OF THE ISSUER AND ANY SECURITIES DEALER, ESTABLISHES PROCEDURES FOR THE PROMPT DEPOSIT INTO THE ESCROW ACCOUNT OF FUNDS RECEIVED FROM PURCHASERS, SPECIFIES

THAT NO FUNDS WILL BE DISBURSED FROM THE ESCROW ACCOUNT UNTIL A MINIMUM STATED AMOUNT OF THE SECURITIES HAVE BEEN SOLD AND THE PROCEEDS HAVE BEEN DEPOSITED INTO THE ESCROW ACCOUNT, AND SPECIFIES A TERMINATION DATE WHEN THE PROCEEDS HELD IN THE ESCROW ACCOUNT WILL BE RETURNED WITHOUT DEDUCTION TO THE PURCHASERS IF THE PROCEEDS FOR A MINIMUM STATED AMOUNT OF THE SECURITIES HAVE NOT BEEN DEPOSITED IN THE ESCROW ACCOUNT.

(3) "MORTGAGE-BACKED SECURITY" SHALL MEAN INDEBTEDNESS, A PARTICIPATION IN INDEBTEDNESS, OR OTHER INTEREST IN INDEBTEDNESS SECURED BY A MORTGAGE LIEN UPON REAL ESTATE, OR A PARTICIPATION IN OR OTHER INTEREST IN A SYNDICATE, POOL, TRUST, OR OTHER ENTITY CONSISTING OF INDEBTEDNESS SECURED BY A MORTGAGE LIEN UPON REAL ESTATE.

(4) "RETAIL REPURCHASE AGREEMENT" SHALL MEAN INDEBTEDNESS ARISING FROM THE SALE OF A SECURITY OR POOL OF SECURITIES THAT IS A DIRECT OBLIGATION OF OR IS FULLY GUARANTEED BY THE UNITED STATES GOVERNMENT OR AN AGENCY THEREOF, OR INDEBTEDNESS COLLATERALIZED BY AN INTEREST IN A SECURITY OR POOL OF SECURITIES THAT IS A DIRECT OBLIGATION OF OR IS FULLY GUARANTEED BY THE UNITED STATES GOVERNMENT OR AN AGENCY THEREOF.

(5) "TEN PER CENT OF THE INITIAL OFFERING PRICE" SHALL MEAN ONE TENTH OF THE NUMBER OF SECURITIES SOLD MULTIPLIED BY THE INITIAL OFFERING PRICE OF THE SECURITIES;

(B) CLAIMS OF EXEMPTION IN ACCORDANCE WITH DIVISION (O) OF SECTION 1707.03 OF THE REVISED CODE AND DIVISION (Q) OF SECTION 1707.03 OF THE REVISED CODE.

(1) THE ISSUER SHALL FILE WITH THE DIVISION A REPORT OF SALES ON FORM 3-O NOT LATER THAN SIXTY DAYS AFTER EACH SALE OF ANY SECURITY IN RELIANCE ON DIVISION (O) OF SECTION 1707.03 OF THE REVISED CODE. ALL SALES WITHIN ANY SIXTY-DAY PERIOD WHICH HAVE NOT BEEN REPORTED ON A PRIOR FORM 3-O OR FORM 3-Q MAY BE INCLUDED ON A SINGLE FORM 3-O.

(2) THE ISSUER SHALL FILE WITH THE DIVISION A REPORT OF SALES ON FORM 3-Q NOT LATER THAN SIXTY DAYS AFTER EACH SALE OF ANY SECURITY IN RELIANCE ON DIVISION (Q) OF SECTION 1707.03 OF THE REVISED CODE. ALL SALES WITHIN ANY SIXTY-DAY PERIOD WHICH HAVE NOT BEEN REPORTED ON A PRIOR FORM 3-Q MAY BE INCLUDED ON A SINGLE FORM 3-Q.

(+) (3) When the division receives a form 3-O or 3-Q which appears to be defective on its face, the division shall so notify THE claimant and shall allow not more than thirty days for the amendment of such report of sales: THE FORM. If such THE defects are remedied by amendment IN A TIMELY MANNER, the notification FORM shall be deemed filed as of the date of the original filing. If such THE defects are not remedied by proper amendment, the division shall note on its

records that the notification FORM is defective and that no effective claim OF EXEMPTION has been made.

(2) (4) If it shall subsequently appear upon WHERE THE DIVISION DETERMINES BY examination or otherwise that the alleged facts upon which an exemption under division (O) or (Q) of section 1707.03 of the Revised Code was claimed were nonexistent at the time such claim was made, or that existing facts were not stated which would have made impossible a claim of exemption, INFORMATION REPORTED ON A FORM 3-O OR FORM 3-Q IS INACCURATE OR INCOMPLETE, the division shall so notify THE claimant and shall afford THE claimant an opportunity to appear before the division to present such proof as he may wish to offer ESTABLISH that such THE exemption was properly claimed. In the absence of satisfactory proof to the division that claimant was entitled to claim such exemption, the division shall make a finding that the facts necessary for claiming such exemption did not exist at the time such exemption was claimed and that the claim of exemption was null and void and of no effect when made. The division shall thereupon order its records endorsed in accordance with such finding. IF THE DIVISION DETERMINES THAT AN EXEMPTION HAS BEEN IMPROPERLY CLAIMED, IT MAY TAKE ACTION IN ACCORDANCE WITH CHAPTER 1707. OF THE REVISED CODE.

(B) For the purposes of divisions (O) and (Q) of section 1707.03 of the Revised Code, "ten per cent of the initial offering price" means one-tenth of the number of securities sold, multiplied by the offering price of such securities.

(C) (1) No licensed salesman, employed by a licensed dealer, shall sell securities under division (O) or (Q) of section 1707.03 of the Revised Code except with the knowledge and prior written consent, and under the supervision of the employing dealer.

(2) The failure of a salesman to obtain such prior written consent shall in no manner affect the availability of the exemption to an issuer.

(D) (5) The issuer shall maintain or cause to be maintained books and records which reflect all material transactions involving the sale of equity securities under division (O) of section 1707.03 of the Revised Code OR UNDER DIVISION (Q) OF SECTION 1707.03 OF THE REVISED CODE for a period of four years from the date of the last sale by the issuer under such THE claim of exemption.

(6) FOR THE PURPOSE OF DETERMINING THE DATE OF SALE FOR DIVISION (O) OR (Q) OF SECTION 1707.03 OF THE REVISED CODE, A SALE SHALL BE DEEMED TO HAVE OCCURRED ON THE LATER OF:

(a) THE DATE THAT A SUBSCRIPTION AGREEMENT OR ITS EQUIVALENT, SIGNED BY THE PURCHASER, IS RECEIVED BY THE ISSUER OR THE DEALER, OR THE PURCHASER TRANSFERS OR LOSES CONTROL OF THE PURCHASE FUNDS, WHICHEVER IS EARLIER; OR

(b) THE FIRST DATE OF DISBURSEMENT OF ANY PROCEEDS OF THE SALE OF THE SECURITIES WHICH HAVE BEEN DEPOSITED DIRECTLY INTO AN ESCROW ACCOUNT WITH A BANK, THE DEPOSITS OF WHICH ARE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION AND WHICH IS NOT AN AFFILIATE, SUBSIDIARY, OR PARENT OF THE ISSUER, UNDER THE TERMS OF A WRITTEN ESCROW AGREE-

MENT, SIGNED BY THE ISSUER, THE BANK AS ESCROW AGENT, AND ANY DEALER PARTICIPATING IN THE OFFERING.

(7) NO SALESMAN SHALL SELL SECURITIES IN RELIANCE ON AN EXEMPTION UNDER DIVISION (O) OR (Q) OF SECTION 1707.03 OF THE REVISED CODE OTHER THAN THROUGH OR WITH THE SALESMAN'S EMPLOYING DEALER.

~~(E) The issuer shall file with the division of securities a report of sales on form 3-0 not later than sixty days after each sale of an equity security under division (O) of section 1707.03 of the Revised Code. All sales within such sixty-day period which have not been reported on a prior form 3-0 may be included in such form 3-0. Any issuer claiming this exemption which is not domiciled in this state or whose principal place of business is outside this state shall file, along with the first form 3-0, an irrevocable written consent to service of process. Such consent shall be executed and acknowledged by an individual duly authorized to give such consent, and shall state that actions growing out of the sale of securities or fraud committed by the issuer in this state may be commenced against the issuer in the proper court of any county in this state in which the cause of action may arise, by serving on the secretary of state any proper process or pleading authorized by the laws of this state. Such consent shall stipulate that such service of process on the secretary of state shall be taken in all courts to be as valid and binding as if service had been made upon the issuer itself. Service of any process or pleadings may be made upon the secretary of state by duplicate copies, one of which shall be filed in the office of the secretary of state, and the other immediately forwarded by the secretary of state by certified mail to the principal place of business of such issuer or the last known address as shown on the form 3-0 filed with the division.~~

(C) CLAIMS OF EXEMPTION IN ACCORDANCE WITH DIVISION (O) OF SECTION 1707.03 OF THE REVISED CODE.

~~(F) (1) Under division (O) of section 1707.03 of the Revised Code, an AN issuer shall be entitled to reasonably believe PRESUMED TO HAVE ESTABLISHED that a purchaser is purchasing for investment, in the absence of information to the contrary, when the issuer obtains a WRITTEN DECLARATION signed statement from BY the purchaser prior to purchase wherein the purchaser states WHICH INCLUDES:~~

~~(1) (a) That he A STATEMENT THAT THE PURCHASER is aware that no market may exist for the resale of such THE securities: ;~~

~~(2) (b) That he A STATEMENT THAT THE PURCHASER is purchasing for investment and not for the distribution of such THE securities : ; AND~~

~~(3) (c) That he A STATEMENT THAT THE PURCHASER is aware of any and all restrictions imposed by the issuer on the further distribution of such THE securities, including, but not limited to, any restrictive legends appearing on the certificate, required holding periods, stop transfer orders, or buy back rights of the corporation of security OR THE holders OF ITS SECURITIES thereof.~~

Failure to obtain any or all of the foregoing statements does not create a presumption of lack of investment intent.

~~(G) (2) Solely for FOR the purpose of computing the total number of purchasers under division (O) (2) of section 1707.03 of the Revised Code, successive sales by an issuer to a single purchaser shall not be considered to be sales to additional purchasers.~~

~~(H) The issuer or dealer shall maintain or cause to be maintained books and records which reflect all material transactions involving the sale of securities under division (Q) of section 1707.03 of the Revised Code which are part of the same offering for a period of four years after the date of the last sale in that offering.~~

~~(I) Each dealer involved in the sale of securities under division (O) or (Q) of section 1707.03 of the Revised Code shall maintain books and records which reflect all material transactions by such dealer or affiliated salesmen involving such securities which are part of the same offering for a period of four years after the date of the last sale in that offering.~~

~~(J) The issuer or dealer shall file with the division of securities a report of sales on form 3-Q not later than sixty days after each sale of a security under division (Q) of section 1707.03 of the Revised Code. All sales within such sixty-day period which have not been reported on a prior form 3-Q may be included in such form 3-Q. Any issuer claiming this exemption which is not domiciled in this state or whose principal place of business is outside this state shall file, along with the first form 3-Q, an irrevocable written consent to service of process. Such consent shall be executed and acknowledged by an individual duly authorized to give such consent, and shall state that actions growing out of the sale of securities or fraud committed by the issuer in this state may be commenced against the issuer in the proper court of any county in this state in which the cause of action may arise, by serving on the secretary of state any proper process or pleading authorized by the laws of this state. Such consent shall stipulate that such service of process on the secretary of state shall be taken in all courts to be as valid and binding as if service had been made upon the issuer itself. Service of any process or pleadings may be made upon the secretary of state by duplicate copies, one of which shall be filed in the office of the secretary of state, and the other immediately forwarded by the secretary of state by certified mail to the principal place of business of such issuer, or the last known address as shown on the form 3-Q filed with the division.~~

~~(K) For the purpose of determining the date of sale for division (O) or (Q) of section 1707.03 of the Revised Code, a sale shall be deemed to have occurred on the earlier of the date that:~~

~~(1) A subscription agreement or its equivalent is signed by the purchaser, or~~

~~(2) The purchaser transfers or loses control of the purchase funds:~~

(D) ADDITIONAL EXEMPTIONS IN ACCORDANCE WITH DIVISION (V) OF SECTION 1707.03 OF THE REVISED CODE.

~~(L) (1) The sale by a bank incorporated or organized under the laws of this state or of the United States, a subsidiary thereof OF A BANK, or a service corporation owned by and organized to provide services to one or more such banks, of retail repurchase agreements is exempt pursuant to division (V) of section 1707.03 of the Revised Code. As used in this rule, "retail repurchase agreement" means indebtedness aris-~~

ing from the sale of a security that is a direct obligation of or an obligation fully guaranteed by the United States government or an agency thereof, or an interest in a pool of such securities, or indebtedness collateralized by an interest in a security that is a direct obligation of or an obligation fully guaranteed by the United States government or an agency thereof, or a pool of such securities. "Bank" shall have the meaning specified in division (O) of section 1707.01 of the Revised Code.

~~(M)~~(1) (2) The sale by a bank incorporated or organized under the laws of this state or of the United States, a subsidiary thereof OF A BANK or a service corporation owned by and organized to provide services to one or more such banks; of mortgage-backed securities is exempt PURSUANT TO DIVISION (V) OF SECTION 1707.03 OF THE REVISED CODE. As used in this rule, "mortgage-backed security" means indebtedness or a participation or other interest in indebtedness secured by a mortgage lien upon real estate, or a participation or other interest in a syndicate, pool, trust, or other entity consisting of indebtedness secured by a mortgage lien upon real estate. "Bank" shall have the meaning specified in division (O) of section 1707.01 of the Revised Code.

~~(N)~~(3) The sale of any security, THE ASSETS OF WHICH MAY ALSO INCLUDE CASH OR OTHER OBLIGATIONS BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES GOVERNMENT TO A MAXIMUM OF TWENTY PER CENT OF THE TOTAL ASSETS OF THE SECURITY, representing directly or indirectly a fractional interest in a pool of FHA-insured or VA-guaranteed first mortgage loans guaranteed by the full faith and credit of the United States government (commonly referred to as GNMA-backed securities or GNMA pass-through securities) pursuant to division (G) of section 306 of the Nation Housing Act of 1934, as amended, is exempt pursuant to division (V) of section 1707.03 of the Revised Code. In addition to FHA-insured or VA-guaranteed first mortgage loans, up to twenty per cent of the assets represented by the security may consist of cash or other full faith and credit obligations of the United States government. Ownership of GNMA pass-through certificates in other qualified pools is also permitted:

~~(O)~~(4) The sale of any security representing directly or indirectly a fractional interest in a certificate of deposit or a pool of certificates of deposit is exempt pursuant to division (V) of section 1707.03 of the Revised Code, provided THAT:

(a) The certificates of deposit are issued by a state or nationally chartered bank with assets of two billion dollars or more and the bank is in compliance with the rules and regulations of the chartering agency and any agency or person through which deposits of the bank are insured;

(b) If a pool, no more than ten per cent of the pool's assets may be invested in the certificates of deposit of any one bank; and

(c) The total expenses of SALE, issuance and distribution OF THE SECURITIES do not exceed three per cent of the gross proceeds of the SALE OF THE SECURITIES offering.

"Bank" shall have the meaning specified in division (O) of section 1707.01 of the Revised Code.

~~(P)~~(5) The sale of any security pursuant to a pension plan, stock plan, profit-sharing plan, COMPENSATORY BENEFIT PLAN or similar employee plan is exempt pursuant to division (V) of section 1707.03 of the Revised Code if:

~~(1)~~ (a) The plan is SECURITY IS SOLD PURSUANT TO A PLAN qualified under sections 401 to 415 425 of the Internal Revenue Code of 1954 1986; or

~~(2)~~ (b) THE SALE OF THE SECURITY IS EXEMPT FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT OF 1933 BECAUSE IT MEETS THE EXEMPTION SET FORTH IN RULE 701 OF THE SECURITIES ACT OF 1933 plan is qualified under sections 421 and 425 of the Internal Revenue Code of 1954 and ANY COMMISSION, DISCOUNT OR OTHER REMUNERATION PAID OR GIVEN FOR THE SALE OF THE SECURITY IN THIS STATE IS PAID OR GIVEN ONLY TO DEALERS OR SALESMEN LICENSED BY THE DIVISION; OR participation in the plan is not mandatory. OR

~~(3)~~ (c) THE SECURITY IS EFFECTIVELY REGISTERED UNDER SECTIONS 6 TO 8 OF THE SECURITIES ACT OF 1933 AND IS OFFERED AND SOLD IN COMPLIANCE WITH THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT OF 1933.

~~(4)~~ (6) The sale of a warrant, subscription right, or option to purchase a security exempted by division (E) of section 1707.02 of the Revised Code or the sale of a unit consisting of such a warrant, subscription right, or option WHICH IS EXEMPT UNDER DIVISION (E) OF SECTION 1707.02 OF THE REVISED CODE plus AND a security exempted by EXEMPT UNDER division (E) of section 1707.02 of the Revised Code is exempt pursuant to division (V) of section 1707.03 of the Revised Code if IT IS SOLD the sale is made by a licensed dealer.

Prior effective dates: 8/23/85, 10/26/84, 4/1/83, 10/23/79, 12/31/75

1301:6-3-06 Transactions registered by description

(A) Requirements for retaining sales material:

All dealers and issuers selling their own securities shall retain for a period of three years from the date of last use, one copy of any prospectus, circular, advertisement or literature used in connection with the offering for sale of any security:

(B) General integration standards for registration under section 1707.06 of the Revised Code:

~~(1)~~ When an issuer, pursuant to the provisions of the Ohio Securities Act, has issued securities in exchange for intangibles as defined in division (L) of section 1707.01 of the Revised Code, and within six months files a registration by description pursuant to division (A)(1) of section 1707.06 of the Revised Code, the division may suspend the registration by description or if the protection of investors will be assured; may permit an escrow of securities issued for such intangibles upon terms and conditions satisfactory to the division:

~~(2)~~ When a registration by description pursuant to section 1707.06 of the Revised Code is filed with respect to securities to be sold for any items of consideration other than cash, there shall be filed with such registration by description a sworn appraisal by a competent, disinterested appraiser or such other proof as may be available with respect to the dollar value of such consideration. If the division finds that the securities will be sold on grossly unfair terms or in such manner as to deceive or defraud or tend to deceive or defraud purchasers or sellers, the division shall suspend the registration by description, or, if

~~the protection of investors will be assured, may permit an escrow of securities issued for such items of consideration other than cash upon terms and conditions satisfactory to the division:~~

~~(3) Pursuant to section 1707.13 of the Revised Code, the division may suspend any registration by description when the issuer has sold securities in violation of the Ohio Securities Act and has not retroactively qualified those securities pursuant to section 1707.39 of the Revised Code:~~

~~(4) When the issuer has sold securities in violation of the Ohio Securities Act more than three years prior to any registration by description, the issuer shall supply the following supplemental information:~~

~~(a) The total number of persons to whom such securities were originally sold:~~

~~(b) The consideration received by the issuer for such securities, showing in detail whether such consideration was in cash or in property or services, and if in property or services, the nature, value and description thereof:~~

~~(c) The total number of each type of securities outstanding:~~

~~(C) Division procedure upon filing of registrations by description:~~

~~A registration statement presented to the division for the purpose of registering securities or transactions by description, will be examined as to form promptly upon its receipt:~~

~~(1) A certificate of acknowledgement will be promptly issued unless the registration by description is deficient:~~

~~(2) If the registration by description is deficient, the division shall request the issuer to file an amendment within thirty days. If the issuer fails to file such amendment, the division shall notify the issuer that the registration by description is deficient and ineligible for registration for failure to comply with section 1707.08 of the Revised Code:~~

~~(3) If the registration by description appears to comply with the requirements of section 1707.08 of the Revised Code, but the division requires further explanation, the division shall notify the issuer and order the submission of supplemental information. If such division order is not complied with within thirty days, the registration by description shall be suspended for failure to comply with a division order:~~

~~(D) Amendments to registration by description:~~

~~(1) A registration by description may be amended in order to correct errors or omissions in the application. Such amendments shall be made in the following manner:~~

~~(a) Where numerous errors are to be corrected, the issuer shall file a new properly completed application. Such new filing shall be marked "Amendment."~~

~~(b) Where isolated errors are to be corrected, the issuer shall file a supplemental application, properly signed and verified, completing only those items to be corrected, and the name and address of the issuer. Such form filed shall be marked "Amendment."~~

~~(2) No additional fee is required except when the original fee paid was deficient:~~

~~(3) Purported amendments relating to matters which are not properly the subject of amendment, such as a change in the~~

~~plan of sale or in the terms and conditions upon which securities are to be sold, are not permitted by section 1707.08 of the Revised Code and are inoperative:~~

~~(4) During the period of effectiveness of a registration by description, the issuer shall advise the division of:~~

~~(a) Any adverse material changes in the financial status of the issuer;~~

~~(b) Any material change in the proposed use of the proceeds of an issue;~~

~~(c) Any change in the identity of the general partner in a limited partnership registration;~~

~~(d) The occurrence of any event or series of events which have caused any statement contained in a prospectus or circular to be false or misleading in any material respect:~~

EVERY REGISTRATION BY DESCRIPTION FILED WITH THE DIVISION PURSUANT TO SECTION 1707.06 OF THE REVISED CODE SHALL BE FILED ON AN APPROPRIATE DIVISION FORM. A REGISTRATION BY DESCRIPTION INTENDED TO COMPLY WITH DIVISION (A)(1) OF SECTION 1707.06 OF THE REVISED CODE SHALL BE FILED ON A DIVISION FORM 6(A)(1), A REGISTRATION BY DESCRIPTION INTENDED TO COMPLY WITH DIVISION (A)(2) OF SECTION 1707.06 OF THE REVISED CODE SHALL BE FILED ON A DIVISION FORM 6(A)(2), A REGISTRATION BY DESCRIPTION INTENDED TO COMPLY WITH DIVISION (A)(3) OF SECTION 1707.06 OF THE REVISED CODE SHALL BE FILED ON A DIVISION FORM 6(A)(3), A REGISTRATION BY DESCRIPTION REPRESENTING AN OFFERING OF OIL AND GAS INTERESTS INTENDED TO COMPLY WITH DIVISION (A)(3) OF SECTION 1707.06 OF THE REVISED CODE SHALL BE FILED ON A DIVISION FORM 6(A)(3)-OG, AND A REGISTRATION BY DESCRIPTION INTENDED TO COMPLY WITH DIVISION (A)(4) OF SECTION 1707.06 OF THE REVISED CODE SHALL BE FILED ON A DIVISION FORM 6(A)(4). THE REGISTRATION BY DESCRIPTION SHALL BE ACCOMPANIED BY ANY ADDITIONAL EXHIBITS, REQUESTED BY THE DIVISION FOR THE PROTECTION OF INVESTORS, AND THE FOLLOWING EXHIBITS, AS NECESSARY:

(1) WHERE THE ISSUER HAS ENGAGED IN OPERATIONS FOR NINETY DAYS OR MORE PRIOR TO THE DATE OF THE FILING OF THE REGISTRATION BY DESCRIPTION WITH THE DIVISION, A CURRENT

(E) Division may require balance sheet and profit and loss statement:

Unless the issuer or its predecessor has engaged in operations less than ninety days prior to filing a registration by description, the issuer shall attach a copy of the issuer's balance sheet with appropriate footnotes and a profit and loss statement for the last quarterly accounting period ISSUER, either audited BY A PUBLIC ACCOUNTANT or attested to by an executive officer or general partner OF THE ISSUER.

(F) The division shall require the advance submission and approval of all advertising to be utilized in connection with the sale of securities registered by description:

Whenever statements WHEN ANY BALANCE SHEET OR PROFIT AND LOSS STATEMENT prepared by an inde-

pendent PUBLIC accountant are IS to be used in connection with an offering circular or other advertising; ANY REGISTRATION BY DESCRIPTION, the division shall require that the issuer furnish to the division a letter from such THE PUBLIC accountant consenting to the use of the statements BALANCE SHEET OR PROFIT AND LOSS STATEMENT by the issuer in an effort to obtain investors SHALL BE ATTACHED TO ANY BALANCE SHEET OR PROFIT AND LOSS STATEMENT; AND

(2) WHERE THE AGGREGATE AMOUNT OF THE SECURITIES TO BE REGISTERED BY DESCRIPTION EXCEEDS TWO HUNDRED FIFTY THOUSAND DOLLARS, OR WHERE THE SECURITIES TO BE REGISTERED BY DESCRIPTION REPRESENT INTERESTS IN OIL AND GAS, AN OFFERING CIRCULAR PREPARED IN ACCORDANCE WITH PARAGRAPH (D) OF THIS RULE;

(3) WHEN THE ISSUER HAS SOLD SECURITIES IN VIOLATION OF THE OHIO SECURITIES ACT NOT MORE THAN THREE YEARS PRIOR TO THE REGISTRATION BY DESCRIPTION,

(a) THE TOTAL NUMBER OF PERSONS TO WHOM THE SECURITIES WERE ORIGINALLY SOLD,

(b) THE CONSIDERATION RECEIVED BY THE ISSUER FOR THE SECURITIES, SHOWING IN DETAIL WHETHER THE CONSIDERATION WAS IN CASH OR IN PROPERTY OR SERVICES, AND IF IN PROPERTY OR SERVICES, THE NATURE, VALUE AND DESCRIPTION THEREOF, AND

(c) THE TOTAL NUMBER OF EACH TYPE OF SECURITIES OUTSTANDING;

(4) ONE COPY OF ANY OFFERING CIRCULAR, PROSPECTUS, ADVERTISING, SALES LITERATURE, OR OTHER WRITING TO BE USED IN CONNECTION WITH THE OFFERING OR SALE OF THE SECURITIES REGISTERED BY DESCRIPTION.

(B) THE DIVISION SHALL PROMPTLY EXAMINE EVERY REGISTRATION BY DESCRIPTION FILED WITH IT AND SHALL ISSUE A CERTIFICATE OF ACKNOWLEDGEMENT WHEN IT DETERMINES THAT THE DESCRIPTION CONFORMS TO THE REQUIREMENTS OF AND IS ACCOMPANIED BY THE APPROPRIATE FEE REQUIRED BY SECTION 1707.08 OF THE REVISED CODE.

(C) NO DEALER OR ISSUER SELLING ITS OWN SECURITIES SHALL USE ANY PROSPECTUS, OFFERING CIRCULAR, ADVERTISING, SALES LITERATURE, OR OTHER WRITING IN CONNECTION WITH THE OFFERING OR SALE OF ANY SECURITIES REGISTERED BY DESCRIPTION UNLESS THE PROSPECTUS, OFFERING CIRCULAR, ADVERTISING, SALES LITERATURE, OR OTHER WRITING HAS FIRST BEEN APPROVED BY THE DIVISION. ALL DEALERS AND ANY ISSUER SELLING ITS OWN SECURITIES SHALL RETAIN ONE COPY OF ANY PROSPECTUS, OFFERING CIRCULAR, ADVERTISING, SALES LITERATURE, OR OTHER WRITING WHICH IT HAS USED IN CONNECTION WITH THE OFFERING OR SALE OF THE SECURITIES REGISTERED BY DESCRIPTION FOR A PERIOD OF THREE YEARS FROM THE DATE OF LAST USE OF THE PROSPECTUS, OFFERING CIRCULAR, ADVERTISING, SALES LITERATURE, OR OTHER WRITING.

(G) (D) An offering circular is required for any registration by description filed pursuant to section 1707.06 of the Revised Code where WHERE the aggregate amount of the offering SECURITIES TO BE REGISTERED BY DESCRIPTION exceeds two hundred AND fifty thousand dollars and OR WHERE THE SECURITIES TO BE REGISTERED BY DESCRIPTION REPRESENT INTERESTS IN for all oil and gas, interests sold pursuant to a registration by description filed pursuant to section 1707.06 of the Revised Code. At a minimum the ISSUER AND DEALER SHALL, PRIOR TO THE EARLIER OF THE SIGNING OF A SUBSCRIPTION AGREEMENT OR ITS EQUIVALENT OR THE TRANSFER OF CONTROL OF THE PURCHASE FUNDS FROM THE PURCHASER, DELIVER AN offering circular WHICH shall contain the following information TO EACH PURCHASER OF THE SECURITIES REGISTERED BY DESCRIPTION:

(1) Name THE ISSUER'S NAME and address, of the issuer, the ITS type of business entity, the state or jurisdiction of ITS incorporation or formation, and the date of ITS incorporation or formation: on the outside front cover page;

(2) The OFFERING PRICE TO THE PUBLIC, DISCOUNTS OR COMMISSIONS TO DEALERS, AND PROCEEDS TO THE ISSUER SHALL BE PRESENTED following information in tabular form on the outside front cover page; of the

Offering price to public	Underwriting discounts or commissions	Proceeds to issuer or other persons
-------------------------------------	--	--

(3) Amount THE AMOUNT of securities to be offered FOR SALE, THE aggregate offering price to the public, THE aggregate underwriting discounts or commissions, THE amount of expenses of the issuer, and THE amount of expenses to OF the underwriters to be borne PAID by the issuer, and the aggregate proceeds. If the securities are not to be offered for cash, state A DESCRIPTION OF THE CONSIDERATION TO BE PAID FOR THE SECURITIES on the outside front cover page; the basis upon which the offering is to be made.

(4) Describe A DESCRIPTION OF the method by which the offering is to WILL be made and, if the offering is to be made through an underwriter, name and address THE NAME AND ADDRESS of underwriter EVERY DEALER PARTICIPATING IN THE OFFERING, SPECIFYING THE EXTENT and amount of participation of each underwriter DEALER, AND indicating the nature of any material relationships RELATIONSHIP between THE issuer and underwriter. ANY DEALER;

(5) Statement A STATEMENT SPECIFYING of purposes FOR THE PURPOSES FOR which the proceeds of the sale of THE securities REGISTERED BY DESCRIPTION will be used and the amount to be used for each purpose, indicating the present intention OF THE ISSUER; with respect to the order of priority in which the proceeds will be used for the purposes;

(6) Description A DESCRIPTION of the background EXPERIENCE and expertise of the issuer in the particular business which is the subject of the offering;

(7) Description A DESCRIPTION of the significant risk factors RISKS inherent in the particular offering;

(8) Description A DESCRIPTION of THE securities;

(9) ~~Description~~ A DESCRIPTION of THE PARTICULAR business: which is the subject of the offering, WHICH SHALL INCLUDE THE NATURE AND PRINCIPAL MARKET

~~(a) Nature of THE issuer's present or proposed products or services, the principal market, and the length of time the issuer has been in commercial production: OF THE PRESENT OR PROPOSED PRODUCTS OR SERVICES, THE LOCATION AND OWNERSHIP INTEREST OF THE ISSUER IN REAL PROPERTY, PATENTS, AND~~

~~(b) Location and character of plants or other physical property now held or to be acquired BY THE ISSUER, and the MANNER IN WHICH ANY nature of title:~~

~~(c) For new invention or process, state how it is to WILL be used, and whether covered by patent. Identify with appropriate THE serial APPLICATION OR REGISTRATION numbers: OF ANY APPLICABLE PATENTS;~~

(10) ~~Specify the following:~~ A SUMMARY OF THE BACKGROUND, HISTORY, AND COMPENSATION OF THE PRINCIPALS, OFFICERS, DIRECTORS, AND GENERAL PARTNERS OF THE ISSUER AND HOLDERS OF TEN PERCENT OR MORE OF THE SECURITIES OF THE ISSUER, WHICH SHALL INCLUDE:

(a) ~~Names THE NAMES and residence addresses of all PRINCIPALS, officers, and directors, GENERAL PARTNERS, and ten per cent shareholders of the issuer: , AND SIMILAR INFORMATION REGARDING ALL PROMOTERS IF IF the issuer was incorporated or organized within the last LESS THAN ONE year, give similar information as to all promoters: PRIOR TO THE DATE OF THE REGISTRATION BY DESCRIPTION;~~

(b) ~~Aggregate THE AGGREGATE annual remuneration of all PRINCIPALS, directors, GENERAL PARTNERS and TEN PER CENT SHAREHOLDERS OF THE ISSUER officers AND OF THE THREE HIGHEST PAID OFFICERS OF THE ISSUER as a group for the last year PRECEEDING THE DATE OF THE FILING OF THE REGISTRATION BY DESCRIPTION; and annual remuneration of each of the three highest paid officers of the issuer for the last year:~~

(c) ~~Describe all ALL direct and indirect interests (by security SECURITIES holdings or otherwise) of each PRINCIPAL, officer, director, GENERAL PARTNER, or promoter:~~

(i) In the issuer or its affiliates and;

(ii) In any material transactions within the past two years PRIOR TO THE DATE OF FILING OF THE REGISTRATION BY DESCRIPTION or in any material proposed MATERIAL transactions to which the issuer or any of its predecessors or affiliates was or is to be a party.

(d) If the issuer was incorporated or organized within the last three years, ~~state~~ the PRICE PAID FOR AND THE percentage of outstanding securities of the issuer which will be held by directors, officers and promoters, as a group, and the PRICE PAID FOR AND THE percentage of such securities which will be held by the public, if all of the securities to be offered are sold; ~~and the respective amounts of cash paid by this group and the public:~~

(11) ~~Financial statements must be provided. These statements need not be certified by a certified public accountant but they must be~~ A DESCRIPTION OF THE FINANCIAL CONDITION OF THE ISSUER AUDITED BY AN INDEPEN-

DENT CERTIFIED PUBLIC ACCOUNTANT OR verified (as true in all material aspects) within the actual knowledge and belief of the ~~verifier, the~~ chief financial officer of the issuer: WHICH SHALL INCLUDE:

(a) ~~Balance~~ A BALANCE sheet as of a date within NO MORE THAN ninety days prior to the filing of the application for registration by description; AND

(b) ~~Statements~~ A STATEMENT of income and ~~statements~~ A STATEMENT of other shareholders' equity ~~shall be furnished~~ for the two years prior to the date of the balance sheet ~~provided in the paragraph (G)(11)(a) above;~~ or for the period of the issuer's existence, if less than the ~~period specified above:~~ TWO YEARS; AND

(12) For offerings of oil and gas interests only:

(a) ~~Information on the~~ THE sponsor's production history, including well locations, initial production, CUMULATIVE PRODUCTION, investor cost versus COSTS IN RELATION TO investor payout IN CONNECTION WITH WELLS WHICH ARE ON THE SAME LEASES AS THE PROPOSED WELL LOCATIONS OR ON LEASES ADJACENT TO THE PROPOSED WELL LOCATIONS, and dry holes drilled;

(b) The amount of administrative costs, including salary and overhead expenses, to be borne PAID from the proceeds of the offering;

(c) The source and amount of any additional funds to be secured for drilling the well OR WELLS WHICH ARE THE SUBJECT OF THE SECURITIES REGISTERED BY DESCRIPTION;

(d) Complete information on REGARDING any dry hole money PAID OR to be paid TO ANY PERSON;

(e) ~~All appropriate and~~ AN ACCURATE SUMMARY OF THE material STATE AND FEDERAL tax considerations relevant to a decision to invest in the offering;

(f) ~~Information on~~ AN ACCURATE SUMMARY OF THE IMPACT ON THE OFFERING OF oil and gas regulation, including, but not limited to availability of markets and pricing, AND MARKET FACTORS;

(g) ~~A~~ AN ACCURATE summary of all material contracts;

(h) ~~A~~ AN ACCURATE summary of the geologist's opinion;

(i) An opinion of counsel as to the validity of the lease;

(j) ~~Information on all forms of~~ AN ACCURATE SUMMARY OF THE compensation paid or to be paid to the sponsor or affiliates including, but not limited to, profits on drilling, revenue interests, TRANSPORTATION, overriding royalties and operating fees; and

(k) ~~Such~~ ANY other information, ~~not enumerated herein, included~~ INCLUDING BUT NOT LIMITED TO THOSE ITEMS SET FORTH IN within the oil and gas guidelines as set forth PUBLISHED in the October, 1973 issue of the Ohio securities bulletin, or as the division may OTHERWISE require.

(E) PURSUANT TO SECTION 1707.13 OF THE REVISED CODE, THE DIVISION MAY SUSPEND ANY REGISTRATION BY DESCRIPTION WHERE:

(1) THE ISSUER HAS SOLD SECURITIES IN VIOLATION OF THE OHIO SECURITIES ACT AND HAS NOT RETROACTIVELY QUALIFIED THOSE SECURITIES PURSUANT TO SECTION 1707.39 OR 1707.391 OF THE REVISED CODE;

(2) THE ISSUER HAS ISSUED SECURITIES IN EXCHANGE FOR INTANGIBLES OR FOR CONSIDERATION OTHER THAN CASH WITHIN SIX MONTHS OF THE DATE OF FILING OF THE REGISTRATION BY DESCRIPTION AND HAS NOT SUBMITTED A SWORN APPRAISAL BY A COMPETENT, DISINTERESTED APPRAISER OR OTHER PROOF AS THE DIVISION MAY REQUIRE TO ESTABLISH THE DOLLAR VALUE OF THE CONSIDERATION. IF THE DIVISION FINDS THAT THE PROTECTION OF INVESTORS WILL BE ASSURED, IT MAY PERMIT AN ESCROW OF SECURITIES ISSUED FOR INTANGIBLES CONSIDERATION OTHER THAN CASH;

(3) THE PERSON WHO FILED THE REGISTRATION BY DESCRIPTION HAS FAILED TO PROVIDE THE DIVISION WITH SUPPLEMENTARY INFORMATION AS REQUIRED BY PARAGRAPH (F) OF RULE 1301:6-3-06 OF THE ADMINISTRATIVE CODE;

(4) THE ISSUER, INCORPORATORS, OR DEALER HAS FILED A REGISTRATION BY DESCRIPTION WHICH DOES NOT COMPLY WITH THE PROVISIONS OF SECTION 1707.08 OF THE REVISED CODE AND THE ISSUER, INCORPORATORS, OR DEALER HAS NOT AMENDED THE REGISTRATION BY DESCRIPTION IN COMPLIANCE WITH SECTION 1707.08 OF THE REVISED CODE IN RESPONSE TO A NOTICE OF DEFICIENCY TRANSMITTED TO THE ISSUER, INCORPORATORS, OR DEALER; OR

(5) THE REGISTRATION BY DESCRIPTION APPEARS TO THE DIVISION TO COMPLY WITH THE PROVISIONS OF SECTION 1707.08 OF THE REVISED CODE, BUT THE DIVISION HAS REQUESTED ADDITIONAL INFORMATION TO CLARIFY THE REGISTRATION BY DESCRIPTION FOR THE PROTECTION OF INVESTORS BY A LETTER SENT CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS SHOWN ON THE REGISTRATION BY DESCRIPTION BY THE ISSUER, INCORPORATORS, OR DEALER, AND THE ISSUER, INCORPORATORS, OR DEALER DOES NOT PROVIDE THE ADDITIONAL INFORMATION REQUESTED THEREBY WITHIN THIRTY DAYS OF THE DATE OF MAILING OF THE LETTER REQUESTING ADDITIONAL INFORMATION.

(F) DURING THE EFFECTIVENESS OF A REGISTRATION BY DESCRIPTION, THE ISSUER, INCORPORATORS, OR DEALER WHO FILED THE REGISTRATION BY DESCRIPTION SHALL PROMPTLY NOTIFY THE DIVISION OF:

(1) ANY ADVERSE MATERIAL CHANGE IN THE FINANCIAL STATUS OF THE ISSUER;

(2) ANY MATERIAL CHANGE IN THE PROPOSED USE OF THE PROCEEDS REPORTED IN THE REGISTRATION BY DESCRIPTION;

(3) ANY CHANGE IN THE IDENTITY OF THE PRINCIPALS, GENERAL PARTNER OR OFFICERS OF THE ISSUER; OR

(4) THE OCCURRENCE OF ANY EVENT OR SERIES OF EVENTS WHICH WOULD CAUSE ANY STATEMENT CONTAINED IN THE REGISTRATION BY DESCRIPTION, PROSPECTUS OR OFFERING CIRCULAR TO BE FALSE OR MISLEADING IN ANY MATERIAL RESPECT.

(G) THE DIVISION SHALL ACCEPT AMENDMENTS TO REGISTRATIONS BY DESCRIPTION WHICH ARE LIMITED, IN COMPLIANCE WITH SECTION 1707.08 OF THE REVISED CODE, TO THE CORRECTION OF ERRORS OR OMISSIONS.

Prior effective dates: 4/1/83, 8/3/78, 12/31/75

1301:6-3-08 Registration by description

(A) A registration by description shall have a period of effectiveness of sixteen months as measured from the date of filing.

(B) Upon good cause shown, the division may grant an extension of the EXTENDED period of effectiveness of WHICH DOES NOT EXCEED TWENTY-FOUR MONTHS FOR a registration by description.

Prior effective dates: 10/26/84, 8/3/78

1301:6-3-09 Registration by qualification

(A) Escrow of securities or proceeds from sale of securities.

~~When in the opinion of the division it is necessary for the protection of investors, the division may require the escrow of all or a portion of the securities of the issuer or of the proceeds of sale of the securities registered by qualification. The terms and conditions of the escrow agreement shall be subject to the approval of the division in the order qualifying such securities. The escrow shall be subject to the continuing jurisdiction of the division so long as the escrow agreement is in effect.~~

(B) Application.

(1) Application AN APPLICATION to register securities by qualification IN ACCORDANCE WITH SECTION 1707.09 OF THE REVISED CODE may SHALL be made on A FORM 9 OF THE division forms or on forms FORM U-1, U-2, and OR U-2(A); OF THE NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION.

(2) Whenever statements ANY STATEMENT OR REPORT, HOWEVER CHARACTERIZED, prepared by an independent accountant are IS to be used in connection with an offering circular, prospectus, or other advertising, the issuer

Key

1. ~~Crossed out language~~ is being removed.

2. ALL CAPITALS AND UPPER CASE LANGUAGE IS NEW.

3. Underlined letters stay upper case. underlined numbers and punctuation stay as they appear.

shall furnish to the division a letter from the accountant consenting to the use of the ~~statements~~ STATEMENT OR REPORT by the issuer, in its solicitations for the sale of a security.

(3) ~~AN~~ THE DIVISION MAY REQUIRE THAT AN APPROPRIATE CROSS REFERENCE SHEET OF THE NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION BE SUBMITTED WITH ANY application to register the securities of a COMMODITIES, EQUIPMENT, OIL AND GAS, OR real estate limited partnership or a real estate investment trust, ~~shall include a NASAA real estate guideline cross-reference sheet.~~

(~~E~~) (B) Period of effectiveness.

(1) Unless otherwise specified by division order, a registration by qualification shall have a period of effectiveness of thirteen months from the effective date of the division order.

(2) Upon good cause shown, the THE [sic] division may ~~grant an extension of the~~ ESTABLISH A period of effectiveness of FOR a registration by qualification. ~~The maximum period of effectiveness shall be two years. OF NOT MORE THAN TWENTY-FOUR MONTHS.~~

(~~D~~) (2) During the period of effectiveness of a registration by qualification, the issuer shall advise the division of:

(~~H~~) (a) Any adverse material change in the financial status of the issuer;

(~~Z~~) (b) Any material change in the compensation agreement between the issuer and a dealer licensed to sell its securities;

(~~S~~) (c) Any material change in the proposed use of the proceeds of an issue;

(~~H~~) (d) Any change in the identity of the general partner in a limited partnership registration; and

(~~S~~) (e) ANY CHANGE IN THE STATED INVESTMENT POLICIES, OBJECTIVES, OR RESTRICTIONS OF THE REGISTRATION; AND

(f) The occurrence of any event or series of events which have caused any statement contained in a prospectus or circular to be false or misleading in any material respect.

(C) ESCROW OF SECURITIES OR PROCEEDS FROM SALE OF SECURITIES.

(1) THE DIVISION MAY, FOR THE PROTECTION OF INVESTORS, REQUIRE THE ESCROW OF ALL OR A PORTION OF THE SECURITIES OF AN ISSUER OR OF THE PROCEEDS OF SALE OF SECURITIES REGISTERED BY QUALIFICATION UNDER TERMS AND CONDITIONS OF AN ESCROW AGREEMENT ESTABLISHED BY THE DIVISION IN THE ORDER QUALIFYING THE SECURITIES. THE DIVISION SHALL HAVE CONTINUING JURISDICTION OVER THE ESCROW AGREEMENT SO LONG AS THE ESCROW AGREEMENT IS IN EFFECT.

(2) NO PERSON SHALL SELL SECURITIES IN VIOLATION OF THE PROVISIONS OF AN ESCROW AGREEMENT ENTERED INTO IN ACCORDANCE WITH PARAGRAPH (C)(1) OF THIS RULE.

(~~E~~) (D) INVESTMENT COMPANIES.

(1) As used in this rule, the terms "investment company," "diversified investment company," "non-diversified investment company," "open-end investment company," "closed-end investment company" and "unit investment trust" shall have the same meaning as presently defined in the Investment Company Act of 1940.

(~~F~~) (2) ~~Indefinite amount registration by investment companies:~~ An investment company which submits the maximum statutory fees as required under ~~sections~~ SECTION 1707.09 and OR 1707.091 of the Revised Code; may register an indefinite amount of securities for sale in Ohio.

(~~G~~) (E) ~~Application for qualification of investment company shares:~~

(1) The offering or disposal of shares of an ANY investment company of the management type, REGARDLESS OF THE SECTION OF CHAPTER 1707. OF THE REVISED CODE UNDER WHICH THE SHARES ARE REGISTERED, is deemed to be an offer or disposal on grossly unfair terms unless the prospectus or instruments under which the company, or the sponsor, manager or custodian thereof is created, organized or administered are effective to:

(a) Prohibit the purchase or retention by the company of the securities of any issuer if the officers, directors or trustees of the company, its advisors, or managers owning beneficially more than one-half of one per cent of the securities of such AN issuer together own beneficially more than five per cent of such THE securities OF THAT ISSUER.

(b) Prohibit the sponsor and manager of any closed-end investment company, the officers and directors of the sponsor and manager, and the officers, directors and trustees of any closed-end investment company from taking short positions in the securities issued by the closed-end investment company.

(i) However, if the sponsor receives an order to purchase shares and it enters that order with the company upon receipt, the sponsor may purchase shares from the company in that amount.

(ii) Such THIS prohibition shall not prevent the sponsor from maintaining a market for the securities issued by the company in the capacity of agent for the company.

(c) Require that securities owned by the company, cash representing the proceeds from sales of securities owned by the company and of shares issued by the company, payments of principal upon securities owned by the company or capital distribution in respect of shares owned by the company be held by a custodian or trustee which shall be a bank or trust company having not less than two million dollars aggregate capital, surplus and undivided profits.

(d) Require the company upon the resignation, termination, or inability to serve of the custodian or trustee:

(i) To use its best efforts to obtain a successor custodian or trustee;

(ii) To require that the cash and securities owned by the company be delivered directly to the successor custodian or trustee; and

(iii) In the event that no successor custodian or trustee can be found within thirty days, to submit to the stockholders, before permitting delivery of the cash and securities owned by the company to other than a successor custodian or trustee, the

question of whether ~~such~~ A company shall be liquidated or shall function without a custodian or trustee.

(e) Require the custodian or trustee holding cash and securities owned by the company, except as provided in paragraph ~~(G)(E)(1)(d)~~ of this rule:

(i) To deliver securities owned by the company to parties other than the company or its manager for other than full and adequate consideration only under circumstances stated in the custodian or trustee agreement.

(ii) To deliver funds of the company only upon the purchase of securities for the portfolio of the company and the delivery of ~~such~~ THOSE securities to the custodian or trustee.

(iii) ~~Such~~ THIS limitation shall not prevent the release of funds by the custodian or trustee for redemption of shares issued by the company, for payment of interest, dividend disbursements, taxes, management fees, or for authorized proper corporate purposes of the company.

(iv) No custodian or trustee agreement shall limit or lessen the liability of the custodian or trustee for direct damages resulting from the breach of ~~such~~ THE CUSTODIAN OR TRUSTEE agreement.

(f) Fix the factors and the method for the determination of the "current net asset value" and the "liquidating value" of the company or its shares in accordance with generally accepted accounting principles, consistently applied.

(g) Prohibit the purchase of the securities of an issuer for the portfolio of the company if, as to fifty per cent of the total company assets, ~~such~~ THE purchase at the time thereof would cause more than five per cent of the total company assets to be invested in the securities of any one issuer and, as to the remaining fifty per cent of the total company assets, ~~such~~ THE purchase at the time would cause more than twenty-five per cent of the total company assets to be invested in the securities of any one issuer. The percentage determination may be made either at cost or at market provided one method or the other is adopted and consistently applied.

This limitation shall not apply to securities which are obligations of or guaranteed by the government of the United States of America, its agencies or instrumentalities, or to obligations of the government of Canada.

(h) Prohibit the purchase of the securities of any issuer if, AS TO SEVENTY FIVE PER CENT OF THE ASSETS OF THE COMPANY ~~such~~ purchase at the time thereof would cause OF THE PURCHASE, more than ten per cent of the voting securities of any issuer to WOULD be held by the company.

(i) Prohibit the investment of any assets of the company in the securities of other investment companies, except by purchase in the open market where no commission or profit to a sponsor or dealer results from ~~such~~ THE purchase other than the customary broker's commission, or except when ~~such~~ THE purchase is part of a plan of merger, consolidation, reorganization, or acquisition.

(j) Prohibit the borrowing, pledging, mortgaging, or hypothecating of assets on behalf of the company in excess of one-third of the total company assets. A company's ability to borrow for other than emergency or extraordinary purposes shall be highlighted in the company's prospectus or offering circular as a special risk consideration.

(k) State clearly in the prospectus any restrictions upon the transfer of shares of the company.

(l) Prohibit the investment of more than ten per cent of the company's total assets in the securities of issuers which together with any predecessors have a record of less than three years continuous operation.

(m) Restrict the combined maximum load, commission, deferred sales charge and redemption fee to be charged by the company to ten per cent of the offering price to the public or liquidating value per share (e.g., eight per cent front-end load plus two per cent redemption fee equals ten per cent combined load). As used in this paragraph, "offering price to the public" shall mean the asset value as hereinafter defined plus the load or commission charged adjusted to the next full cent. As used in this paragraph, "asset value per share" shall be determined by dividing the value of the net assets of the company by the number of company shares issued and outstanding plus the number of shares sold by the company though certificates have not been issued at the time of calculation. "Liquidating value per share" shall have the same meaning as "asset value per share."

(n) The aggregate annual expenses of every character paid or incurred by the company, including management, distribution, and advisory fees, but excluding interest, taxes, brokerage commissions and extraordinary expenses, whether ~~such~~ THE expenses are payable by the company or its shareholders, shall not exceed two per cent of its average net assets. ~~Such~~ THE expenses shall be calculated at least quarterly and on a consistent basis. At least annually and prior to publication of the company's annual report, the investment advisor or manager shall reimburse the company for the amount by which ~~such~~ aggregate annual expenses exceed the amount herein provided for, except that ~~such~~ reimbursement need not exceed the management and advisory fees for the period for which reimbursement is made. The investment advisor or manager shall promptly notify the division if the aggregate expense limitation is exceeded by reason of any extraordinary expenses. The division may require the investment advisor or manager to maintain financial resources reasonably sufficient to enable it to meet its reimbursement obligation hereunder. This paragraph does not apply to open-end investment companies which meet the requirements of paragraph ~~(G)(E)(1)(g)~~ of this rule.

(o) Require that the company redeem shares issued by it not more than seven full business days after tender to the company of a completed request for redemption of such shares. Redemption may be postponed during an emergency which makes it impractical for the company to dispose of its assets or where the closing of or restriction of trading on exchange markets prevents disposal of securities owned by the company. This paragraph does not apply to closed-end investment companies.

~~(2) Paragraph (G)(1) of this rule shall apply to all investment companies of the management type, regardless of the section of Chapter 1707 of the Revised Code under which the securities of such company are registered.~~

~~(H)~~ (F) Notwithstanding paragraphs ~~(G)(E)(1)(g)~~, ~~(G)(E)(1)(h)~~, ~~(G)(E)(1)(j)~~, and ~~(G)(E)(1)(l)~~ of this rule, an investment company of the management type may be registered by qualification if the following requirements are met:

(1) A bold type legend, satisfactory to the division, shall be displayed on the cover of the final prospectus. The legend shall detail the particulars which distinguish the investment com-

pany from an investment company which meets all the requirements of paragraph (G) (E)(1) of this rule.

(2) The final prospectus shall be delivered to the investor prior to the consummation of sale of the investment company's securities.

(3) The investment restrictions are sufficient to require that:

(a) No more than fifty per cent of the total assets of the investment company may be invested in the securities of any one issuer.

(b) The investment company cannot hold OWN, directly or indirectly, more than forty-nine per cent of the voting securities of any one issuer or affiliates AFFILIATE of the issuer. "Indirectly" shall mean the holding of options, warrants, or convertible securities which, if exercised or converted, would give the investment company more than forty-nine per cent of the voting securities of any one issuer or affiliates AFFILIATE of the issuer. For purposes of this calculation, shares held in a voting trust or shares required to be voted in the same proportion as other votes cast shall not be deemed to be outstanding.

(c) Borrowing, pledging, mortgaging or hypothecating of assets on behalf of the company shall not exceed two-thirds of the total company assets.

(d) Not more than fifty per cent of the total assets of the company may be invested in the securities of issuers which together with any predecessors have a record of less than three years continuous operation or securities of issuers which are restricted as to disposition.

(H) (G) Notwithstanding paragraphs (G) (E)(1) and (H)(F)(3) of this rule, an investment company of the management type may be registered by qualification if the following requirements are met:

(1) The securities of the investment company meet the standards imposed by the division for registration by qualification of non-investment company securities and the investment company meets the requirements of paragraph (G)(E)(1)(n) of this rule, unless waived by the division.

(2) The securities and exchange commission has registered the securities of the investment company pursuant to the Investment Company Act of 1940.

(3) A bold type legend, satisfactory to the division, shall be displayed on the cover of the final prospectus. The legend shall detail the particulars which distinguish the investment company from an investment company which meets all of the requirements of paragraph (G)(E)(1) or (H)(F)(3) of this rule.

(4) The final prospectus shall be delivered to the investor prior to the consummation of sale of the investment company's securities.

(H) (H) An investment company may renew its registration and additional series of a unit investment trust (UIT) previously registered in Ohio may be registered by submitting:

(1) An application to register such THE investment company or UIT INVESTMENT TRUST, along with the appropriate fees; and

(2) For renewals, a copy of its current prospectus, A STATEMENT SETTING FORTH ANY MATERIAL CHANGE IN THE INFORMATION PREVIOUSLY

REPORTED TO THE DIVISION, A CONSENT TO SERVICE OF PROCESS IN CONFORMITY WITH THE REQUIREMENTS OF SECTION 1707.11 OF THE REVISED CODE AND A COPY OF EACH UNDERTAKING REQUIRED OF THE ISSUER OR DEALER IN CONJUNCTION WITH THE CURRENT REGISTRATION OF THE SECURITY; for additional series of a UIT UNIT INVESTMENT TRUST, a copy of its preliminary prospectus, A CONSENT TO SERVICE OF PROCESS IN CONFORMITY WITH THE REQUIREMENTS OF SECTION 1707.11 OF THE REVISED CODE, A notice of effectiveness or automatic effectiveness, and A final prospectus pursuant to section 1707.091 of the Revised Code.

(K) (I) As a prerequisite to registration pursuant to section 1707.09 of the Revised Code, when the AN issuer is relying on SEC rule 504 of regulation D; OF THE SECURITIES AND EXCHANGE COMMISSION, OR SECTION 3(A)(11) OF THE 1933 SECURITIES ACT SHALL DELIVER AN OFFERING CIRCULAR OR OTHER DISCLOSURE DOCUMENT OR DOCUMENTS AS REQUIRED BY RULE 1301:6-3-06 OF THE ADMINISTRATIVE CODE PRIOR TO THE EARLIER OF THE SIGNING OF OF [sic] A SUBSCRIPTION AGREEMENT, OR THE TRANSFER OF CONTROL OF THE PURCHASE FUNDS FROM THE PURCHASER OF THE SECURITIES. the division may require a disclosure document to be delivered three days before sale. At a minimum the disclosure document shall contain the information required by paragraph (G) of rule 1301:6-3-06 of the Administrative Code.

Prior effective dates: 8/5/85, 10/26/84, 12/3/83 (Emer.), 8/18/83, 6/18/82, 2/22/80, 8/3/78, 12/31/78

1301:6-3-15 Application for and issuance of dealer's license DEALER RESPONSIBILITIES

(A) Requirements for preserving and filing sales material

(H) All dealers and such issuers as are ANY ISSUER selling their ITS own securities shall retain in a separate file, subject to periodic examination by the division ITS GENERAL FILES, for a period of at least three FOUR years from the date of last use, one copy of any prospectus, OFFERING circular, advertisement or, literature, OR CORRESPONDENCE used in offering or in connection with the offering for sale of any security. At least one copy of all correspondence relating to the sale or the offering for sale of any security shall be retained in the general files of such dealers and issuers. Any material so filed shall be furnished to the division upon ITS request therefor.

(2) A prospectus, circular, advertisement or other literature, used in offering or in connection with the offering or sale of any security need not be retained as provided in the foregoing paragraph if it contains only information published in some one or more of the following securities services:

(a) Publications of "Fitch Publishing Co., Inc.,"

(b) Publications of "Standard and Poor's Corporation";

(c) Publications of "Moody's Investors Service."

(B) Application forms

AN THE DIVISION SHALL NOT ISSUE A LICENSE TO ANY applicant for an original A dealer's license OR TRANS-

FER A CURRENT DEALER'S LICENSE UNLESS THE APPLICANT OR DEALER HAS FILED ~~file either a COMPLETE form 15 of the division of securities or the appropriate broker-dealer A form B-D of the "National Association of Securities Dealers,"~~ securities and exchange commission.

(C) Examination LICENSE EXAM requirements

AS A CONTINUING CONDITION OF LICENSING, EVERY DEALER AND EVERY ~~Prior to licensure, the division of securities shall require an~~ applicant FOR LICENSING AS A DEALER SHALL ~~to furnish evidence TO THE DIVISION that a NATURAL PERSON WHO IS A PRINCIPAL, OFFICER, DIRECTOR, GENERAL PARTNER, OR EMPLOYEE OF THE DEALER the applicant~~ have passed an approved examination establishing knowledge of securities laws and practices. EVERY DEALER WHICH IS NOT A NATURAL PERSON SHALL NOTIFY THE DIVISION OF THE NAME AND RELATIONSHIP TO THE DEALER OF THE NATURAL PERSON WHO HAS PASSED AN APPROVED EXAMINATION ON BEHALF OF THE DEALER AND WHO WILL SERVE AS THE DESIGNATED PRINCIPAL ON BEHALF OF THE DEALER. The ~~division of securities shall consider the~~ A DEALER OR AN applicant FOR LICENSING AS A DEALER to have met this requirement, if the DEALER, applicant OR A DESIGNATED PRINCIPAL OF THE DEALER OR APPLICANT has:

(1) Achieved an A SCORE OF eighty-five per cent score OR BETTER on the "Uniform Securities Agents AGENT State Law Exam," SERIES 63 ADMINISTERED BY THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.;

(2) Been CONTINUOUSLY licensed as a ~~broker-dealer DEALER~~ of securities by the division of securities or another state pursuant to examination SINCE MAY 1, 1991, or

(3) ~~Passed a~~ ACHIEVED A PASSING SCORE ON ONE OF THE FOLLOWING securities broker-dealer or principal exam EXAMINATIONS administered by the "National Association of Securities Dealers," DEALERS, INC.; the "New York Stock Exchange," the "American Stock Exchange," or the securities and exchange commission.

(a) GENERAL SECURITIES SALES SUPERVISOR, SERIES 8,

(b) GENERAL SECURITIES PRINCIPAL, SERIES 24,

(c) INVESTMENT COMPANY AND VARIABLE CONTRACTS PRODUCTS PRINCIPAL, SERIES 26,

(d) DIRECT PARTICIPATION PROGRAMS PRINCIPAL, SERIES 39,

(e) MUNICIPAL SECURITIES PRINCIPAL, SERIES 53, OR

(f) MUNICIPAL SECURITIES FINANCIAL AND OPERATIONS PRINCIPAL, SERIES 54.

(D) Financial requirement

(1) An applicant for a dealer's license shall furnish to the division an audited financial statement, sworn by the applicant, showing a net worth CAPITAL of at least twenty-five thousand dollars. A licensed dealer shall at all times maintain a net worth CAPITAL of at least twenty-five thousand dollars.

(2) When the division determines that the net worth CAPITAL requirement REQUIREMENTS of paragraph ~~(D)~~ (E)(1) of this rule is not necessary for the protection of investors, the division may reduce the net worth CAPITAL requirement to not less than ten thousand dollars. Any reduction shall be given in writing.

(3) When an issuer makes application for a dealer's license and restricts itself to the sale of its own securities, the division may waive the net worth CAPITAL requirements in paragraph ~~(D)~~ (E)(1) of this rule if satisfied that investors will not be prejudiced by such action. The restriction on sales and the waiver shall be given in writing.

(4) A DEALER MAY MEET THE FINANCIAL REQUIREMENT OF PARAGRAPH (D)(1) OF THIS RULE IF:

(a) THE DEALER HAS EXECUTED AND FILED WITH THE DIVISION A BOND IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS, WITH A SURETY APPROVED BY THE DIVISION, EFFECTIVE FOR A PERIOD OF AT LEAST ONE YEAR, AND VALID FOR THE UPCOMING YEAR IN THE CASE OF THE RENEWAL OF A DEALER'S LICENSE. THE SURETY BOND SHALL INDEMNIFY ANY PERSON WHO MAY BE DAMAGED BY A FAILURE OF THE DEALER TO CONDUCT ITS BUSINESS IN ACCORDANCE WITH CHAPTER 1707. OF THE REVISED CODE OR RULES PROMULGATED THEREUNDER.

(b) THE DEALER, IF A SUBSIDIARY CORPORATION, HAS OBTAINED AND FILED WITH THE DIVISION A GUARANTEE OF LIABILITY BY THE CORPORATION DIRECTLY OR INDIRECTLY CONTROLLING THE VOTING COMMON STOCK INTEREST OF THE DEALER, EFFECTIVE FOR A PERIOD OF AT LEAST ONE YEAR, AND VALID FOR THE UPCOMING YEAR IN THE CASE OF THE RENEWAL OF A DEALER'S LICENSE. THE GUARANTEE SHALL INDEMNIFY ANY PERSON WHO MAY BE DAMAGED BY A FAILURE OF THE DEALER TO CONDUCT ITS BUSINESS IN ACCORDANCE WITH CHAPTER 1707. OF THE REVISED CODE OR RULES PROMULGATED THEREUNDER. ANY GUARANTOR UNDER THIS PARAGRAPH SHALL ITSELF MEET THE NET CAPITAL REQUIREMENT SET FORTH IN PARAGRAPH (E)(1) OF THIS RULE.

~~(4)~~ (5) As used in this rule, all terms shall be construed pursuant to generally accepted accounting principals PRINCIPLES (GAAP), consistently applied.

(E) Determination of net worth CAPITAL

(1) "Net worth CAPITAL" as used in this rule, shall mean the difference between total assets and total indebtedness, as determined by generally accepted accounting principles, consistently applied, and thereafter adjusted pursuant to paragraph (E)(2) of this rule.

(2) In determining the net worth CAPITAL of a dealer, adjustments to the financial statement of such A dealer shall be made in accordance with the following schedule:

(a) ~~Asset items to be disallowed. For the purpose of such determination, the~~ THE following items shall be disallowed as assets of a dealer:

(i) Furniture and fixtures,

(ii) VEHICLES, MACHINERY, AND EQUIPMENT.

(iii) REAL ESTATE NOT USED IN THE ORDINARY COURSE OF BUSINESS,

(iv) Prepaid items or expenses,

(v) Unsecured notes or accounts receivable not acquired in the ordinary course of business, and

(vi) FIXED ASSETS WHICH CANNOT BE READILY CONVERTED TO CASH, AND

(vii) Assets of doubtful or uncertain value.

(b) The following items shall be reduced or increased as the case may be:

(i) Securities owned shall be adjusted to market values. Securities having no "readily determinable value" as defined by rule 1301:6-3-01 of the Administrative Code shall be valued at zero. Securities for which the dealer is the primary market maker shall be valued at zero unless the dealer provides substantial and reliable evidence satisfactory to the division supporting another valuation.

(ii) Stock exchange seats shall be adjusted to market values.

(iii) Where the market value of the securities pledged as collateral to secure or partially secure accounts receivable is less than the amount due or shown AS secured, such accounts will THEY SHALL be reduced to the market value of the securities.

(iv) The net value of secured notes or accounts receivable not acquired in the ordinary course of business shall be reduced to the fair market value of the collateral pledged.

(v) The net value of notes or accounts receivable acquired in the ordinary course of business shall be reduced by the lesser of ten per cent of their book value or two hundred thousand dollars.

(vi) When an interest in real property is exchanged in whole or in part for an equity interest in a dealer, the value of the interest in real estate, as reflected in the financial statements of the dealer, shall be reduced (but not increased) to the value supported by appraisals made by competent, disinterested appraisers with professional designations and qualifications acceptable to the division.

(vii) Subordinated debt which is subject to a subordination agreement satisfactory to the division may be added to the net worth of a dealer.

(3) Notwithstanding paragraphs (D) and (E) of this rule, a dealer will meet the financial requirements of being licensed if:

(a) The dealer has executed and filed a bond with the division in the amount of twenty-five thousand dollars, with such surety as the division may require; or,

(b) The dealer, if a subsidiary corporation, has obtained and filed with the division a guarantee of liabilities arising from securities transactions by a corporation controlling, directly or indirectly, the voting common stock interest of the dealer. Such controlling corporation shall have a net worth of at least twenty-five thousand dollars pursuant to generally accepted accounting principles, consistently applied, as demonstrated by an unqualified audit opinion of a certified public accountant;

and subject to the adjustments in paragraph (E)(2) of this rule. Such audit opinion shall be no more than six months old when submitted to the division.

(c) Such bond or guarantee of liability shall indemnify any person who may be damaged by a failure of the dealer to conduct its business in accordance with Chapter 1707 of the Revised Code or rules promulgated thereunder. Such bond or guarantee must be executed for a period of at least one year, and must be valid for the upcoming year in the case of the renewal of a dealer's license.

(F) Records of dealer

(1) Every dealer shall keep and maintain books and records ON A CURRENT BASIS which shall be adequate to enable the division to determine at all times the financial condition of such THE dealer and to disclose fully all the transactions entered into by such THE dealer. The division may examine THE BOOKS AND RECORDS OF EACH DEALER on an annual basis, or at such times as it shall deem fit, the books and records of each dealer.

(2) Such THE BOOKS AND records OF EACH DEALER shall show with respect to each customer all securities held for safekeeping or otherwise AND ALL FREE CREDIT BALANCES in connection with the account of such customer. Free credit balances shall also appear in the account of FOR each customer. EVERY DEALER SHALL IMMEDIATELY DELIVER A RECEIPT TO THE PERSON FROM WHOM A SECURITY TO BE HELD FOR SAFEKEEPING HAS BEEN RECEIVED.

(3) When a dealer carries on his books an ANY agency account, such account CARRIED ON THE BOOKS OF A DEALER shall be designated by the word "Agent." In every such case, the dealer shall further identify such account with the "AGENT," AND SHALL BE IDENTIFIED BY THE name of the principal or. THE DEALER shall keep a separate record of the identity of the principal for whom such THE account is maintained. He THE DEALER shall also keep, subject to division inspection, written evidence of the authority for such EVERY agency account.

(4) When a EVERY dealer SHALL MAINTAIN operates any branch office in the state of Ohio, there shall be kept in an Ohio office complete records of all transactions handled through OR ATTRIBUTABLE TO ITS such Ohio office or offices: AT A LOCATION IN THIS With respect to dealers STATE. DEALERS having their principal accounting office outside the state of Ohio; MAY APPLY TO the division may waive FOR A WAIVER OF the above requirements upon the furnishing to the division of WITH an undertaking WHEREBY THE DEALER AGREES:

(a) To produce and furnish to the division, on request, the originals or photostatic TRUE copies of any part of such records as WHICH would otherwise have been REQUIRED BY THIS RULE TO BE kept in the state of Ohio, and

(b) To provide TO THE DIVISION, on request, such ANY funds as may be required for an THE examination OF THE BOOKS AND RECORDS OF THE DEALER AT A LOCATION outside the state of Ohio necessitated by the absence of books and records from Ohio.

(5) Each dealer shall keep at his place of business a signed and dated license. Each branch office shall keep a copy of its license. Such THE license or A copy, along with current renewal notice; OF THE LICENSE OF EACH DEALER shall

be readily available for public inspection AT EACH OHIO OFFICE OF THE DEALER.

(6) ALL DEALERS SHALL ESTABLISH AND KEEP CURRENT THE FOLLOWING BOOKS AND RECORDS RELATING TO ITS ACTIVITIES IN THE BUSINESS OF BUYING, SELLING, OR OTHERWISE DEALING IN SECURITIES:

(a) BLOTTERS OR OTHER RECORDS OF ORIGINAL ENTRY CONTAINING AN ITEMIZED DAILY RECORD OF ALL PURCHASES, SALES, RECEIPTS AND DELIVERIES OF SECURITIES (INCLUDING CERTIFICATE NUMBERS), ALL RECEIPTS AND DISBURSEMENTS OF CASH, AND ALL OTHER DEBITS AND CREDITS. THE RECORDS SHALL SHOW THE ACCOUNT FOR WHICH EACH TRANSACTION WAS EFFECTED, THE NAME OF THE SECURITY, THE AMOUNT OF SECURITIES, THE UNIT AND AGGREGATE PURCHASE OR SALE PRICE (IF ANY), THE TRADE OR TRANSACTION DATE, AND THE NAME AND CAPACITY OF THE PERSON FROM WHOM THE SECURITY WAS PURCHASED OR RECEIVED OR TO WHOM IT WAS SOLD OR DELIVERED.

(b) A GENERAL LEDGER OR OTHER RECORDS REFLECTING ALL ASSETS AND LIABILITIES, INCOME AND EXPENSE AND CAPITAL ACCOUNTS.

(c) LEDGER ACCOUNTS OR OTHER RECORDS ITEMIZING, BY THE NAME OF THE ACCOUNT OWNER, EACH CASH AND MARGIN ACCOUNT SHOWING ALL PURCHASES, SALES, RECEIPTS AND DELIVERIES OF SECURITIES AND COMMODITIES FOR EACH ACCOUNT, AND ALL OTHER DEBITS AND CREDITS TO EACH ACCOUNT.

(d) LEDGERS OR OTHER RECORDS REFLECTING ALL SECURITIES IN TRANSFER, DIVIDENDS AND INTEREST RECEIVED, SECURITIES BORROWED AND SECURITIES LOANED, MONIES BORROWED AND MONIES LOANED (TOGETHER WITH A RECORD OF THE COLLATERAL THEREFOR AND ANY SUBSTITUTIONS IN COLLATERAL), SECURITIES FAILED TO RECEIVE AND FAILED TO DELIVER, AND ALL LONG AND ALL SHORT STOCK RECORD DIFFERENCES ARISING FROM A QUARTERLY SECURITIES EXAMINATION, COUNT, VERIFICATION AND COMPARISON (BY DATE OF EXAMINATION, COUNT, VERIFICATION AND COMPARISON SHOWING FOR EACH SECURITY THE NUMBER OF SHARES OF LONG OR SHORT COUNT DIFFERENCES).

(e) A SECURITIES LEDGER OR OTHER RECORD REFLECTING, SEPARATELY FOR EACH SECURITY AS OF THE CLEARANCE DATES, ALL "LONG" OR "SHORT" POSITIONS (INCLUDING SECURITIES IN SAFEKEEPING) CARRIED BY THE DEALER, SHOWING THE LOCATION OF ALL SECURITIES "LONG" AND THE OFFSETTING POSITION TO ALL SECURITIES "SHORT," INCLUDING "LONG" SECURITY COUNT DIFFERENCES AND "SHORT" SECURITY COUNT DIFFERENCES CLASSIFIED BY THE DATE OF THE PHYSICAL COUNT AND VERIFICATION IN WHICH THEY WERE DISCOVERED, AND THE NAME OR DESIGNATION OF THE ACCOUNT IN WHICH EACH POSITION IS CARRIED.

(f) WRITTEN ORDER TICKETS OR A MEMORANDUM OF EACH BROKERAGE ORDER, AND OF ANY

OTHER INSTRUCTION, GIVEN OR RECEIVED FOR THE PURCHASE OR SALE OF SECURITIES, WHETHER EXECUTED OR UNEXECUTED. THE ORDER TICKET OR MEMORANDUM SHALL SHOW THE TERMS AND CONDITIONS OF THE ORDER OR INSTRUCTIONS AND OF ANY MODIFICATION OR CANCELLATION THEREOF, THE ACCOUNT FOR WHICH ENTERED, THE TIME OF ENTRY, THE PRICE AT WHICH EXECUTED AND, TO THE EXTENT FEASIBLE, THE TIME OF EXECUTION OR CANCELLATION. ORDERS ENTERED PURSUANT TO THE EXERCISE OF ANY ORDER SHALL BE SO DESIGNATED. THE TERM "INSTRUCTION" SHALL INCLUDE INSTRUCTIONS BETWEEN PARTNERS AND EMPLOYEES OF THE DEALER. THE TERM "TIME OF ENTRY" SHALL MEAN THE TIME WHEN THE DEALER TRANSMITTED THE ORDER OR INSTRUCTION FOR EXECUTION OR, IF IT WAS NOT TRANSMITTED, THE TIME WHEN IT WAS RECEIVED.

(g) A MEMORANDUM OF EACH PURCHASE AND SALE FOR THE ACCOUNT OF THE DEALER SHOWING THE PRICE AND, TO THE EXTENT FEASIBLE, THE TIME OF EXECUTION; AND, WHETHER THE PURCHASE OR SALE IS WITH A CUSTOMER OTHER THAN A BROKER OR DEALER, AND A MEMORANDUM OF EACH ORDER RECEIVED, SHOWING THE TIME OF RECEIPT, THE TERMS AND CONDITIONS OF THE ORDER, AND THE ACCOUNT IN WHICH IT WAS ENTERED.

(h) A COPY OF THE CONFIRMATION OF EVERY PURCHASE OR SALE OF SECURITIES AND A COPY OF ANY NOTICE OF ANY OTHER DEBIT OR CREDIT FOR SECURITIES, CASH AND OTHER ITEMS FOR THE ACCOUNT OF CUSTOMERS AND PARTNERS OF THE DEALER.

(i) A RECORD OF EACH CASH AND MARGIN ACCOUNT SHOWING THE NAME AND ADDRESS OF THE BENEFICIAL OWNER OF EACH ACCOUNT AND, FOR EVERY MARGIN ACCOUNT, THE SIGNATURE OF THE OWNER; PROVIDED THAT, FOR ACCOUNTS WITH MULTIPLE OWNERS ONLY THE SIGNATURES OF THE PERSONS AUTHORIZED TO TRANSACT BUSINESS FOR THE ACCOUNT NEED BE RETAINED BY THE DEALER.

(j) A RECORD OF ALL PUTS, CALLS, SPREADS, STRADDLES AND OTHER OPTIONS FOR WHICH THE DEALER HAS ANY DIRECT OR INDIRECT INTEREST (INCLUDING ANY GUARANTY INTEREST) CONTAINING, AT A MINIMUM, AN IDENTIFICATION OF THE SECURITY AND THE NUMBER OF UNITS INVOLVED.

(k) A RECORD OF THE PROOF OF MONEY BALANCES OF ALL LEDGER ACCOUNTS IN THE FORM OF TRIAL BALANCES, AND A RECORD OF THE COMPUTATION OF AGGREGATE INDEBTEDNESS AND NET CAPITAL, AS OF THE TRIAL BALANCE DATE, PROVIDED, THAT ANY MEMBER OF THE NEW YORK STOCK EXCHANGE, AMERICAN STOCK EXCHANGE, MIDWEST STOCK EXCHANGE, OR CINCINNATI STOCK EXCHANGE MAY MAKE A RECORD OF THE COMPUTATION OF AGGREGATE INDEBTEDNESS AND NET CAPITAL AS OF THE TRIAL BALANCE DATE IN ACCORDANCE WITH THE CAPITAL RULES OF AT LEAST ONE OF THE EXCHANGES OF WHICH IT IS A MEMBER. TRIAL BALANCES AND COMPUTATIONS SHALL BE PREPARED CURRENTLY AT LEAST ONCE A MONTH.

(l) FOR TRANSACTIONS IN MUNICIPAL SECURITIES BY MUNICIPAL SECURITIES BROKERS AND MUNICIPAL SECURITIES DEALERS, COMPLIANCE WITH RULE G-8 OF THE MUNICIPAL SECURITIES RULEMAKING BOARD SHALL BE ACCEPTED BY THE DIVISION AS COMPLIANCE WITH THIS PARAGRAPH (F)(6).

(m) FOR DEALERS REGISTERED AS A BROKER OR AS A DEALER WITH THE SECURITIES AND EXCHANGE COMMISSION, COMPLIANCE WITH RULE 17a-3 OF THE SECURITIES AND EXCHANGE COMMISSION SHALL BE ACCEPTED BY THE DIVISION AS COMPLIANCE WITH THIS PARAGRAPH (F)(6).

(n) A COMPLAINT FILE, MAINTAINED ON A CURRENT BASIS, CONSISTING OF ALL WRITTEN COMPLAINTS RECEIVED BY THE DEALER FOR THE PREVIOUS FOUR YEARS.

(6) (G) BRANCH OFFICES

PRIOR TO THE USE OR OPERATION OF ANY PRINCIPAL OR BRANCH OFFICE IN THIS STATE, EACH dealer shall DESIGNATE A NATURAL PERSON LICENSED AS A DEALER OR SALESMAN IN OHIO AS THE SUPERVISOR OF THAT OFFICE, maintain a record showing REPORT IN WRITING TO THE DIVISION the location of all branch offices, and SHALL MAINTAIN RECORDS IN ITS GENERAL FILES OF the personnel assigned to each BRANCH office, and the supervisor of THE DEALER'S PRINCIPAL OFFICE IN OHIO AND OF each branch office: IN OHIO. FOR THE PURPOSES OF THIS RULE, A "branch office" SHALL BE DEFINED TO INCLUDE is any office-designated LOCATION IN OHIO OTHER THAN THE DEALER'S PRINCIPAL OFFICE LOCATION IN OHIO AS RECORDED ON THE LICENSE OF THE DEALER, USED by the dealer IN THE BUSINESS OF BUYING, SELLING, OR DEALING IN SECURITIES as such and any office identified as an office by advertising, letterhead, business card, telephone directory or the like OTHERWISE.

(7) (1) Any EVERY salesman operating in the field or not in the main or any branch office shall report to a supervisor. The dealer shall maintain a record listing all such personnel and the responsible supervisor. SHALL BE ASSIGNED BY THE DEALER TO ITS PRINCIPAL OFFICE LOCATION IN OHIO OR TO A BRANCH OFFICE IN OHIO OF THE DEALER.

(8) (2) A EACH person designated by the A dealer as a supervisor OF A PRINCIPAL OR BRANCH OFFICE IN OHIO shall have the following qualifications:

(a) Have been licensed AS A SECURITIES DEALER OR SALESMAN BY OHIO OR ANY OTHER STATE for at least two years, or have met the requirements of paragraph (C) of this rule;

(b) At least fifty per cent of the person's earned income during the last twelve months shall have come from the dealer; and

(c) No AND SHALL NOT HAVE BEEN THE SUBJECT OF OR A PARTY TO A FINAL cease and desist order has been issued or ANY other FINAL ADVERSE administrative action has been taken against the person by any STATE OR FEDERAL securities agency OR SELF-REGULATORY ASSOCIATION or at least DURING THE PRECEDING five years.

(d) The requirements of paragraphs (F)(8)(a) and (F)(8)(b) of this rule may be waived annually in writing in advance by the division for good cause shown when the dealer sells a single or limited product.

(G) Securities received for safekeeping

When a dealer receives any security for safekeeping, he shall immediately deliver a receipt to the person from whom the security is received. He shall keep a record as provided in paragraph (F) of this rule of all securities so received and held by him:

(H) Investment counseling by dealers

A dealer required to be licensed under the provisions of the Ohio Securities Act shall not advise the purchase or sale of any security for a customer under any arrangement whereby such dealer will receive both a fee for acting as investment counsel and a commission or profit on the sale or purchase of such security, unless:

(1) There has been executed between such dealer and such customer a written contract, which shall not run for more than one year from the date of execution unless renewed; for furnishing of investment advice by such dealer setting forth the schedule of fees for such services;

(2) The customer is fully informed before the consummation of such purchase or sale as to the amount of commission or profit to be obtained by such dealer from such transaction; and

(3) The customer is fully informed before the consummation of such purchase or sale as to any other interest which such dealer may have in the issuer of the security, in the security, or in the distribution of the security, the purchase or sale of which is advised.

(4) (H) Financial statements AND RELATED DISCLOSURES to be filed with THE division

(1) ANNUALLY, WITHIN Within ninety days of the end of its fiscal year, every licensed dealer shall annually file FINANCIAL STATEMENTS AND RELATED DISCLOSURES REQUIRED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES statements of financial condition with the division of securities prepared in accordance with the following requirements:

(a) All annual reports THE FINANCIAL STATEMENTS AND RELATED DISCLOSURES REQUIRED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES SHALL be audited by an independent certified public accountant. The division of securities will not recognize any person as an independent certified public accountant who is not duly registered and in good public standing as such under the laws of his place of residence or principal office.

(b) All annual reports are to THE FINANCIAL STATEMENTS AND RELATED DISCLOSURES REQUIRED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES SHALL be under the oath or affirmation of the dealer attesting that, to the best knowledge and belief of the person making such THE oath or affirmation, the financial statement and supporting schedule SCHEDULES are true and correct and neither the dealer nor any partner, officer or director, as the case may be, OF THE DEALER has any proprietary interest in any account classified as that of a customer.

(c) THE FINANCIAL STATEMENTS AND RELATED DISCLOSURES SHALL BE PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, CONSISTENTLY APPLIED, AND AUDITED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING STANDARDS, AND SHALL BE ACCOMPANIED BY A CERTIFICATE OF THE INDEPENDENT PUBLIC ACCOUNTANT WHO AUDITED THE STATEMENT, WHICH CERTIFICATE SHALL:

(i) STATE THAT THE FINANCIAL STATEMENTS AND RELATED DISCLOSURES PRESENT FAIRLY, IN ALL MATERIAL RESPECTS, THE FINANCIAL POSITION OF THE DEALER;

(ii) STATE THAT THE AUDIT WAS MADE IN ACCORDANCE WITH THE APPLICABLE GENERALLY ACCEPTED AUDITING STANDARDS;

(iii) BE DATED, MANUALLY SIGNED, AND IDENTIFY THE ITEMS OF THE REPORT COVERED BY THE CERTIFICATE;

(iv) STATE WHETHER THE AUDIT OMITTED ANY OF THE MINIMUM AUDIT REQUIREMENTS OR ANY PROCEDURE DEEMED NECESSARY BY THE INDEPENDENT PUBLIC ACCOUNTANT UNDER THE CIRCUMSTANCES OF THE AUDIT;

(v) STATE CLEARLY THE UNQUALIFIED OPINION OF THE INDEPENDENT PUBLIC ACCOUNTANT WITH RESPECT TO THE ACCOUNTING PRINCIPLES AND PRACTICES REFLECTED IN THE FINANCIAL STATEMENTS AND RELATED DISCLOSURES COVERED BY THE CERTIFICATE ; AND

(vi) SPECIFICALLY IDENTIFY ANY MATTERS TO WHICH THE INDEPENDENT PUBLIC ACCOUNTANT TAKES EXCEPTION AND THE EFFECT OF EACH EXCEPTION ON THE RELATED ITEM OF THE REPORT.

(2) In lieu of the report FINANCIAL STATEMENTS AND RELATED DISCLOSURES REQUIRED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES required by paragraph (f) (H) (1)(a) of this rule, a dealer may submit to THE DIVISION a manually signed and duly verified duplicate of THE CURRENT FISCAL YEAR END REPORT REQUIRED BY 17 CFR 240.17A-5, a focus H report which he has filed with the ~~the~~ National Association of Securities Dealers, plus proof evidencing satisfaction of all the requirements of paragraph (E)(3) of this rule.

(3) The division of securities may require other or additional reports during any calendar year and may require that such THE reports be audited by an independent certified public accountant and under the oath and affirmation of the dealer.

(f) Accountant's certificate

An accountant's certificate shall accompany such report filed under paragraph (f)(1)(a) of this rule. The certificate shall:

(1) Be dated, manually signed and shall identify without detailed enumeration the items of the report covered by the certificate.

(2) Contain a reasonably comprehensive statement as to the scope of the audit made, including a statement as to whether the accountant reviewed the procedures followed for safe-

guarding the securities of customers, and any auditing procedures generally recognized as normal which have been omitted, and the reasons for their omission:

(3) State that the audit was made in accordance with generally accepted auditing standards applicable and rule 17a-5 of the securities and exchange commission:

(4) State whether the audit omitted any of the minimum audit requirements or any procedure deemed necessary by the accountant under the circumstances of the particular case:

(5) The accountant's certificate shall state clearly the opinion of the accountant with respect to the financial statement covered by the certificate and the accounting principles and practices reflected therein:

(6) Any matters to which the accountant takes exception shall be clearly identified, the exception thereto shall be specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related item of the report shall be given:

(K) (1) Notice of change of officers or directors DEALER INFORMATION

Whenever there is any change in the PRINCIPALS, PARTNERS, officers or directors of a corporation licensed as a dealer in Ohio, or whenever there are any changes address or any other material changes CHANGE from that THE INFORMATION appearing on the original application OR MOST RECENT LICENSE RENEWAL OF ANY DEALER, INCLUDING, BUT NOT LIMITED TO, THE FAILURE OF THE DEALER TO MAINTAIN ADEQUATE NET CAPITAL, THE ESTABLISHMENT OR CLOSING OF A BRANCH OFFICE, OR THE RESIGNATION OF THE DESIGNATED PRINCIPAL OF THE DEALER, THE form, such dealer shall, forthwith WITHIN THIRTY CALENDAR DAYS, notify the division in writing of such THE change, or changes, and shall keep a record of such THE change or changes at its principal place of business.

(L) (J) Notice required upon discontinuance of a salesman's employment

(1) Upon THE resignation or discharge of a salesman, the dealer employing such salesman shall, within ten THIRTY calendar days, DELIVER A WRITTEN request the division to cancel the license of such THE salesman TO THE DIVISION and shall advise REPORT THE RESIGNATION OR DISCHARGE TO THE DIVISION ON DIVISION FORM 16-B OR ON FORM U-5 OF THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC. to the division:

(a) The effective date of resignation or discharge, and

(b) Whether the services of such salesman were or were not satisfactory:

(2) Such information must be submitted on form 16-B or form U-5:

(M) Fraudulent, evasive, deceptive or grossly unfair practices or devices in the purchase or sale of securities

A failure on the part of a licensed dealer to observe any one or more of the following rules of fair practice is hereby defined, for the protection of investors, as constituting a fraudulent, evasive, deceptive and grossly unfair practice or device in the purchase or sale of securities:

~~(1) No licensed dealer shall sell or otherwise dispose of any security upon representations contrary to the statements contained in the registration by description or application for registration by qualification or in a manner contrary to the terms of any order of the division relating to such securities.~~

~~(2) Every licensed dealer shall institute reasonable procedures and adopt precautions designed to avoid the sale or other disposition of any security by a salesman employed by such dealer upon representations contrary to the statements contained in the registration by description or application for registration by qualification or in a manner contrary to the terms of any order of the division relating to such securities.~~

~~(N)~~ (K) Inactive dealers

(1) A licensed dealer, otherwise required to comply with paragraphs (A) to (M) of this rule shall be exempted from compliance with paragraphs (D), (E), (F), ~~(G)~~ and ~~(H)~~ (H) of this rule, upon the filing, on a form prescribed by the division, "Notice of Change to Inactive Status" FOR THE ESTABLISHMENT OF INACTIVE STATUS and approval thereof by the division. An inactive dealer may renew his ITS license ; in the same manner as an active dealer; NO MORE THAN three consecutive times. Thereafter, the inactive dealer must apply for a license in the same manner as is set forth in paragraph (B) of this rule.

(2) The filing of a "Notice of Change to Inactive Status" shall operate to terminate the THE employment of all salesmen employed by such A DEALER SHALL BE TERMINATED BY THE INACTIVE STATUS OF THAT dealer. A discontinuance of employment of a salesman, as required by paragraph ~~(I)~~ (J) of this rule shall be submitted with the "Notice of Change to Inactive Status." ANY APPLICATION FOR INACTIVE STATUS BY A DEALER.

(3) An inactive dealer may resume status as an active dealer upon notice to the division, and proof of compliance with the requirements of paragraphs (D), (E), (F), ~~(G)~~ and ~~(H)~~ (H) of this rule; AND THE COMPLETION OF AN EXAMINATION OF THE BOOKS AND RECORDS OF THE DEALER BY THE DIVISION.

(4) However, an NO inactive dealer may not resume THE status of an active dealer through the above procedure, if during the DEALER preceding six years he was inactive for more than THIRTY-SIX MONTHS DURING THE PRECEDING SEVENTY-TWO MONTH PERIOD three years. During inactive status, a dealer may SHALL not engage in the activities of a licensed dealer.

~~(O)~~ Good business repute defined

In determining "good business repute," as used in sections 1707.01 to 1707.45 of the Revised Code, the division shall consider whether the applicant or licensed dealer or salesman:

(1) Has engaged in any act or practice declared to be a fraud, fraudulent act, fraudulent practice or fraudulent transaction and recognized as such in courts of law or equity or by any administrative tribunal, state or federal, on or after July 22, 1929, or by the code of ethics of any associations of securities salesmen or dealers of which the applicant or licensed dealer or salesman was a member at the time of commission of the prohibited act or practice;

(2) Has been the subject of any cease and desist order or permanent or temporary injunction or consent order against the

applicant or licensee or any dealer with whom the applicant or licensee was associated in any capacity at the time such order or injunction was issued;

(3) Has been found guilty of any felony, or of any misdemeanor involving theft, deception, or moral turpitude;

(4) Has been found civilly liable for conduct constituting incompetence, gross negligence or misconduct in the sale of securities;

(5) Has been adjudicated bankrupt, where such adjudication demonstrates unsound business judgment;

(6) Has been refused membership, registration or licensing by any association of securities salesmen or dealers, any recognized securities exchange, or any state or federal agency;

(7) Has been the subject of any suspension, expulsion, revocation, censure or any other disciplinary action by any association of securities salesmen or dealers, any recognized securities exchange, or any state or federal agency;

(8) If a dealer or supervisor, has engaged in any of the following conduct or its salesmen have engaged in a continued course of conduct in any of the following conduct:

(a) Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers;

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

(c) Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the dealer;

(d) Executing a transaction on behalf of a customer without authority to do so;

(e) 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 and/or price for the execution of orders;

(f) 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;

(g) Failing to segregate customers' free securities or securities held in safekeeping;

(h) Hypothecating a customer's securities without having a lien thereon unless the dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by the rules of the securities and exchange commission;

(i) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of a security or receiving a commission in excess of that provided

for in Chapter 1707. of the Revised Code and rules promulgated thereunder;

(j) 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 include all information which would be contained in a final prospectus;

(k) 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;

(l) Offering to buy from or sell to any person any security at a stated price unless such dealer is prepared to purchase or sell at such price and under such conditions as are stated at the time of such offer to buy or sell;

(m) For any dealer who is participating or who is otherwise financially interested in the primary or secondary distribution of any security which is not admitted to trading on a national securities exchange, representing that a security is being offered to a customer "at market" or at a price relevant to the market price unless the dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by the 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 dealer;

(n) Guaranteeing a customer against loss in any securities account of such customer carried by the dealer or in any securities transaction effected by the dealer with or for such customer;

(o) Failing to make reasonably available upon request to any person expressing an interest in a solicited transaction in a security, not listed on a recognized securities exchange or quoted on an automated quotation system, a balance sheet of the issuer, a profit and loss statement of the issuer, the names of the issuer's proprietor, partners or officers, the nature of the business of the issuer and any available information reasonably necessary for evaluating the desirability or lack of desirability of investing in the securities of an issuer, which information shall not be more than fifteen months old as measured from the closing date of that accounting period;

(p) Failing to disclose that the 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, the existence of such control to such customer. 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; or

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

(9) If a salesman, has engaged in any of the following conduct:

(a) Effecting securities transactions not recorded on the regular books or records of the dealer which the salesman

represents, unless the transactions are authorized in writing by the dealer prior to execution of the transaction;

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

(c) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the dealer which the salesman represents;

(d) Dividing or otherwise splitting the salesman's commissions, profits or other compensation from the purchase or sale of securities in this state with any person not also licensed as a salesman for the same dealer, or for a dealer under direct or indirect common control;

(e) Engaging in conduct specified in paragraph (O)(8)(b), (O)(8)(c), (O)(8)(d), (O)(8)(e), (O)(8)(f) [sic], (O)(8)(j) or (O)(8)(n) of this rule.

The conduct and actions set forth in this rule are not inclusive. Engaging in other conduct such as forgery, embezzlement, non-disclosure, incomplete disclosure, misstatement of material facts, or manipulative or deceptive practices shall also be considered in determining good business repute, as shall evidence that the licensee or applicant has violated any provision of Chapter 1707. of the Revised Code, or Chapter 1301.6-3 of the Administrative Code.

A determination by the division that any of the above acts or conduct has been engaged in may constitute sufficient grounds for denial, suspension, revocation or failure to renew a license by the division. Where it appears on the face of the license application or license renewal application that the applicant has engaged in such conduct, the license or renewal shall be granted only by a majority vote of a panel consisting of the commissioner of securities, the attorney inspector of the division of securities and the supervisor of dealer licensing of the division of securities.

(P) Change of partners

All applications for transfer of a dealer's license pursuant to section 1707.18 of the Revised Code shall be filed on form 15 of the division of securities.

(Q) All dealers shall keep a complaint file consisting of all written complaints. The complaints must be kept for three years. The complaint file must be maintained on a current basis.

(R) All dealers shall make and keep current the following books and records relating to its business:

(1) Blotters (or other record of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debits and credits. Such records shall show the account for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered.

(2) Ledgers (or other records) reflecting all assets and liabilities, income and expense and capital accounts.

(3) Ledger accounts (or other records) itemizing separately

as to each cash and margin account of every customer and of the dealer and partners thereof; all purchases, sales, receipts and deliveries of securities and commodities for such account; and all other debits and credits to such account:

(4) Ledgers (or other records) reflecting the following:

(a) Securities in transfer;

(b) Dividends and interest received;

(c) Securities borrowed and securities loaned;

(d) Monies borrowed and monies loaned (together with a record of the collateral therefor and any substitutions in such collateral);

(e) Securities failed to receive and failed to deliver;

(f) All long and all short stock record differences arising from a quarterly securities examination, count, verification and comparison (by date of examination, count, verification and comparison showing for each security the number of shares of long or short count differences);

(5) A securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping) carried by the dealer for its account or for the account of its customers or partners and showing the location of all securities "long" and the offsetting position to all securities "short," including "long" security count differences and "short" security count differences classified by the date of the physical count and verification in which they were discovered, and in all cases the name or designation of the account in which each position is carried:

(6) A memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. Such memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof; the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of the dealer. The term "time of entry" shall be deemed to mean the time when the dealer transmits the order or instruction for execution or, if it is not so transmitted, the time when it is received:

(7) A memorandum of each purchase and sale for the account of such member, broker, or dealer showing the price and, to the extent feasible, the time of execution; and, in addition, where such purchase or sale is with a customer other than a broker or dealer, a memorandum of each order received, showing the time of receipt, the terms and conditions of the order, and the account in which it was entered:

(8) Copies of confirmations of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of the dealer:

(9) A record in respect of each cash and margin account with the dealer containing the name and address of the beneficial owner of such account and, in the case of a margin account, the signature of such owner, provided that, in the case of a joint account or an account of a corporation, such records

are required only in respect of the person or persons authorized to transact business for such account:

(10) A record of all puts, calls, spreads, straddles and other options in which the dealer has any direct or indirect interest or which the dealer has granted or guaranteed, containing, at least, an identification of the security and the number of units involved:

(11) A record of the proof of money balances of all ledger accounts in the form of trial balances, and a record of the computation of aggregate indebtedness and net capital, as of the trial balance date, provided, however, that any member of the "New York Stock Exchange," "American Stock Exchange," "Midwest Stock Exchange," or "Cincinnati Stock Exchange" shall make a record of the computation of aggregate indebtedness and net capital as of the trial balance date in accordance with the capital rules of at least [sic] one of the exchanges of which it is a member. Such trial balances and computations shall be prepared currently at least once a month:

(12) For purposes of transactions in municipal securities by municipal securities brokers and municipal securities dealers, compliance with rule G-8 of the municipal securities rulemaking board will be deemed to be compliance [sic] with this paragraph:

Compliance with rule 17a-3 of the securities and exchange commission shall be deemed compliance with paragraph (R) of this rule:

Prior effective dates: 9/1/87, 5/9/86, 9/8/83, 6/23/81, 8/3/78, 12/31/75

1301:6-3-16 Application for and issuance of salesman's license

(A) Prior THE DIVISION SHALL NOT ISSUE A LICENSE to licensure, an ANY applicant FOR LICENSING AS A SALESMAN shall furnish WHO HAS NOT FIRST FURNISHED evidence TO THE DIVISION that HE OR SHE the applicant has: passed an approved examination establishing knowledge of securities laws and practices:

(B) The division of securities shall consider the applicant to have met the requirements of paragraph (A) of this rule, if the applicant has:

(1) Achieved a SCORE OF seventy per cent OR BETTER score on the "Uniform Securities Agents AGENT State Law Exam," SERIES 63 AS ADMINISTERED BY THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.; or

(2) Been licensed within the last two years as a salesman of securities by the division of securities; or WITHIN THE TWO YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION; OR

(3) Passed a securities salesman or registered representative exam ACHIEVED A PASSING SCORE ON ONE OR MORE OF THE FOLLOWING EXAMINATIONS administered by the "National NATIONAL Association of Securities Dealers," the "New York Stock Exchange," the "American Stock Exchange," or the securities and exchange commission: INC.:

(a) INVESTMENT COMPANY AND VARIABLE CONTRACTS PRODUCTS REPRESENTATIVE, SERIES 6,

(b) GENERAL SECURITIES REPRESENTATIVE, SERIES 7.

(c) GENERAL SECURITIES SALES SUPERVISOR, SERIES 8.

(d) DIRECT PARTICIPATION PROGRAMS REPRESENTATIVE, SERIES 22.

(e) GENERAL SECURITIES PRINCIPAL, SERIES 24.

(f) INVESTMENT COMPANY AND VARIABLE CONTRACTS PRODUCTS PRINCIPAL, SERIES 26.

(g) FINANCIAL AND OPERATIONS PRINCIPAL, SERIES 27.

(h) DIRECT PARTICIPATION PROGRAMS PRINCIPAL, SERIES 39.

(i) MUNICIPAL SECURITIES REPRESENTATIVE, SERIES-52.

(j) MUNICIPAL SECURITIES PRINCIPAL, SERIES 53, OR

(k) MUNICIPAL SECURITIES FINANCIAL AND OPERATIONS PRINCIPAL, SERIES 54.

~~(C)~~ (B) THE DIVISION SHALL NOT ISSUE A LICENSE TO ANY APPLICANTS APPLICANT for licensure pursuant to section 1707.16 of the Revised Code LICENSING AS A SALESMAN must submit either WHO HAS NOT FIRST SUBMITTED TO THE DIVISION a FULLY COMPLETED form U-4 of the ~~National~~ NATIONAL Association of Securities Dealers' DEALERS, INC. or form 16 of the division of securities.

Prior effective dates: 9/1/87, 5/9/86, 6/23/81, 12/31/75

1301:6-3-19 Conditions of escrow DECEPTIVE PRACTICES AND GOOD BUSINESS REPUTE

(A) Conditions of escrow. Whenever the division shall require that the proceeds of sale of securities registered by qualification be held in escrow until a certain percentage of the issue has been sold, no issuer or dealer licensed to sell such securities, who purchases a portion of the issue prior to termination of the escrow requirement, shall sell such purchased securities until all of the issue has been sold or the period of effectiveness of the registration has ended:

(B) No licensed dealer or salesman shall:

(1) Engage in any pattern of unreasonable or unjustified delay in the delivery of securities purchased SOLD by a customer;

(2) Induce trading in a customer's account which is excessive in size or frequency in view of the financing FINANCIAL resources OF THE CUSTOMER or character of the account;

(3) Execute a transaction on behalf of a customer without authority to do so;

(4) Exercise any discretionary power AUTHORITY in affecting a transaction SELLING, PLEDGING, HYPOTHECATING OR PURCHASING SECURITIES for a customer's CUSTOMER account without first obtaining A MANUALLY

SIGNED, written discretionary authority AUTHORIZATION from the customer, unless the discretionary power AUTHORITY relates solely to the time or price for execution of orders;

(5) Affect a transaction in, or recommend to a customer the SELL, purchase, sale or exchange of RECOMMEND THE SALE OR PURCHASE OF any security without reasonable grounds to believe that such THE transaction or recommendation is suitable for the customer, based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known to dealer or salesman;

(6) Affect SELL, PURCHASE, EFFECT any transaction in or induce the purchase or sale of any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance DECLARED TO BE MANIPULATIVE, DECEPTIVE OR FRAUDULENT AND RECOGNIZED AS SUCH IN COURTS OF LAW OR EQUITY, OR BY ANY ADMINISTRATIVE TRIBUNAL, STATE OR FEDERAL, ON OR AFTER JULY 22, 1929, OR BY THE RULES, BY-LAWS, CODE OF ETHICS OR OTHER PUBLISHED STANDARD OF ANY SELF-REGULATORY ASSOCIATION OF SECURITIES DEALERS OR SALESMEN OF WHICH THE DEALER OR SALESMAN WAS A MEMBER AT THE TIME OF THE TRANSACTION;

(7) Share a ANY commission, DISCOUNT, OR OTHER REMUNERATION from the purchase or sale of a security with any unlicensed individual PERSON NOT LICENSED AS A DEALER OR SALESMAN BY THE DIVISION;

(8) Enter into any transaction with or for a customer at a price not reasonably related to the current market price of the security involved in the transaction;

(9) Fail to disclose, IN WRITING, to a customer PRIOR TO THE SALE OF A SECURITY that the licensed dealer or salesman CONTROLS, is controlled by, controlling or otherwise affiliated with, or IS under common control with, OR IS AFFILIATED WITH the issuer of any THAT security; before entering into any contract with or for a customer for the purchase or sale of a security;

(10) Borrow any money or securities from a customer; except OTHER THAN for obligations of dealers arising out of customary option transactions, activity in margin accounts, the maintenance of customer free credit balances, delivery failures in the ordinary course of business, loans from banks and other INSURED financial institutions, and deposits made pursuant to written subordination agreements or pursuant to securities loan agreements made to cover short positions;

(11) Upon discovery of any apparent violation of this rule which is also an apparent violation of any rule of a national securities exchange or national association of which a dealer or a salesman is a member, or of the United States securities and

Key

1. ~~Crossed out language~~ is being removed.

2. ALL CAPITALS AND UPPER CASE LANGUAGE IS NEW.

3. Underlined letters stay upper case, underlined numbers and punctuation stay as they appear.

~~exchange commission, the division may refer any such evidence of violation to the appropriate regulatory body in lieu of proceeding under this rule.~~ SELL ANY SECURITY IN VIOLATION OF 17 CFR 15C2-6;

(12) SELL OR OTHERWISE DISPOSE OF ANY SECURITY UPON REPRESENTATIONS CONTRARY TO THE STATEMENTS CONTAINED IN THE APPLICATION FOR REGISTRATION OR FOR QUALIFICATION BY EXEMPTION OR IN A MANNER CONTRARY TO THE TERMS OF ANY ORDER OF THE DIVISION RELATING TO THE SECURITIES;

(13) EXECUTE ANY TRANSACTION IN A MARGIN ACCOUNT WITHOUT FIRST SECURING FROM THE CUSTOMER A MANUALLY SIGNED, WRITTEN MARGIN AGREEMENT;

(14) SHARE DIRECTLY OR INDIRECTLY IN PROFITS OR LOSSES IN THE ACCOUNT OF ANY CUSTOMER WITHOUT THE WRITTEN AUTHORIZATION OF THE CUSTOMER AND THE DEALER WHICH THE SALESMAN REPRESENTS;

(15) RECEIVE ANY COMMISSION, DISCOUNT OR OTHER REMUNERATION IN EXCESS OF THAT PROVIDED FOR IN CHAPTER 1707. OF THE REVISED CODE;

(16) FAIL TO FURNISH TO A CUSTOMER PURCHASING SECURITIES IN AN OFFERING EITHER A FINAL PROSPECTUS OR A PRELIMINARY PROSPECTUS AND ADDITIONAL DOCUMENTS WHICH WOULD INCLUDE ALL INFORMATION REQUIRED FOR A FINAL PROSPECTUS, NO LATER THAN THE DATE OF CONFIRMATION OF THE TRANSACTION;

(17) REPRESENT TO A CUSTOMER THAT THE DEALER OR SALESMAN WILL GUARANTEE ANY PERSON AGAINST LOSSES IN ANY SECURITIES TRANSACTION;

(18) FOR SECURITIES NOT LISTED ON A RECOGNIZED SECURITIES EXCHANGE OR QUOTED ON AN AUTOMATED QUOTATION SYSTEM, FAIL TO MAKE REASONABLY AVAILABLE UPON REQUEST TO ANY PERSON FINANCIAL STATEMENTS AND RELATED DISCLOSURES OF THE ISSUER, A PROFIT AND LOSS STATEMENT OF THE ISSUER, THE NAMES OF THE ISSUER'S PROPRIETOR, PARTNERS OR OFFICERS, THE NATURE OF THE BUSINESS OF THE ISSUER AND ANY OTHER INFORMATION AVAILABLE TO THE DEALER REASONABLY NECESSARY FOR EVALUATING THE DESIRABILITY OR LACK OF DESIRABILITY OF INVESTING IN THE SECURITIES OF AN ISSUER, WHICH INFORMATION SHALL NOT BE DATED NOT MORE THAN FIFTEEN MONTHS PRIOR TO THE DATE OF DELIVERY BY THE DEALER OR SALESMAN;

(19) ESTABLISH OR MAINTAIN AN ACCOUNT CONTAINING FICTITIOUS INFORMATION IN ORDER TO EXECUTE TRANSACTIONS WHICH WOULD OTHERWISE BE PROHIBITED; OR

(20) EFFECT ANY SECURITIES TRANSACTION NOT RECORDED ON THE REGULAR BOOKS OR RECORDS OF THE DEALER WHICH THE SALESMAN REPRESENTS, UNLESS THE TRANSACTION IS AUTHORIZED IN WRITING BY THE DEALER PRIOR TO EXECUTION OF THE TRANSACTION.

(B) NO DEALER SHALL:

(1) FAIL TO INSTITUTE REASONABLE PROCEDURES AND TO ADOPT REASONABLE PRECAUTIONS DESIGNED TO AVOID THE SALE OR OTHER DISPOSITION OF ANY SECURITY BY A SALESMAN EMPLOYED BY THE DEALER UPON REPRESENTATIONS CONTRARY TO THE STATEMENTS CONTAINED IN THE REGISTRATION BY DESCRIPTION OR APPLICATION FOR REGISTRATION BY QUALIFICATION OR IN A MANNER CONTRARY TO THE TERMS OF ANY ORDER OF THE DIVISION RELATING TO THE SECURITIES;

(2) FAIL TO SEGREGATE CUSTOMER'S FREE SECURITIES OR SECURITIES HELD FOR SAFEKEEPING;

(3) HYPOTHECATE A CUSTOMER'S SECURITIES WITHOUT HAVING A LIEN THEREON UNLESS THE DEALER FIRST SECURES FROM THE CUSTOMER A MANUALLY SIGNED, WRITTEN CONSENT, EXCEPT AS PERMITTED BY THE RULES OF THE SECURITIES AND EXCHANGE COMMISSION;

(4) CHARGE 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 OR OTHER SERVICES RELATED TO ITS SECURITIES BUSINESS;

(5) OFFER TO BUY FROM OR SELL TO ANY PERSON ANY SECURITY AT A STATED PRICE UNLESS THE DEALER IS PREPARED TO PURCHASE OR SELL AT THE PRICE AND UNDER THE CONDITIONS STATED AT THE TIME OF THE OFFER TO BUY OR SELL;

(6) WHEN PARTICIPATING OR OTHERWISE FINANCIALLY INTERESTED IN THE PRIMARY OR SECONDARY DISTRIBUTION OF ANY SECURITY WHICH IS NOT ADMITTED TO TRADING ON A NATIONAL SECURITIES EXCHANGE, REPRESENT THAT A SECURITY IS BEING OFFERED TO A CUSTOMER "AT MARKET" OR AT A PRICE REASONABLY RELATED TO THE MARKET PRICE UNLESS THE DEALER KNOWS OR HAS REASONABLE GROUNDS TO BELIEVE THAT A MARKET FOR THE SECURITY EXISTS OTHER THAN THAT MADE, CREATED OR CONTROLLED BY THE DEALER, OR BY ANY PERSON FOR WHOM HE IS ACTING OR WITH WHOM HE IS ASSOCIATED IN THE DISTRIBUTION, OR ANY PERSON CONTROLLED BY, CONTROLLING OR UNDER COMMON CONTROL WITH THE DEALER;

(7) REQUIRE ANY PERSON TO PURCHASE ANY SECURITY AS A CONDITION OF EMPLOYMENT;

(8) FAIL TO MAKE A BONA FIDE PUBLIC OFFERING OF ALL OF THE SECURITIES ALLOTTED TO THE DEALER FOR DISTRIBUTION, WHETHER ACQUIRED AS AN UNDERWRITER, A SELLING GROUP MEMBER, OR FROM A MEMBER PARTICIPATING IN THE DISTRIBUTION AS AN UNDERWRITER OR SELLING GROUP MEMBER;

(9) FAIL TO REASONABLY SUPERVISE SALESMEN OR OTHER PERSONS ASSOCIATED WITH THE DEALER

OR TO ESTABLISH REASONABLE PROCEDURES DESIGNED TO AVOID VIOLATIONS OF CHAPTER 1707. OF THE REVISED CODE OR OF CHAPTER 1301:6-3 OF THE ADMINISTRATIVE CODE BY SALESMEN OR OTHER PERSONS ASSOCIATED WITH THE DEALER;

(10) REQUIRE ANY SECURITIES CUSTOMER, BY AGREEMENT OR OTHERWISE, TO LITIGATE, ARBITRATE, OR MEDIATE ANY MATTER ARISING OUT OF A SALE OF SECURITIES IN THIS STATE AT A LOCATION OUTSIDE OHIO UNLESS THE DEALER HAS CLEARLY DISCLOSED THE EXISTENCE OF ANY REQUIREMENT TO LITIGATE, ARBITRATE, OR MEDIATE OUTSIDE OHIO PRIOR TO THE SALE OF SECURITIES GIVING RISE TO THE DISPUTE TO BE LITIGATED, ARBITRATED, OR MEDIATED; or

(11) ADVISE THE PURCHASE OR SALE OF ANY SECURITY FOR A CUSTOMER UNDER ANY ARRANGEMENT WHEREBY THE DEALER WILL RECEIVE ANY COMMISSION, PROFIT, DISCOUNT, OR OTHER REMUNERATION FOR ACTING AS AN INVESTMENT COUNSELLOR OR ADVISOR, IN ADDITION TO ANY COMMISSION, PROFIT, DISCOUNT OR OTHER REMUNERATION FROM THE SALE OR PURCHASE OF THAT SECURITY, UNLESS:

(a) THE DEALER AND THE CUSTOMER HAVE EACH SIGNED A WRITTEN CONTRACT FOR FURNISHING INVESTMENT ADVICE BY THE DEALER WHICH SETS FORTH THE FEES FOR INVESTMENT ADVISORY SERVICES, AND

(b) THE CUSTOMER HAS BEEN FULLY INFORMED OF THE AMOUNT AND SOURCES OF ANY COMMISSION, PROFIT, DISCOUNT OR OTHER REMUNERATION TO BE RECEIVED BY THE DEALER FROM ANY TRANSACTION WHERE THE DEALER WILL BE COMPENSATED FOR SERVICES AS BOTH AN INVESTMENT COUNSELLOR OR ADVISOR AND FOR THE SALE OR PURCHASE OF ANY SECURITY.

(C) ~~No licensed dealer shall require any person to purchase any security as a condition of employment.~~ FOR THE PROTECTION OF INVESTORS, THE CONDUCT DESCRIBED IN PARAGRAPHS (A)(1) THROUGH (A)(20) AND (B)(1) THROUGH (B)(11) OF THIS RULE SHALL BE DEFINED AS DECEPTIVE PRACTICES OR DEVICES IN THE PURCHASE OR SALE OF SECURITIES, AS THAT TERM IS EMPLOYED IN SECTION 1707.19 OF THE REVISED CODE.

(D) IN DETERMINING "GOOD BUSINESS REPUTE," AS THAT TERM USED IN SECTIONS 1707.15, 1707.16 AND 1707.19 OF THE REVISED CODE, THE DIVISION SHALL CONSIDER WHETHER THE APPLICANT, DEALER OR SALESMAN:

(1) HAS ENGAGED IN ANY ACT OR PRACTICE DECLARED TO BE A FRAUD, FRAUDULENT ACT, FRAUDULENT PRACTICE OR FRAUDULENT TRANSACTION AND RECOGNIZED AS SUCH IN COURTS OF LAW OR EQUITY OR BY ANY ADMINISTRATIVE TRIBUNAL, STATE OR FEDERAL, ON OR AFTER JULY 22, 1929, OR BY THE CODE OF ETHICS OF ANY ASSOCIATION OF SECURITIES SALESMEN OR DEALERS OF WHICH THE APPLICANT, DEALER OR SALESMAN WAS A MEMBER AT THE TIME OF COMMISSION OF THE PROHIBITED ACT OR PRACTICE;

(2) HAS BEEN THE SUBJECT OF ANY CEASE AND DESIST ORDER, PERMANENT OR TEMPORARY INJUNCTION, OR CONSENT ORDER AGAINST THE APPLICANT, DEALER, OR SALESMAN, OR ANY DEALER WITH WHOM THE APPLICANT, DEALER, OR SALESMAN WAS ASSOCIATED IN ANY CAPACITY AT THE TIME THE ORDER OR INJUNCTION WAS ISSUED;

(3) HAS BEEN FOUND GUILTY OF ANY FELONY, OR OF ANY MISDEMEANOR INVOLVING THEFT, DECEPTION, OR MORAL TURPITUDE;

(4) HAS BEEN FOUND LIABLE FOR CONDUCT CONSTITUTING INCOMPETENCE, MISCONDUCT OR GROSS NEGLIGENCE IN THE SALE OF SECURITIES;

(5) OR A FIRM OVER WHICH THE APPLICANT, DEALER, OR SALESMAN HAS EXERCISED MANAGEMENT OR POLICY CONTROL OR HAS OWNED TEN PERCENT OR MORE OF THE SECURITIES HAS FAILED IN BUSINESS, MADE A COMPROMISE WITH CREDITORS, FILED A BANKRUPTCY PETITION, OR BEEN DECLARED BANKRUPT;

(6) HAS BEEN REFUSED MEMBERSHIP, REGISTRATION OR LICENSING BY ANY PROFESSIONAL ASSOCIATION GRANTED DISCIPLINARY OR REGULATORY AUTHORITY BY STATE OR FEDERAL LAW, ANY ASSOCIATION OF SECURITIES SALESMEN OR DEALERS, ANY RECOGNIZED SECURITIES EXCHANGE, OR ANY STATE OR FEDERAL AGENCY;

(7) HAS BEEN THE SUBJECT OF ANY SUSPENSION, EXPULSION, REVOCATION, CENSURE OR ANY OTHER DISCIPLINARY ACTION BY ANY PROFESSIONAL ASSOCIATION GRANTED DISCIPLINARY OR REGULATORY AUTHORITY BY STATE OR FEDERAL LAW, ANY ASSOCIATION OF SECURITIES SALESMEN OR DEALERS, ANY RECOGNIZED SECURITIES EXCHANGE, OR ANY STATE OR FEDERAL AGENCY;

(8) HAS VIOLATED ANY PROVISION OF PARAGRAPH (A) OR (B) OF THIS RULE;

(9) HAS ENGAGED IN ANY CONDUCT WHICH WOULD REFLECT ON THE REPUTATION FOR HONESTY, INTEGRITY, AND COMPETENCE IN BUSINESS AND PERSONAL DEALINGS OF THE APPLICANT, DEALER, OR SALESMAN INCLUDING, BUT NOT LIMITED TO, FORGERY, EMBEZZLEMENT, NON-DISCLOSURE, INCOMPLETE DISCLOSURE, MISSTATEMENT OF MATERIAL FACTS, AND MANIPULATIVE OR DECEPTIVE PRACTICES; OR

(10) HAS ESTABLISHED A REPUTATION FOR HONESTY, INTEGRITY, AND COMPETENCE IN BUSINESS AND PERSONAL DEALINGS.

Prior effective dates: 4/1/83, 8/3/78

1301:6-3-23 Enforcement powers

(A) Hearings conducted by the division of securities pursuant solely to section 1707.23 of the Revised Code shall be investigative in nature with attendance restricted by the division to those persons whose presence is necessary for the efficient conduct of the hearing; AND ~~Such investigative hearings shall be conducted by an attorney of DESIGNATED~~

BY the division of securities WHO IS admitted to the practice of law in OHIO this state.

(B) ~~A transcript of every investigative hearing shall be prepared by the~~ THE DIVISION MAY, IN ITS SOLE DISCRETION, PREPARE A TRANSCRIPT OF ANY INVESTIGATIVE HEARING at its expense. A copy of ~~the ANY~~ transcript PREPARED AT THE EXPENSE OF THE DIVISION shall be furnished to the witness AT THE EXPENSE OF THE WITNESS upon WRITTEN request ~~at the expense of the witness~~. No photographic recording or transceiving devices ~~except those used by the reporter designated by~~ ACCEPTABLE to the division; shall be permitted at investigative hearings.

(C) Every witness in an investigative hearing shall be afforded an opportunity to make a statement ~~for the official record of the hearing~~. The witness shall be advised of the right to secure legal counsel and to have counsel present during questioning.

(D) The rules of evidence applicable in judicial proceedings shall apply to investigative hearings by the division so far as practicable, taking into consideration the INVESTIGATIVE AND administrative character of such hearings and the powers of investigation of the division.

(E) No rule or adjudication of the division shall result from an investigative hearing unless an opportunity for a hearing is afforded in accordance with sections 119.01 to 119.13 of the Revised Code.

(F) For the purposes of division (C) of section 1707.23 of the Revised Code, "party" or "parties" to an investigative hearing are those persons required by the division to testify at the hearing.

Prior effective dates: 2/22/80, 12/31/75

1301:6-3-391 Retroactive exemption, qualification or registration.

(A) An application may be made, pursuant to section 1707.391 of the Revised Code; to exempt, qualify or register securities when the only deficiency is a failure to timely FILE or A FAILURE TO properly file WITH THE DIVISION THE APPROPRIATE FORM due to excusable neglect and the issuer is not otherwise in violation of section 1707.13 of the Revised Code.

(1) FOR THE PURPOSES OF THIS RULE, ~~"Failure to timely file"~~ "FAILURE to timely file" means the failure to file an application to exempt, qualify or register securities within the time required by the applicable SECTION OF THE OHIO SECURITIES ACT OR THE RULES ADOPTED THEREUNDER statute.

(2) FOR THE PURPOSES OF THIS RULE, ~~"Failure to properly file"~~ "FAILURE to properly file" means the filing of an application to exempt, qualify or register securities which was not proper because the application was incomplete, because there was a clerical error made in completing the application, because an error was made regarding the facts underlying the application, or because the application was made on the wrong form.

(3) FOR THE PURPOSES OF THIS RULE, ~~"Date of sale,"~~ "DATE of sale," for purposes of this rule, shall be the earlier of the date that a subscription agreement or its equivalent is

signed by the purchaser or the DATE THAT THE purchaser transfers or loses control of the purchase funds; OR THE DATE OF DISBURSEMENT OF FUNDS ATTRIBUTABLE TO A PURCHASER FROM AN ESCROW ACCOUNT SPECIFICALLY APPROVED BY THE DIVISION OR ESTABLISHED IN ACCORDANCE WITH THE ADMINISTRATIVE RULES OF THE DIVISION.

~~(B) Excusable neglect shall be presumed:~~

~~(1) For securities sold in reliance upon division (O) of section 1707.03 of the Revised Code, if application is made within one year of the earliest date of sale of the securities sought to be exempted, or, if all sales were made to immediate family members, if application is made within three years of the earliest date of sale of the securities sought to be exempted: "Immediate family members" shall include a group of persons, each of whom are not more distantly related to any other member than spouse, father, mother, grandfather, grandmother, brother, sister, son, daughter, brother-in-law, or sister-in-law.~~

~~(2) For securities sold in reliance upon division (Q) of section 1707.03 of the Revised Code, if application is made within six months of the earliest date of sale of the securities sought to be exempted:~~

~~(3) For securities sold in reliance upon division (W) of section 1707.03 of the Revised Code, if application is made within six months of the earliest date of sale of the securities sought to be exempted:~~

~~(4) For securities sold in reliance upon section 1707.08 of the Revised Code, if application is made within six months of the earliest date of sale of the securities sought to be qualified:~~

~~(5) For securities sold of a previously registered investment company which meets the terms of paragraphs (G) and (H) of rule 1301:6-3-09 of the Administrative Code, if application is made within six months of the date the previous registration terminated:~~

~~(6) Excusable neglect shall not be presumed if the issuer and its affiliates or counsel have failed to timely or properly file an application to exempt, qualify or register securities more than two times within the preceding one-year period. This provision may be waived by the division for good cause shown:~~

(B) FOR THE PURPOSES OF SECTION 1707.391 OF THE REVISED CODE, "EXCUSABLE NEGLIGENCE" SHALL INCLUDE, BUT NOT BE LIMITED TO:

(1) THE FAILURE TO FILE A FORM 3-O WITH THE DIVISION WITHIN ONE YEAR OF THE EARLIEST DATE OF SALE OF SECURITIES FOR WHICH EXEMPTION IN RELIANCE ON DIVISION (O) OF SECTION 1707.03 OF THE REVISED CODE IS SOUGHT;

(2) THE FAILURE TO FILE A FORM 3-O WITH THE DIVISION WITHIN THREE YEARS OF THE EARLIEST DATE OF SALE OF SECURITIES FOR WHICH EXEMPTION IN RELIANCE ON DIVISION (O) OF SECTION 1707.03 OF THE REVISED CODE IS SOUGHT IF SALES WERE MADE ONLY TO SPOUSES, PARENTS, CHILDREN, SIBLINGS, OR GRANDPARENTS OF THE ISSUER OR THE ISSUER'S SPOUSE;

(3) THE FAILURE TO FILE A FORM 3-Q WITH THE DIVISION WITHIN SIX MONTHS OF THE EARLIEST

DATE OF SALE OF SECURITIES FOR WHICH EXEMPTION IN RELIANCE ON DIVISION (O) OF SECTION 1707.03 OF THE REVISED CODE IS SOUGHT;

(4) THE FAILURE TO FILE A FORM 3-W WITH THE DIVISION WITHIN SIX MONTHS OF THE EARLIEST DATE OF SALE OF SECURITIES FOR WHICH EXEMPTION IN RELIANCE ON DIVISION (W) OF SECTION 1707.03 OF THE REVISED CODE IS SOUGHT;

(5) THE FAILURE TO FILE A FORM 6 WITH THE DIVISION WITHIN ONE MONTH OF THE EARLIEST DATE OF SALE OF SECURITIES FOR WHICH REGISTRATION BY DESCRIPTION IN RELIANCE ON SECTION 1707.08 OF THE REVISED CODE IS SOUGHT;

(6) THE FAILURE OF AN INVESTMENT COMPANY TO FILE AN APPLICATION FOR THE REGISTRATION OF SECURITIES WITHIN SIX MONTHS OF THE EARLIEST DATE OF THE SALE OF UNREGISTERED SECURITIES WHICH HAD, WITHIN SIX MONTHS OF THE EARLIEST DATE OF SALE OF THE UNREGISTERED SECURITIES, BEEN PREVIOUSLY REGISTERED WITH THE DIVISION ; OR

(7) THE FAILURE OF AN INVESTMENT COMPANY TO FILE AN APPLICATION FOR THE REGISTRATION OF A SUFFICIENT NUMBER OF SECURITIES WITHIN SIX MONTHS OF THE EARLIEST DATE OF THE SALE OF THE UNREGISTERED SECURITIES WHEN AN INVESTMENT COMPANY HAS OVERSOLD THE NUMBER OR AMOUNT OF SECURITIES REGISTERED WITH THE DIVISION.

(C) FOR THE PURPOSES OF SECTION 1707.391 OF THE REVISED CODE, "EXCUSABLE NEGLIGENCE" SHALL NOT INCLUDE: ANY FAILURE TO TIMELY OR PROPERLY FILE AN APPLICATION TO EXEMPT, QUALIFY, OR REGISTER SECURITIES BY AN ISSUER WHO HAS ITSELF OR TOGETHER WITH ITS AFFILIATES FILED MORE THAN TWO APPLICATIONS FOR RETROACTIVE EXEMPTION, QUALIFICATION, OR REGISTRATION WITHIN TWELVE MONTHS OF THE DATE OF THE FILING OF THE FORM 391 UNDER CONSIDERATION UNLESS THE ISSUER ESTABLISHES IN WRITING TO THE DIVISION THAT THERE IS GOOD CAUSE TO INCLUDE THE FAILURE TO TIMELY OR PROPERLY FILE WITHIN EXCUSABLE NEGLIGENCE.

(D) An application to exempt, qualify or register securities pursuant to section 1707.391 of the Revised Code shall include:

(1) A form 391 cover page attached to the properly completed appropriate form (e.g., form 3(O), form U-1, etc.) which should have been timely or properly filed;

(2) All exhibits required by the form 391 and the appropriate form which should have been filed;

(3) A sworn statement from the issuer or its legal counsel in a form acceptable to the division stating THAT no purchaser or offeree of the securities was prejudiced by the failure to timely or properly file; and

(4) A sworn statement from the issuer or its legal counsel stating:

(a) The reason for the failure to timely or properly file;

(b) The number of times the issuer or an affiliate has filed a form 391 during the preceding twelve months; and:

(c) If filed by counsel, to the best knowledge of counsel, listing the form 391s filed by the law firm 391 during the preceding twelve months;

(E) For purposes of section 1707.391 of the Revised Code, the division shall give THE notice to the AN applicant of the denial of an application BASED ON A FINDING OF LACK OF EXCUSABLE NEGLIGENCE REQUIRED BY SECTION 1707.391 OF THE REVISED CODE MAY BE DELIVERED BY THE DIVISION by any reasonable means, including but not limited to telephone, telegram, transmission by any form of PUBLIC OR PRIVATE mail, oral communication, in person, or other electronic means. The notice shall include A BRIEF STATEMENT OF the reason OR REASONS for THE DIVISION'S DETERMINATION OF A LACK OF EXCUSABLE NEGLIGENCE denial.

If the division does not deny the application before the expiration of fourteen days after the date of filing in question, the application shall become automatically effective.

Prior effective dates: 8/5/85