

UNIFORM SECURITIES ACT (2002) (EXCERPT)
Act 551 of 2008

***** 451.2411.new THIS NEW SECTION IS EFFECTIVE OCTOBER 1, 2009 *****

451.2411.new Financial requirements; reports; records; audits or inspections; custody and discretionary authority bond or insurance; furnishing information to clients; continuing education.

Sec. 411. (1) Subject to section 15(h) of the securities act of 1934, 15 USC 78o, or section 222 of the investment advisers act of 1940, 15 USC 80b-18a, a rule or order under this act may establish minimum financial requirements for broker-dealers registered or required to be registered under this act and investment advisers registered or required to be registered under this act.

(2) Subject to section 15(h) of the securities exchange act of 1934, 15 USC 78o, or section 222(b) of the investment advisers act of 1940, 15 USC 80b-18a, a broker-dealer registered or required to be registered under this act and an investment adviser registered or required to be registered under this act shall file financial reports required by rule or order under this act. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file a correcting amendment.

(3) Subject to section 15(h) of the securities exchange act of 1934, 15 USC 78o, or section 222 of the investment advisers act of 1940, 15 USC 80b-18a, a broker-dealer registered or required to be registered under this act and an investment adviser registered or required to be registered under this act shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule or order of the administrator. The records required to be maintained under this subsection shall be maintained as follows:

(a) Broker-dealer records may be maintained in any form of data storage acceptable under section 17(a) of the securities exchange act of 1934, 15 USC 78q, if they are readily accessible to the administrator.

(b) Investment adviser records may be maintained in any form of data storage required by rule or order under this act.

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

(5) Subject to section 15(h) of the securities exchange act of 1934, 15 USC 78o, or section 222 of the investment advisers act of 1940, 15 USC 80b-18a, a rule or order under this act may require a broker-dealer and investment adviser that has custody of or discretionary authority over funds or securities of a client to obtain insurance or post a bond or other satisfactory form of security in an amount established by the administrator by rule or order. The administrator may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security shall not be required of a broker-dealer registered under this act whose net capital exceeds, or of an investment adviser registered under this act whose minimum financial requirements exceed, the amounts required by rule or order under this act. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if commenced within the time limitations in section 509(10)(b).

(6) Subject to section 15(h) of the securities exchange act of 1934, 15 USC 78o, or section 222 of the investment advisers act of 1940, 15 USC 80b-18a, an agent shall not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser representative shall not have custody of funds or securities of a client except under the supervision of an investment adviser or federal covered investment adviser. A rule or order under this act may prohibit, limit, or impose conditions on the custody of funds or securities of a customer by a broker-dealer and on the custody of securities or funds of a client by an investment adviser.

(7) With respect to an investment adviser registered or required to be registered under this act, a rule or order under this act may require that information or other record be furnished or disseminated to clients or prospective clients in this state as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

(8) A rule or order under this act may require an individual registered under section 402 or 404 to participate in a continuing education program approved by the securities and exchange commission and administered by a self-regulatory organization or, in the absence of such a program, a rule or order under this act may require continuing education for an individual registered under section 404.

History: 2008, Act 551, Eff. Oct. 1, 2009.