

§16411. Postlicensing requirements

1. Financial requirements. A rule adopted or order issued under this chapter may establish minimum financial requirements for broker-dealers licensed or required to be licensed under this chapter and investment advisers licensed or required to be licensed under this chapter. If a licensed broker-dealer or investment adviser believes, or has reasonable cause to believe, that any requirement imposed under this subsection is not being met, the licensed broker-dealer or investment adviser shall promptly notify the administrator of its current financial condition.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

2. Financial reports. A broker-dealer licensed or required to be licensed under this chapter and an investment adviser licensed or required to be licensed under this chapter shall file such financial and other reports as are required by rule adopted or order issued under this chapter. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the licensee shall promptly file a correcting amendment.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

3. Record keeping. Record-keeping requirements are as follows:

A. A broker-dealer licensed or required to be licensed under this chapter and an investment adviser licensed or required to be licensed under this chapter shall make and maintain those accounts, correspondence, memoranda, papers, books and other records that are:

(1) Required by rule adopted or order issued under this chapter; or

(2) If no rule or order as set forth in subparagraph (1) has been adopted under this chapter, in compliance with the record-keeping requirements of the federal Securities Exchange Act of 1934 in the case of a broker-dealer or the federal Investment Advisers Act of 1940 in the case of an investment adviser; [PL 2005, c. 65, Pt. A, §2 (NEW).]

B. Broker-dealer records required to be maintained under paragraph A may be maintained in computer or microform format or any other form of data storage, provided that the records are readily accessible to the administrator; [PL 2005, c. 65, Pt. A, §2 (NEW).]

C. Investment adviser records required to be maintained under paragraph A may be maintained in any form of data storage required by rule adopted or order issued under this chapter; and [PL 2005, c. 65, Pt. A, §2 (NEW).]

D. Records required to be maintained under this section must be preserved for 6 years unless the administrator, by rule, specifies either a longer or shorter period for a particular type or class of records. [PL 2005, c. 65, Pt. A, §2 (NEW).]

[PL 2005, c. 65, Pt. A, §2 (NEW).]

4. Audits or inspections. The records of a broker-dealer licensed or required to be licensed under this chapter and of an investment adviser licensed or required to be licensed under this chapter are subject to such periodic, special or other audits or inspections by a representative of the administrator, within or without this State, as the administrator considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The administrator may copy, require the licensee to copy and remove for audit or inspection copies of all records the administrator reasonably considers necessary or appropriate to conduct the audit or inspection. Broker-dealers, agents, investment advisers and investment adviser representatives shall make their records available to the administrator in a readable form. The administrator may assess a reasonable charge for conducting an audit or inspection under this subsection.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

5. Custody and discretionary authority bond or insurance. A rule adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary

authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security. The administrator may determine the requirements of the insurance, bond or other satisfactory form of security. The insurance, bond or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond or other satisfactory form of security if instituted within the time limitations in section 16509, subsection 10, paragraph B.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

6. Requirements for custody. Subject to Section 15(h) of the federal Securities Exchange Act of 1934, 15 United States Code, Section 78o(h) or Section 222 of the federal Investment Advisers Act of 1940, 15 United States Code, Section 80b-18a, an agent may not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser representative may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this chapter may prohibit, limit or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

[PL 2023, c. 503, §4 (AMD).]

7. Investment adviser brochure rule. With respect to an investment adviser licensed or required to be licensed under this chapter, a rule adopted or order issued under this chapter 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.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

8. Continuing education. A rule adopted or order issued under this chapter may require an individual licensed under section 16402 or 16404 to participate in a continuing education program approved by the Securities and Exchange Commission and administered by a self-regulatory organization or another continuing education program approved by the administrator.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

9. Privacy provisions. A broker-dealer licensed or required to be licensed under this chapter and an investment adviser licensed or required to be licensed under this chapter shall comply with the privacy provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the implementing Regulation S-P: Privacy of Consumer Financial Information and Safeguarding Personal Information, 17 Code of Federal Regulations, Part 248, Subpart A (2001) adopted by the Securities and Exchange Commission. This subsection is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24.

[PL 2023, c. 503, §5 (AMD).]

10. Rulemaking. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 65, §A2 (NEW). PL 2023, c. 503, §§4, 5 (AMD).

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