
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 1415 Session of
1990

INTRODUCED BY HOLL, JANUARY 22, 1990

AS REPORTED FROM COMMITTEE ON BUSINESS AND COMMERCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 25, 1990

AN ACT

1 Amending the act of December 5, 1972 (P.L.1280, No.284),
2 entitled "An act relating to securities; prohibiting
3 fraudulent practices in relation thereto; requiring the
4 registration of broker-dealers, agents, investment advisers,
5 and securities; and making uniform the law with reference
6 thereto," adding a definition of "associated person"; and
7 further providing for registration requirements and
8 procedure, for suspension and revocation of registration, for
9 civil liability, for criminal penalties and for fees.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 102 of the act of December 5, 1972
13 (P.L.1280, No.284), known as the Pennsylvania Securities Act of
14 1972, is amended by adding a definition to read:

15 Section 102. Definitions.--When used in this act, the
16 following definitions shall be applicable, unless the context
17 otherwise requires:

18 * * *

19 (c.1) "Associated person" means any partner, officer or
20 director of (or person occupying a similar status or performing

1 similar functions), or other individuals employed by or
2 associated with, an investment adviser, except clerical or
3 ~~administrative~~ ADMINISTRATIVE personnel, who:

<—

4 (i) Makes any recommendations or otherwise renders advice
5 regarding securities directly to advisory clients;

6 (ii) Manages accounts or portfolios of clients;

7 (iii) Determines which recommendation or advice regarding
8 securities should be given, including:

<—

9 (A) ~~a person who~~ IF THAT PERSON is a member of the
10 investment adviser's investment committee that determines
11 general investment advice to be given to clients or,

<—

12 (B) if the investment adviser has no investment committee,
13 the person or persons who determine general client investment
14 advice providing that, if there are more than five such persons
15 who determine general investment advice, only the supervisors of
16 such persons are deemed to be investment adviser representatives
17 ASSOCIATED PERSONS solely by virtue of this paragraph; or

<—

<—

18 (iv) Immediately supervises employes in the performance of
19 any of the foregoing.

20 * * *

21 SECTION 2. SECTIONS 202(G), 203(D), (I), (N) AND (O), 205(C)
22 AND 207(L), AMENDED MAY 9, 1984 (P.L.235, NO.52), ARE AMENDED TO
23 READ:

<—

24 SECTION 202. EXEMPT SECURITIES.--THE FOLLOWING SECURITIES
25 ARE EXEMPTED FROM SECTION 201:

26 * * *

27 (G) ANY INVESTMENT CONTRACT ISSUED IN CONNECTION WITH AN
28 EMPLOYEE'S STOCK OPTION, PURCHASE, SAVINGS, PENSION, PROFIT-
29 SHARING OR SIMILAR BENEFIT PLAN, PROVIDED, IN THE CASE OF PLANS
30 ADOPTED AFTER THE EFFECTIVE DATE HEREOF WHICH ARE NOT QUALIFIED

1 UNDER SECTION 401 OF THE INTERNAL REVENUE CODE OF 1954 AND WHICH
2 PROVIDE FOR CONTRIBUTION BY EMPLOYES, THE COMMISSION (I) IS
3 NOTIFIED IN WRITING FIFTEEN DAYS BEFORE THE COMMENCEMENT OF THE
4 OFFERING IN THIS STATE; AND (II) THE FILING FEE SPECIFIED IN
5 SECTION [602(B)(VII)] 602(B.1) IS PAID.

6 * * *

7 SECTION 203. EXEMPT TRANSACTIONS.--THE FOLLOWING
8 TRANSACTIONS ARE EXEMPTED FROM SECTION 201:

9 * * *

10 (D) ANY SALES BY AN ISSUER TO NOT MORE THAN TWENTY-FIVE
11 PERSONS IN THIS STATE DURING A PERIOD OF TWELVE CONSECUTIVE
12 MONTHS IF (I) THE ISSUER SHALL OBTAIN THE WRITTEN AGREEMENT OF
13 EACH SUCH PERSON NOT TO SELL THE SECURITY WITHIN TWELVE MONTHS
14 AFTER THE DATE OF PURCHASE; (II) NO PUBLIC MEDIA ADVERTISEMENT
15 IS USED OR MASS MAILING MADE IN CONNECTION WITH SOLICITING SUCH
16 SALES; (III) NO CASH OR SECURITIES IS GIVEN OR PAID, DIRECTLY OR
17 INDIRECTLY, TO ANY PROMOTER AS COMPENSATION IN CONNECTION
18 THEREWITH UNLESS SUCH COMPENSATION IS GIVEN OR PAID IN
19 CONNECTION WITH A SALE MADE BY A BROKER-DEALER REGISTERED
20 PURSUANT TO SECTION 301 AND ANY PERSON RECEIVING SUCH
21 COMPENSATION IS EITHER SUCH BROKER-DEALER OR AN AGENT REGISTERED
22 PURSUANT TO SECTION 301 OF SUCH BROKER-DEALER; AND (IV) THE
23 FILING FEE SPECIFIED IN SECTION [602(B)(VIII)] 602(B.1) IS PAID.
24 PURCHASERS OF SECURITIES REGISTERED UNDER THIS ACT OR SOLD IN
25 RELIANCE UPON AN EXEMPTION UNDER THIS ACT OTHER THAN THIS
26 SUBSECTION (D) OR SUBSECTION (F) SHALL NOT BE INCLUDED IN
27 COMPUTING THE TWENTY-FIVE PERSONS FOR PURPOSES OF THIS
28 EXEMPTION. A NOTICE IN THE FORM PRESCRIBED BY THE COMMISSION,
29 SIGNED BY THE OFFICERS OR DIRECTORS OF THE ISSUER UNDER OATH AND
30 STATING THE NAME, PRINCIPAL BUSINESS ADDRESS OF THE ISSUER,

1 PROPOSED USE OF THE PROCEEDS FROM THE SALE AND SUCH FACTS AS ARE
2 NECESSARY TO ESTABLISH THIS EXEMPTION SHALL BE FILED, TOGETHER
3 WITH A COPY OF ANY OFFERING LITERATURE USED IN CONNECTION WITH
4 SUCH OFFER OR SALE, WITH THE COMMISSION NOT LATER THAN THE DAY
5 ON WHICH THE SECURITIES ARE FIRST ISSUED OR THE ISSUER FIRST
6 RECEIVES CONSIDERATION FROM ANY PERSON THEREFOR, WHICHEVER IS
7 EARLIER.

8 * * *

9 (I) ANY SALE OF A SECURITY REGISTERED UNDER SECTION 5 OF THE
10 SECURITIES ACT OF 1933 OR EXEMPT FROM REGISTRATION PURSUANT TO
11 REGULATION A PROMULGATED UNDER SECTION 3(B) OF SUCH ACT IF: (I)
12 A COPY OF ANY FINAL PROSPECTUS OR FINAL OFFERING CIRCULAR
13 (WHETHER IN CONNECTION WITH THE ORIGINAL REGISTRATION OR
14 EXEMPTION UNDER THE SECURITIES ACT OF 1933 OR A POST-EFFECTIVE
15 AMENDMENT THERETO) UTILIZED OR PROPOSED TO BE UTILIZED IN
16 CONNECTION THEREWITH IS MAILED TO THE COMMISSION WITHIN TWO
17 BUSINESS DAYS AFTER SUCH PROSPECTUS OR OFFERING CIRCULAR IS
18 FILED WITH THE SECURITIES AND EXCHANGE COMMISSION; (II) THE
19 APPLICABLE FILING FEE SPECIFIED IN SECTION [602(B)(I)] 602(B.1)
20 IS PAID WITH RESPECT TO SUCH OFFERING; (III) THE ISSUER OF THE
21 SECURITY IS A REPORTING COMPANY; AND (IV) NO STOP ORDER OR
22 REFUSAL ORDER IS IN EFFECT AND NO PUBLIC PROCEEDING OR
23 INVESTIGATION LOOKING TOWARD SUCH AN ORDER IS PENDING UNDER THE
24 SECURITIES ACT OF 1933 OR THIS ACT. AS A CONDITION OF THE
25 CONTINUING EFFECTIVENESS OF THIS EXEMPTION, COPIES OF ANY POST-
26 EFFECTIVE AMENDMENT OR STICKER TO SUCH PROSPECTUS OR OFFERING
27 CIRCULAR MUST BE MAILED TO THE COMMISSION WITHIN TWO BUSINESS
28 DAYS AFTER THE SAME IS FILED WITH THE SECURITIES AND EXCHANGE
29 COMMISSION. AN EXEMPTION UNDER THIS SECTION SHALL TERMINATE UPON
30 THE TERMINATION OF THE REGISTRATION STATEMENT UNDER SECTION 5 OR

1 THE EXEMPTION FROM REGISTRATION PURSUANT TO REGULATION A
2 PROMULGATED UNDER SECTION 3(B) OF THE SECURITIES ACT OF 1933,
3 EXCEPT THAT AN EXEMPTION UNDER THIS SECTION FOR THE SALE OF
4 SECURITIES OF AN OPEN-END OR CLOSED-END INVESTMENT COMPANY, FACE
5 AMOUNT CERTIFICATE COMPANY OR UNIT INVESTMENT TRUST, AS SUCH
6 PERSONS ARE CLASSIFIED IN THE INVESTMENT COMPANY ACT OF 1940,
7 SHALL ALSO TERMINATE TWELVE MONTHS FROM THE DATE THE PROSPECTUS
8 DESCRIBED IN (I) ABOVE IS FILED WITH THE COMMISSION, UNLESS
9 RENEWED FOR ANOTHER TWELVE-MONTH PERIOD BY THE PAYMENT OF THE
10 FEE SPECIFIED IN SECTION [602(B)(IV)] 602(B.1). ANY EXEMPTION IN
11 EFFECT UNDER THIS SECTION FOR THE SALE OF SECURITIES OF AN OPEN-
12 END OR CLOSED-END INVESTMENT COMPANY, FACE AMOUNT CERTIFICATE
13 COMPANY OR UNIT INVESTMENT TRUST, AS SUCH PERSONS ARE CLASSIFIED
14 IN THE INVESTMENT COMPANY ACT OF 1940, AS OF THE EFFECTIVE DATE
15 OF THIS AMENDATORY ACT, SHALL ALSO TERMINATE TWELVE MONTHS FROM
16 THE EFFECTIVE DATE OF THIS AMENDATORY ACT, UNLESS RENEWED FOR
17 ANOTHER TWELVE-MONTH PERIOD BY THE PAYMENT OF THE FEE SPECIFIED
18 IN SECTION [602(B)(IV)] 602(B.1). THE EFFECTIVENESS OF AN
19 EXEMPTION OR RENEWAL OF AN EXEMPTION UNDER THIS SECTION FOR THE
20 SALE OF SECURITIES OF AN OPEN-END OR CLOSED-END INVESTMENT
21 COMPANY, FACE AMOUNT CERTIFICATE COMPANY OR UNIT INVESTMENT
22 TRUST, AS SUCH PERSONS ARE CLASSIFIED IN THE INVESTMENT COMPANY
23 ACT OF 1940, SHALL NOT BE TERMINATED AS A RESULT OF A POST-
24 EFFECTIVE AMENDMENT SEEKING TO REGISTER AN ADDITIONAL AMOUNT OF
25 SECURITIES WHICH BECOMES EFFECTIVE UNDER THE SECURITIES ACT OF
26 1933.

27 * * *

28 (N) ANY TRANSACTION PURSUANT TO AN OFFER OF SECURITIES TO
29 EXISTING EQUITY SECURITY HOLDERS OF (I) THE ISSUER; (II) A
30 CORPORATION WHICH PRIOR TO THE COMMENCEMENT OF THE OFFER OWNED

1 SUBSTANTIALLY ALL OF THE VOTING STOCK OF THE ISSUER; OR (III) A
2 CORPORATION WHICH ORGANIZED THE ISSUER FOR THE PURPOSE OF THE
3 OFFER, IF NO COMMISSION OR OTHER REMUNERATION OTHER THAN A
4 STANDBY COMMISSION IS PAID OR GIVEN DIRECTLY OR INDIRECTLY FOR
5 SOLICITING ANY EQUITY SECURITY HOLDER IN THIS STATE, IF THE
6 ISSUER FIRST FILES A NOTICE SPECIFYING THE TERMS OF THE OFFER
7 AND ALL OTHER INFORMATION WHICH THE COMMISSION BY REGULATION
8 REQUIRES, AND IF THE FILING FEE SPECIFIED IN SECTION
9 [602(B)(IX)] 602(B.1) IS PAID AND THE COMMISSION DOES NOT BY
10 ORDER DISALLOW THE EXEMPTION WITHIN FIVE DAYS. "EQUITY SECURITY
11 HOLDERS" INCLUDE PERSONS WHO AT THE TIME OF THE TRANSACTION ARE
12 HOLDERS OF CONVERTIBLE SECURITIES, NONTRANSFERABLE WARRANTS, OR
13 TRANSFERABLE WARRANTS EXERCISABLE WITHIN NOT MORE THAN NINETY
14 DAYS OF THEIR ISSUANCE.

15 (O) ANY TRANSACTION INCIDENT TO A VOTE BY SECURITY HOLDERS
16 (OR WRITTEN CONSENT OF SOME OR ALL SECURITY HOLDERS IN LIEU OF
17 SUCH VOTE) PURSUANT TO THE ARTICLES OF INCORPORATION OR THE
18 APPLICABLE CORPORATION STATUTE OR OTHER STATUTE GOVERNING SUCH
19 PERSON, OR PURSUANT TO A PARTNERSHIP AGREEMENT, A DECLARATION OF
20 TRUST, TRUST INDENTURE OR ANY AGREEMENT AMONG SECURITY HOLDERS
21 ON A MERGER, CONSOLIDATION, SALE OF ASSETS IN CONSIDERATION, IN
22 WHOLE OR PART, OF THE ISSUANCE OF SECURITIES OF ANOTHER PERSON,
23 RECLASSIFICATION OF SECURITIES, OR REORGANIZATION INVOLVING THE
24 EXCHANGE OF SECURITIES, IN WHOLE OR IN PART, FOR THE SECURITIES
25 OF ANY OTHER PERSON IF, BUT ONLY IF: (I) ONE PARTY TO SUCH
26 TRANSACTION IS REQUIRED OR PERMITTED TO FILE PROXY MATERIALS
27 PURSUANT TO SECTION 14(A) OF THE SECURITIES EXCHANGE ACT OF 1934
28 OR SECTION 20 OF THE INVESTMENT COMPANY ACT OF 1940 AND DOES
29 FILE SUCH MATERIALS WITH THE COMMISSION AT LEAST TEN DAYS PRIOR
30 TO A MEETING OF SECURITY HOLDERS CALLED FOR THE PURPOSE OF

1 APPROVING SUCH TRANSACTION; AND SUCH PROXY MATERIALS ARE
2 DISTRIBUTED TO THE SECURITY HOLDERS OF EACH PARTY TO SUCH
3 TRANSACTION; OR (II) SUCH MATERIALS AS MAY BE SPECIFIED BY
4 REGULATION OF THE COMMISSION ARE PREPARED IN CONNECTION WITH THE
5 PROPOSED TRANSACTION AND, AFTER REVIEW BY THE COMMISSION,
6 DISTRIBUTED TO THE SECURITY HOLDERS OF EACH PARTY TO THE
7 TRANSACTION; PROVIDED, HOWEVER, THAT CLAUSE (I) AND (II) OF THIS
8 SUBSECTION AND SECTION [602(B)(V)] 602(B.1) SHALL NOT BE
9 APPLICABLE TO ANY PARTY TO A TRANSACTION WHERE NOT MORE THAN
10 TWENTY-FIVE PER CENT OF THE SECURITY HOLDERS OF SUCH PARTY ARE
11 RESIDENTS OF THIS STATE.

12 * * *

13 SECTION 205. REGISTRATION BY COORDINATION.--* * *

14 (C) (1) A REGISTRATION STATEMENT FILED UNDER THIS SECTION
15 FOR THE OFFERING OF SECURITIES BY AN OPEN-END OR CLOSED-END
16 INVESTMENT COMPANY, FACE AMOUNT CERTIFICATE COMPANY OR UNIT
17 INVESTMENT TRUST, AS SUCH PERSONS ARE CLASSIFIED IN THE
18 INVESTMENT COMPANY ACT OF 1940, AUTOMATICALLY BECOMES EFFECTIVE
19 IF (I) THE FEDERAL REGISTRATION STATEMENT OR NOTIFICATION IS
20 EFFECTIVE WITH THE SECURITIES AND EXCHANGE COMMISSION; (II) NO
21 STOP ORDER IS IN EFFECT IN THIS STATE AND NO PROCEEDING IS
22 PENDING UNDER SECTION 208; (III) THE REGISTRATION STATEMENT OR A
23 PREDECESSOR REGISTRATION STATEMENT HAS BEEN ON FILE WITH THE
24 COMMISSION FOR AT LEAST FIVE DAYS; AND (IV) THE FEE SPECIFIED IN
25 SECTION [602(B)(IV)] 602(B.1) HAS BEEN PAID.

26 (2) ALL OTHER REGISTRATION STATEMENTS FILED UNDER THIS
27 SECTION AUTOMATICALLY BECOME EFFECTIVE AT THE MOMENT THE FEDERAL
28 REGISTRATION STATEMENT OR NOTIFICATION BECOMES EFFECTIVE IF (I)
29 NO STOP ORDER IS IN EFFECT IN THIS STATE AND NO PROCEEDING IS
30 PENDING UNDER SECTION 208; (II) AND THE REGISTRATION STATEMENT

1 HAS BEEN ON FILE WITH THE COMMISSION FOR AT LEAST TEN DAYS;
2 (III) A STATEMENT OF THE MAXIMUM AND MINIMUM PROPOSED OFFERING
3 PRICES AND THE MAXIMUM UNDERWRITING DISCOUNTS AND COMMISSIONS
4 HAS BEEN ON FILE FOR TWO FULL BUSINESS DAYS, OR SUCH SHORTER
5 PERIOD AS THE COMMISSION PERMITS; AND (IV) THE OFFERING IS MADE
6 WITHIN THESE LIMITATIONS.

7 * * *

8 SECTION 207. GENERAL REGISTRATION PROVISIONS.--* * *

9 (L) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A REGISTRATION
10 STATEMENT RELATING TO ANY OFFERING OF SECURITIES MAY BE AMENDED
11 AFTER ITS EFFECTIVE DATE SO AS TO INCREASE THE SPECIFIED AMOUNT
12 OF SECURITIES PROPOSED TO BE OFFERED IN THIS STATE. THE
13 AMENDMENT BECOMES EFFECTIVE UPON THE PAYMENT OF THE REQUIRED
14 FILING FEE AND WHEN THE COMMISSION SO ORDERS.

15 (2) AMENDMENTS TO A REGISTRATION STATEMENT OF AN OPEN-END OR
16 CLOSED-END INVESTMENT COMPANY, FACE AMOUNT CERTIFICATE COMPANY
17 OR UNIT INVESTMENT TRUST, AS SUCH PERSONS ARE CLASSIFIED IN THE
18 INVESTMENT COMPANY ACT OF 1940, SO AS TO INCREASE THE SPECIFIED
19 AMOUNT OF SECURITIES PROPOSED TO BE OFFERED IN THIS STATE ARE
20 EFFECTIVE UPON FILING WITH THE COMMISSION PROVIDED THAT THE
21 AGGREGATE FEE SPECIFIED IN SECTION [602(B)(IV)] 602(B.1) HAS
22 BEEN PAID.

23 * * *

24 Section ~~2~~ 3. Section 301(e) of the act, amended March 25, <—
25 1981 (P.L.1, No.1), is amended and the section is amended by
26 adding a subsection to read:

27 Section 301. Registration Requirement.--Unless exempted
28 under section 302 hereof:

29 * * *

30 (c.1) It is unlawful for any investment adviser to employ an

1 associated person to represent him in this Commonwealth unless
2 the associated person is registered under this act. The
3 registration of an associated person is not effective during any
4 period when he is not associated with a specified investment
5 adviser registered under this act. When an associated person
6 begins or terminates association with an investment adviser, or
7 begins or terminates those activities which make him an
8 associated person, the investment adviser shall promptly notify
9 the commission. The commission may adopt a temporary
10 registration procedure to permit associated persons to change
11 employers without suspension of their registrations under this
12 act.

13 * * *

14 (e) Every registration expires on December 31 of each year
15 unless renewed [except (i) the registrations of broker-dealers,
16 investment advisers, and agents registered under this act as of
17 the effective date of this amending act and (ii) those agents
18 which become registered for such broker-dealers subsequent to
19 the effective date of this amendatory act shall expire on the
20 date such registration expires under the statute and regulations
21 in effect at the time of such registration. In order to
22 facilitate cooperation with other securities administrators and
23 regulatory authorities in the simplification and coordination of
24 registration, application and renewal procedures, the commission
25 may by regulation provide for the renewal of any registration
26 included in clauses (i) and (ii) above until December 31 of the
27 year in which such registration expires upon payment of the
28 registration fee. For this purpose, the commission may adjust
29 the registration fee proportionately. Nothing in this section
30 shall prohibit any person included in clause (i) or (ii) above

1 from voluntarily electing to renew a registration prior to the
2 date such registration would otherwise expire]. No registration
3 is effective after its expiration, unless a renewal application
4 has been timely filed, and expiration of a registration for
5 which no renewal application has been filed is deemed an
6 application for withdrawal under section 305(f).

7 Section ~~3~~ 4. Section 303(a)(i) of the act, amended March 25, <—
8 1981 (P.L.1, No.1), is amended to read:

9 Section 303. Registration Procedure.--(a) (i) A broker-
10 dealer, agent, [or] investment adviser or associated person may
11 obtain an initial or renewal license by filing an application
12 with the commission. The application shall contain such
13 information, and in such detail, as the commission by rule
14 requires concerning the applicant's form and place of
15 organization, proposed method of doing business, and financial
16 condition, the qualifications and experience of the applicant,
17 including, in the case of a broker-dealer or investment adviser,
18 the qualifications and experience of any partner, officer,
19 director, or affiliate, or a person occupying a similar status
20 or performing similar functions any injunction or administrative
21 order or conviction referred to in section 305(a)(ii),
22 information about affiliates or predecessors of the applicant,
23 and any other matters which the commission determines are
24 relevant to the application.

25 * * *

26 Section ~~4~~ 5. Section 305(a)(IV), (v), (vii) and (xiii), <—
27 (b)(ii), (f) and (g) of the act, amended June 25, 1986 (P.L.256,
28 No.68), are amended and subsection (a) is amended by adding a
29 clause to read:

30 Section 305. Denial, Suspension and Revocation of

1 Registration.--(a) The commission may, by order, deny, suspend,
2 or revoke any registration or may censure any registrant if it
3 finds that such order is in the public interest and that such
4 registrant or applicant, or in the case of any broker-dealer or
5 investment adviser, any affiliate thereof, whether prior or
6 subsequent to becoming associated with such person:

7 * * *

8 (IV) IS SUBJECT TO ANY CURRENTLY EFFECTIVE ORDER OR ORDER <—
9 ENTERED WITHIN THE PAST FIVE YEARS OF THE SECURITIES AND
10 EXCHANGE COMMISSION, THE COMMODITY FUTURES TRADING COMMISSION OR
11 THE SECURITIES ADMINISTRATOR OF ANY OTHER STATE DENYING
12 REGISTRATION TO OR REVOKING OR SUSPENDING THE REGISTRATION OF
13 SUCH PERSON AS A BROKER-DEALER, AGENT, INVESTMENT ADVISER,
14 ASSOCIATED PERSON, FUTURES COMMISSION MERCHANT, COMMODITY POOL
15 OPERATOR [OR], COMMODITY TRADING ADVISOR [AND THEIR ASSOCIATED
16 PERSONS] OR A PERSON ASSOCIATED WITH A FUTURES COMMISSION
17 MERCHANT, COMMODITY POOL OPERATOR OR COMMODITY TRADING ADVISER,
18 OR IS SUBJECT TO ANY CURRENTLY EFFECTIVE ORDER OF ANY NATIONAL
19 SECURITIES ASSOCIATION, NATIONAL SECURITIES EXCHANGE (AS DEFINED
20 IN THE SECURITIES EXCHANGE ACT OF 1934) OR SELF-REGULATORY
21 ORGANIZATION OPERATING UNDER THE AUTHORITY OF THE COMMODITY
22 FUTURES TRADING COMMISSION SUSPENDING OR EXPELLING SUCH PERSON
23 FROM MEMBERSHIP IN SUCH ASSOCIATION, EXCHANGE OR SELF-REGULATORY
24 ORGANIZATION, OR IS THE SUBJECT OF A CURRENTLY EFFECTIVE UNITED
25 STATES POSTAL SERVICE FRAUD ORDER; BUT THE COMMISSION MAY NOT
26 INSTITUTE A REVOCATION OR SUSPENSION PROCEEDING UNDER THIS
27 SUBSECTION ON THE BASIS OF AN ORDER UNDER ANOTHER STATE LAW MORE
28 THAN ONE YEAR AFTER TERMINATION OF THE EFFECTIVENESS OF THE
29 ORDER RELIED ON AND UNLESS THE ORDER WAS BASED ON FACTS WHICH
30 WOULD CURRENTLY CONSTITUTE GROUNDS FOR AN ORDER UNDER THIS

1 SECTION; OR

2 (v) Has wilfully violated any provision of the Securities
3 Act of 1933, the Securities Exchange Act of 1934, the Trust
4 Indenture Act of 1939, the Investment Advisers Act of 1940, the
5 Investment Company Act of 1940, the Commodity Exchange Act of
6 1974, any law of a foreign country governing or regulating the <—
7 business of broker-dealers, agents, investment advisers, ANY <—
8 ASPECT OF THE BUSINESS OF SECURITIES, commodities futures or
9 banking or this act, or any predecessor law, or of any rule or
10 regulation under any of such statutes; or

11 * * *

12 (vii) Has failed reasonably to supervise his agents or
13 employees, if he is a broker-dealer, or his associated persons or
14 employees, if he is an investment adviser, but no person shall be
15 deemed to have failed in such supervision if there have been
16 established procedures, and a system for applying such
17 procedures, which would reasonably be expected to prevent and
18 detect, in so far as practicable, any violation of statutes,
19 rules or orders described in subsection (v) and if such person
20 has reasonably discharged the duties and obligations incumbent
21 upon him by reason of such procedures and system without
22 reasonable cause to believe that such procedures and system were
23 not being complied with; or

24 * * *

25 (xiii) Has made any material misrepresentation to or
26 withheld or concealed from or omitted to state to the commission
27 or any of its representatives any material fact necessary in
28 order to make the statements made, in the light of the
29 circumstances under which they are made, not misleading, or has
30 refused to furnish information reasonably requested by the

1 commission[.]; or

2 (xiv) Is subject to any currently effective order or orders
3 entered within the past five years of any securities regulator
4 of another country denying registration to, or revoking or
5 suspending the registration of, such person, or the associate of <—
6 such person, as a broker-dealer, agent, investment adviser,
7 futures commission merchant, commodity pool operator or
8 commodity trading adviser; OF SUCH PERSON AS A BROKER-DEALER, <—
9 AGENT, INVESTMENT ADVISER, ASSOCIATED PERSON, FUTURES COMMISSION
10 MERCHANT, COMMODITY POOL OPERATOR, COMMODITY TRADING ADVISER OR
11 A PERSON ASSOCIATED WITH A FUTURES COMMISSION MERCHANT,
12 COMMODITY POOL OPERATOR OR COMMODITY TRADING ADVISER; or is
13 subject to any currently effective order of any securities
14 exchange or self-regulatory organization operating under the
15 authority of the securities regulator of another country
16 suspending or expelling such person from membership in such
17 exchange or self-regulatory association.

18 (b) The following provisions govern the application of
19 section 305(a)(xi):

20 * * *

21 (ii) The commission may not enter an order against an
22 investment adviser on the basis of the lack of qualification of
23 any person other than (A) the investment adviser himself if he
24 is an individual, [or] (B) any other person who represents the
25 investment adviser in doing any of the acts which make him an
26 investment adviser[.] or (C) an associated person.

27 * * *

28 (f) Withdrawal from the status of a registered broker-
29 dealer, agent [or], investment adviser or associated person
30 becomes effective on the thirtieth day after receipt of an

1 application to withdraw, or within such shorter period as the
2 commission determines, unless a revocation or suspension
3 proceeding is pending before the commission when the application
4 is filed or a proceeding to revoke or suspend or to impose
5 conditions upon the withdrawal is instituted before the
6 commission within thirty days after the application is filed. If
7 a proceeding is so pending or instituted, withdrawal becomes
8 effective at such time and upon such conditions as the
9 commission by order determines. If no proceeding is so pending
10 or instituted and withdrawal automatically becomes effective,
11 the commission may institute a revocation or suspension
12 proceeding under subsection (a)(ii) within one year after
13 withdrawal became effective and enter a revocation or suspension
14 order as of the last date on which the registration was in
15 effect.

16 (g) No order may be entered under this section except under
17 subsection (d) without appropriate prior notice to the applicant
18 or registrant as well as the employer or prospective employer if
19 the applicant or registrant is an agent or associated person,
20 opportunity for hearing and written findings of fact and
21 conclusions of law. In cases of denial orders, such findings and
22 conclusions shall be provided only if requested by the
23 applicant.

24 Section 5 6. Section 501 of the act is amended by adding <—
25 subsections to read:

26 Section 501. Civil Liabilities.--* * *

27 (f) Any investment adviser who violates section 301 shall be
28 liable to the client for all fees paid, directly or indirectly,
29 to the investment adviser for investment advisory services.

30 (g) Any investment adviser who violates section 404(a)

1 through (d) or any material provision of section 404(f), or
2 otherwise makes any untrue statement of a material fact or omits
3 stating a material fact necessary in order to make statements
4 made, in the light of the circumstances under which they are
5 made, not misleading (the client not knowing of the untruth or
6 omission) and who does not sustain the burden of proof that he
7 did not know and, in the exercise of reasonable care could not
8 have known of the untruth or omission, shall be liable to the
9 client purchasing the security. The client purchasing the
10 security may sue either at law or in equity to recover the
11 consideration paid for the security, together with interest at
12 the legal rate from the date of payment, less the amount of
13 income or distribution, in cash or in kind, received on the
14 security, upon the tender of the security or for damages if the
15 client no longer owns the security. Damages are the amount that
16 would be recoverable upon a tender, less the value of the
17 security when the client disposed of it, plus interest at the
18 legal rate from the date of disposition. Tender shall require
19 only notice of willingness to exchange the security for the
20 amount specified. Any notice may be given by service as in civil
21 actions specified in the Pennsylvania Rules of Civil Procedure.
22 An investment adviser who is liable under this section and any
23 offeror or seller of the security liable under subsection (a)
24 are jointly and severally liable to the client of the investment
25 adviser.

26 Section ~~6~~ 7. Section 511 of the act is reenacted to read: <—

27 Section 511. Criminal Penalties.--Any person who wilfully
28 violates any material provision of this act, except section
29 407(a), or any rule under this act, or any order of which he has
30 notice, or who violates section 407(a) knowing that the

1 statement made was false or misleading in any material respect,
2 may be fined not more than five thousand dollars (\$5,000) or
3 imprisoned not more than five years, or both. Each of the acts
4 specified shall constitute a separate offense and a prosecution
5 or conviction for any one of such offenses shall not bar
6 prosecution or conviction for any other offense. No indictment
7 or information may be returned under this act more than five
8 years after the alleged violation.

9 ~~Section 7. Section 602(d) of the act, amended May 9, 1984~~ <—
10 ~~(P.L.235, No.52), is amended to read:~~

11 ~~Section 602. Fees. * * *~~

12 ~~(d) Every applicant for an initial or renewal license under~~
13 ~~section 301 shall pay a filing fee of one hundred twenty five~~
14 ~~dollars (\$125) in the case of a broker dealer, twenty five~~
15 ~~dollars (\$25) in the case of an agent [and], one hundred dollars~~
16 ~~(\$100) in the case of an investment adviser and fifty dollars~~
17 ~~(\$50) in the case of an associated person. The term of an~~
18 ~~agent's or associated person's registration hereunder shall be~~
19 ~~concurrent with that of his employer, if a broker dealer or an~~
20 ~~investment advisor. When an agent changes employers, a twenty~~
21 ~~five dollar (\$25) fee shall be paid. [A broker dealer~~
22 ~~maintaining any office within this State shall pay an additional~~
23 ~~filing fee of forty dollars (\$40) for each office.] When an~~
24 ~~associated person changes employers, a fifty dollar (\$50) fee~~
25 ~~shall be paid. When an application is denied or withdrawn or a~~
26 ~~registration revoked, the filing fee shall be retained.~~

27 SECTION 8. SECTION 602 OF THE ACT IS AMENDED BY ADDING <—
28 SUBSECTIONS TO READ:

29 SECTION 602. FEES.--* * *

30 (B.1) FILING FEES FOR SALES OF SECURITIES:

1	<u>(I) EXEMPTION FILINGS UNDER SECTION 203(I),</u>	
2	<u>EXCEPT AS PROVIDED FOR IN SUBCLAUSE (IV).....</u>	<u>\$100</u>
3	<u>(II) REGISTRATION STATEMENT FILINGS UNDER</u>	
4	<u>SECTION 205, EXCEPT AS PROVIDED IN SUBCLAUSE (IV),</u>	
5	<u>BASED UPON THE MAXIMUM AGGREGATE OFFERING PRICE AT</u>	
6	<u>WHICH SUCH SECURITIES ARE TO BE OFFERED IN THIS</u>	
7	<u>STATE DURING THE EFFECTIVE PERIOD OF THE</u>	
8	<u>REGISTRATION STATEMENT:</u>	
9	<u>(A) LESS THAN \$10,000,000.....</u>	<u>500</u>
10	<u>(B) \$10,000,000 OR MORE.....</u>	<u>750</u>
11	<u>(III) REGISTRATION STATEMENT FILINGS UNDER</u>	
12	<u>SECTION 206, EXCEPT AS PROVIDED IN SUBCLAUSE (IV).</u>	<u>350</u>
13	<u>PLUS 1/20 OF 1% OF THE MAXIMUM AGGREGATE</u>	
14	<u>OFFERING PRICE AT WHICH SUCH SECURITIES ARE TO</u>	
15	<u>BE OFFERED IN THIS STATE, DURING THE EFFECTIVE</u>	
16	<u>PERIOD OF THE REGISTRATION UP TO A MAXIMUM</u>	
17	<u>FILING FEE OF \$2,150.</u>	
18	<u>(IV) IN THE CASE OF REGISTRATION STATEMENT</u>	
19	<u>FILINGS UNDER SECTION 205 OR 206 OR EXEMPTION</u>	
20	<u>FILINGS UNDER SECTION 203(I) BY AN OPEN-END OR</u>	
21	<u>CLOSED-END INVESTMENT COMPANY, FACE AMOUNT</u>	
22	<u>CERTIFICATE COMPANY OR UNIT INVESTMENT TRUST, AS</u>	
23	<u>SUCH PERSONS ARE CLASSIFIED IN THE INVESTMENT</u>	
24	<u>COMPANY ACT OF 1940.</u>	
25	<u>BASED UPON THE MAXIMUM AGGREGATE OFFERING PRICE</u>	
26	<u>AT WHICH SUCH SECURITIES ARE TO BE OFFERED IN</u>	
27	<u>THIS STATE DURING THE EFFECTIVE PERIOD OF THE</u>	
28	<u>REGISTRATION, EXEMPTION OR RENEWAL OF THE</u>	
29	<u>EXEMPTION, THE FEE FOR:</u>	
30	<u>(A) \$4,000,000 OR LESS 1/20 OF 1% WITH A</u>	

1	<u>MINIMUM FEE OF.....</u>	<u>\$350;</u>
2	<u>(B) MORE THAN \$4,000,000 BUT LESS THAN</u>	
3	<u>\$100,000,000.....</u>	<u>3,000</u>
4	<u>(C) \$100,000,000 OR MORE.....</u>	<u>3,500</u>
5	<u>EXCEPT THAT, IN THE CASE OF A REGISTRATION</u>	
6	<u>STATEMENT IN WHICH THE ISSUER, PURSUANT TO ITS</u>	
7	<u>ARTICLES OF INCORPORATION OR OTHER GOVERNING</u>	
8	<u>INSTRUMENTS, IS RESTRICTED TO HOLDING</u>	
9	<u>EXCLUSIVELY DEBT SECURITIES OF OTHER PERSONS</u>	
10	<u>HAVING FIXED FINAL MATURITY DATES OCCURRING</u>	
11	<u>WITHIN 200 DAYS FROM THE INITIAL EFFECTIVE DATE</u>	
12	<u>OF THE REGISTRATION STATEMENT FOR THE ISSUER'S</u>	
13	<u>SECURITIES FILED UNDER THE SECURITIES ACT OF</u>	
14	<u>1933, THE MAXIMUM FEE PAYABLE UNDER THE ABOVE</u>	
15	<u>SCHEDULE SHALL NOT EXCEED \$1,500.</u>	
16	<u>IF AN OPEN-END OR CLOSED-END INVESTMENT COMPANY,</u>	
17	<u>FACE AMOUNT CERTIFICATE COMPANY OR UNIT INVESTMENT</u>	
18	<u>TRUST, AS SUCH PERSONS ARE CLASSIFIED IN THE</u>	
19	<u>INVESTMENT COMPANY ACT OF 1940, WHICH HAS AN</u>	
20	<u>EFFECTIVE REGISTRATION UNDER SECTION 205 OR 206</u>	
21	<u>ELECTS TO CONVERT TO AN EXEMPTION UNDER SECTION</u>	
22	<u>203(I) WITHOUT EXTENDING THE EFFECTIVE PERIOD OF</u>	
23	<u>THE EXEMPTION UNDER SECTION 203(I) BEYOND THE DATE</u>	
24	<u>UPON WHICH THE REGISTRATION UNDER SECTION 205 OR</u>	
25	<u>206 WOULD HAVE OTHERWISE TERMINATED, THERE SHALL</u>	
26	<u>BE NO ADDITIONAL FILING FEE REQUIRED.</u>	
27	<u>(V) EXEMPTION FILINGS UNDER SECTION 203(O)(II)</u>	
28	<u>SHALL BE:.....</u>	<u>250</u>
29	<u>(VI) WHEN A REGISTRATION STATEMENT IS</u>	
30	<u>WITHDRAWN BEFORE THE EFFECTIVE DATE OR A PRE-</u>	

1	<u>EFFECTIVE STOP ORDER IS ENTERED UNDER SECTION 208</u>	
2	<u>THE AMOUNT THAT THE COMMISSION SHALL RETAIN FROM</u>	
3	<u>THE FILING FEE SHALL BE:</u>	
4	<u>(A) UNDER SECTION 205.....</u>	<u>300</u>
5	<u>(B) UNDER SECTION 206.....</u>	<u>175</u>
6	<u>(VII) FILING AN APPLICATION FOR EXEMPTION FROM</u>	
7	<u>REGISTRATION UNDER SECTION 202(G).....</u>	<u>50</u>
8	<u>(VIII) FILING AN APPLICATION FOR EXEMPTION</u>	
9	<u>FROM REGISTRATION FOR AN OFFERING OF SECURITIES TO</u>	
10	<u>BE SOLD UNDER SECTION 203(D):</u>	
11	<u>(A) WHERE THE MAXIMUM AGGREGATE OFFERING PRICE</u>	
12	<u>AT WHICH SUCH SECURITIES ARE OFFERED IN THIS STATE</u>	
13	<u>IS LESS THAN \$100,000.....</u>	<u>50</u>
14	<u>(B) WHERE THE MAXIMUM AGGREGATE OFFERING PRICE</u>	
15	<u>AT WHICH SUCH SECURITIES ARE OFFERED IN THIS STATE</u>	
16	<u>IS \$100,000 OR MORE BUT LESS THAN \$1,000,000.....</u>	<u>150</u>
17	<u>(C) WHERE THE MAXIMUM AGGREGATE OFFERING PRICE</u>	
18	<u>AT WHICH SUCH SECURITIES ARE BEING OFFERED IN THIS</u>	
19	<u>STATE IS \$1,000,000 OR MORE.....</u>	<u>400</u>
20	<u>(IX) FILING AN APPLICATION FOR EXEMPTION FROM</u>	
21	<u>REGISTRATION UNDER SECTION 203(N).....</u>	<u>50</u>
22	<u>(X) FILING AN APPLICATION FOR EXEMPTION FROM</u>	
23	<u>REGISTRATION UNDER SECTION 203(P).....</u>	<u>100</u>
24	<u>* * *</u>	
25	<u>(D.1) EVERY APPLICANT FOR AN INITIAL OR RENEWAL LICENSE</u>	
26	<u>UNDER SECTION 301 SHALL PAY A FILING FEE OF TWO HUNDRED FIFTY</u>	
27	<u>DOLLARS (\$250) IN THE CASE OF A BROKER-DEALER, FIFTY DOLLARS</u>	
28	<u>(\$50) IN THE CASE OF AN AGENT, TWO HUNDRED DOLLARS (\$200) IN THE</u>	
29	<u>CASE OF AN INVESTMENT ADVISER AND FIFTY DOLLARS (\$50) IN THE</u>	
30	<u>CASE OF AN ASSOCIATED PERSON. THE TERM OF AN AGENT'S OR</u>	

1 ASSOCIATED PERSON'S REGISTRATION HEREUNDER SHALL BE CONCURRENT
2 WITH THAT OF HIS EMPLOYER, IF A BROKER-DEALER OR AN INVESTMENT
3 ADVISER. WHEN AN AGENT CHANGES EMPLOYERS, A FIFTY DOLLAR (\$50)
4 FEE SHALL BE PAID. WHEN AN ASSOCIATED PERSON CHANGES EMPLOYERS,
5 A FIFTY DOLLAR (\$50) FEE SHALL BE PAID. WHEN AN APPLICATION IS
6 DENIED OR WITHDRAWN OR A REGISTRATION REVOKED, THE FILING FEE
7 SHALL BE RETAINED.

8 * * *

9 Section 8 9. In addition to the authority contained in <—
10 section 609 of the act, the commission shall have the power and
11 authority to promulgate, adopt, publish and use guidelines,
12 including forms, for the implementation of this amendatory act
13 for a period of one year immediately following the effective
14 date of this amendatory act pending adoption of final rules and
15 regulations. Guidelines proposed under the authority of this
16 section shall be subject to the review of the Attorney General
17 in the manner provided for the review of proposed rules and
18 regulations pursuant to the act of October 15, 1980 (P.L.950,
19 No.164), known as the Commonwealth Attorneys Act, but shall not
20 be subject to review pursuant to the act of June 25, 1982
21 (P.L.633, No.181), known as the Regulatory Review Act.

22 Section 9 10. The reenactment of section 511 is intended to <—
23 reestablish five years as the time for the commencement of
24 prosecution for an offense under the act, the provision of 42
25 Pa.C.S. § 5552 (relating to other offenses) notwithstanding.

26 ~~Section 10. This act shall take effect in 60 days.~~ <—

27 SECTION 11. SECTIONS 615-A(4) THROUGH (11) OF THE ACT OF <—
28 APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE
29 CODE OF 1929, ARE REPEALED.

30 SECTION 12. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

1 (1) SECTIONS 7 THROUGH 11 SHALL TAKE EFFECT IMMEDIATELY.
2 (2) THE REMAINDER OF THE ACT SHALL TAKE EFFECT IN 60
3 DAYS.