

§ 78A-31. Notice filings for securities covered under federal law.

(a) The Administrator, by rule or order, may require the filing of any of the following documents with regard to a security (i) issued by an investment company that is registered or has filed a registration statement under the Investment Company Act of 1940 and (ii) covered under section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(2)):

- (1) Prior to the initial offer of the security in this State, all documents that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, or, in lieu thereof, a form prescribed by the Administrator, together with a consent to service of process signed by the issuer and with the payment of a notice filing fee equal to the sum of one thousand seven hundred twenty-five dollars (\$1,725) and two hundred seventy-five dollars (\$275.00) for each series, fund, or portfolio offered in this State and listed in the federal registration statement.
- (2) After the initial offer of the security in this State, all documents that are part of an amendment to a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, or, in lieu thereof, a form prescribed by the Administrator, which shall be filed concurrently with the Administrator.
- (3) A report of the value of securities covered under federal law that are offered or sold in this State.
- (4) A notice filing pursuant to this section shall expire on December 31 of each year or some other date not more than one year from its effective date as the Administrator may by rule or order provide. A notice filing of the offer of securities covered under federal law that are to be offered for a period in excess of one year shall be renewed annually by payment of a renewal fee equal to the sum of one thousand seven hundred twenty-five dollars (\$1,725) and two hundred seventy-five dollars (\$275.00) for each series, fund, or portfolio offered in this State and listed in the federal registration statement and by filing any documents and reports that the Administrator may by rule or order require consistent with this section. The renewal shall be effective upon the expiration of the prior notice period.
- (5) A notice filed in accordance with this section may be amended after its effective date to increase the securities specified as proposed to be offered. An amendment becomes effective upon receipt by the Administrator. Every person submitting an amended notice filing shall pay a filing fee of fifty dollars (\$50.00) with respect to the additional securities proposed to be offered.

(b) With regard to any security that is covered under section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(4)(d)), the Administrator, by rule or order, may require the issuer to file a notice on SEC Form D (17 C.F.R. § 239.500) and a consent to service of process signed by the issuer no later than 15 days after the first sale of the security in this State. There is established a fee of three hundred fifty dollars (\$350.00) to recover costs for filing required by this section.

(c) The Administrator, by rule or order, may require the filing of any document filed with the Securities and Exchange Commission under the Securities Act of 1933, with respect to a security covered under section 18(b)(3) or (4) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(3) or (4)). The Administrator may, by rule, establish a fee to recover costs for any filing required under this section, not to exceed one hundred fifty dollars (\$150.00).

(d) The Administrator may suspend the offer and sale of a covered security, except a covered security under section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(1)), if the Administrator finds that (i) the order is in the public interest, and (ii) there is a failure to comply with any condition established under this section.

(e) The Administrator, by rule or order, may waive any of the requirements set by this section. (1997-419, s. 9; 1998-212, s. 29A.9(d); 2002-126, ss. 29A.24, 29A.37; 2002-189, s. 4; 2003-284, s. 35B.2(a); 2008-107, s. 29.3(a); 2011-145, s. 31.27A(a).)