

TEXT OF REVISED REGULATIONS

The following are the Department of Law's revisions to 13 N.Y.C.R.R. Part 10. Please note that pursuant to Department of State guidelines, deleted portions of existing text are in brackets, additions to existing text are underlined, and new additions to 13 N.Y.C.R.R. Part 10 are normally formatted.

Section 10.1 of title 13 is amended to read as follows:

§ 10.1 Registration of securities broker-dealers, issuers, and salespersons

(a) In compliance with subdivisions 3 and 13 of section 359-e of the General Business Law (GBL § 359-e),

(1) [a] All brokers and dealers whose principal business is in the offering, sale or promotion of cooperative or homeowners association interests in real estate, including condominium units, shall file [f] Form M-10 (Real Estate).

(2) All [other] dealers that are issuers of securities not subject to part 1 of this section and not classified as Federal Regulation D Covered Securities Dealers, Federal Tier 2 Dealers, or Federal Covered Investment Company Dealers herein, shall file [f] Form M-11.

(3) All Federal Regulation D Covered Securities Dealers shall file Form D. The Attorney General hereby deems that the pertinent information to be filed for purposes of satisfying GBL § 359-e for Federal Regulation D Covered Securities Dealers shall be all information required on Form D.

(4) All Federal Tier 2 Dealers shall file the Uniform Notice Filing of Regulation A – Tier 2 Offering Form. The Attorney General hereby deems that the pertinent information to be filed for purposes of satisfying GBL § 359-e for Federal Tier 2 Dealers shall be all information required by the Uniform Notice Filing of Regulation A – Tier 2 Offering Form.

(5) All Federal Covered Investment Company Dealers [open-end management type companies registered with the Securities and Exchange Commission under the Investment Company Act of 1940] shall file [f] Form NF [M-1A]. The Attorney General hereby deems that the pertinent information to be filed for purposes of satisfying GBL § 359-e for Federal Covered Investment Company Dealers shall be

all information necessary to complete the Form NF for each individual fund or portfolio offered by such dealer.

(6) All finders not associated with a registered broker-dealer shall file Form M-1 and shall follow the supplemental filing requirements of broker-dealers herein. Finders associated with a non-FINRA member broker-dealer shall file Form M-2. Finders associated with a FINRA member broker-dealer shall file the Form U4. Finder registration periods for non-FINRA members are four (4) years. Finder registrations for FINRA members shall follow registration requirements in 10.2 for broker-dealers or salespersons as appropriate.

(7) All other brokers and dealers shall file [f]Form M-1, except as provided [below]elsewhere in this part.

(8) All securities salespersons, including those engaged in the sale of intrastate offerings, real estate syndication, cooperative, condominium or homeowners' association interests in real estate unless deemed already in compliance with registration statement filing requirements under GBL § 359-e(3), shall file [f]Form M-2, except as provided below.

(b) Notwithstanding the provisions of subdivision (a) of this section, a broker-dealer not a member of the [National Association of Securities Dealers, Inc.] Financial Industry Regulatory Authority (“FINRA”) and not required to file [f]Form M-10 and not an issuer offering or selling its own securities may, in lieu of filing [f]Form M-1, file an executed current [f]Form BD with page 2 of [f]Form U[-]4 completed for each person listed on Schedule A or B. In lieu of filing [f]Form M-2, a securities salesperson may file an executed current [f]Form U[-]4.

(c) The registration of brokers, dealers and salespersons shall be for a period of four years. Initial statements for those having no previous filing may be made at any time and shall be effective from the date of filing for a period of four (4) years, except as provided [below] elsewhere in this part.

Section 10.2 of title 13 is amended to read as follows:

§ 10.2 Central registration for [NASD] FINRA member broker-dealers and salespersons of [NASD]

FINRA members

- (a) All broker-dealers who are members of, or have applied for membership in, [the National Association of Securities Dealers, Inc.] FINRA shall file initial broker-dealer registrations directly with the Central Registration Depository (“CRD”) system.
- (b) A salesperson employed by a firm that is a member of [the National Association of Securities Dealers, Inc.] FINRA and engaged in the sale of securities in the State of New York, shall file [f]Forms U[-]4 and U[-]5 through the [Central Registration Depository] CRD system.
- (c) The [Central Registration Depository] CRD system shall be maintained by [NASDAQ, Inc., a subsidiary of the National Association of Securities Dealers, Inc.] FINRA, pursuant to an agreement with, and under the guidelines established by, the North American Securities Administrators Association, Inc. The alternative method of filing set forth in [General Business Law, section] GBL § 359-e.13, and this Part shall be in effect so long as the Department of Law of the State of New York is a participant in the [Central Registration Depository] CRD system.
- (d) Filings through the [Central Registration Depository] CRD system shall be made on an annual basis for a period ending on the 31st day of December following the date of filing. [The registration of an NASD member broker-dealer who has filed with the Department of Law on M-1 or from B-D prior to December 31, 1984, expires on December 31, 1984. The CRD broker-dealer and salesperson renewal invoice will go out to firms on December 1, 1984 and renewal fees for the State of New York will be required to be paid through the NASD. No refund of fees previously paid to the Department of Law shall be made. All previously filed broker-dealer statements due to be renewed during the period of October 4, 1984 through December 30, 1984 shall continue

to be effective for a period of 90 days following the expiration date, or until December 31, 1984, whichever shall come first.]

(e) Filings through the [Central Registration Depository] CRD system shall be [forwarded to Membership Department, National Association of Securities Dealers, Inc., 1735 K Street, NW, Washington, DC 20006, with appropriate fees. Checks for filings through the Central Registration Depository system shall be made payable to the National Association of Securities Dealers, Inc.] filed and paid for in accordance with CRD rules. These fees shall be known as in lieu filing fees. Only current [f]Forms U[-]4 and U[-]5 will be accepted for filing by the CRD to register, amend information or terminate a salesperson's registration. Only current forms BD and BDW, or any other form agreed to and in use by the CRD, will be accepted for filing by the CRD to register, amend information or terminate a broker-dealer registration.

(f) The annual fee for filing a [f]Form B[-]D under the alternative system is \$ [200]300. The annual fee represents one-fourth the statutory fee, [General Business Law, section] GBL § 359-e.5, [effective April 1, 1989]. The initial fee for filing a [f]Form U[-]4 is \$ [45]70, which initial fee represents [one-fourth] a \$ 40 portion of the statutory fee of \$ 1[0]50, [General Business Law Section] GBL § 359-e.5, and \$ [2]30 which covers the required fee for broker-dealer supplemental statements pursuant to this Part. Thereafter, the annual salesperson renewal fee will be \$ [25]37 which represents a portion of [one-fourth] the current statutory fee of \$ 1[0]50. Although filings shall be made by the firm on behalf of the securities salespersons, nothing in this procedure shall relieve the individual salesperson of any responsibility or liability under Article 23-A of the General Business Law.

(g) Any person, including but not limited to any partner, officer, director, or other principal of the broker-dealer who is not listed on the new [f]Form B[-]D and who shall act as a salesperson, shall register as a salesperson with the CRD on [f]Form U[-]4. Any person who was registered with the State of New York as a partner,

officer, director, principal or salesperson between September 26, 1981 and September 26, 1983 shall not be required to take the examination as required by General Business Law, section 359-e.3 (b).

(h) Filings made through the [Central Registration Depository]CRD system shall be reviewed for completeness and accuracy by the [Central Registration Depository]CRD system. The Department of Law may designate to the [Central Registration Depository]CRD system the method of approval of applications for New York registration either by automatic approval by the [Central Registration Depository]CRD, for those applications that meet all existing qualifications and edit criteria, or by individual approval of such applications on a case-by-case basis by the Department of Law. Firms submitting the filings shall be notified of deficiencies and required to correct same. Failure to correct any deficiencies on any [f]Form U[-]4 (salesperson's registration) within 180 days from receipt by the [Central Registration Depository]CRD system will result in the withdrawal of the application and will require a completely new filing. No refunds will be made for filings that are withdrawn either on a voluntary basis or as a result of the failure to correct deficiencies. All fees associated with filings made to the [Central Registration Depository] CRD system will be promptly remitted to the Department of Law.

(i) All brokers, dealers and salespersons subject to sub-section (a) of this section 10.2 shall submit amendments pursuant to CRD rules, and attendant fees pursuant to GBL § 359-e(5) for changes of information related to name, address, management, salespersons, and injunctions and other proceedings as described in section 10.3 of this part. All supplemental statements required herein shall be made within 30 days of the event warranting the change, except with regard to information regarding injunctions and other proceedings which must be made as soon as practicable.

Section 10.3 of title 13 is amended to read as follows:

§ 10.3 Supplemental broker-dealer statements for non-[NASD]FINRA members

(a) In compliance with subdivision 4 of section 359-e of the General Business Law, except as provided hereinafter, every broker or dealer in securities who is not a member of [the National Association of Securities Dealers, Inc.]FINRA and who shall have filed a [f]Form M-1[,], broker-dealer statement, or a [f]Form BD with the Department of Law of the State of New York [pursuant to chapter 692 of the Laws of 1959], shall file a [f]Form M-3, supplemental broker-dealer statement, whenever any of the following changes have taken place to indicate the change of information originally filed:

- (1) Name. The changes in name of the registrant (in the event the registrant incorporates, an entirely new registration statement must be filed).
- (2) Address. Change of business address and address of new branch offices in New York.
- (3) Management. Changes in the officers, directors, partners or other principals of the registrant, giving the new names and addresses involved in such changes.
- (4) Salespersons. Changes in securities salespersons, giving name and date of termination of any securities salesperson leaving the registrant's employ and the reasons therefor, and the name and commencement date of any salesperson brought into the employ of the registrant.
- (5) Injunctions and other proceedings. Each registrant shall file a supplemental broker-dealer statement upon each occasion when the registrant or any officer, director, partner, principal or salesperson thereof becomes the subject of any criminal action, or is convicted of any misdemeanor or felony, or is the subject of any pending civil action commenced by a government agency relating to the offer or sale of securities or commodities, or is the subject of any injunction or cease and desist order relating to the offer or sale of securities or commodities.

(b) In lieu of filing a supplemental broker-dealer statement (~~[f]~~Form M-3), except as hereinafter provided, a broker or dealer may file, as an amendment, an appropriately executed current ~~[f]~~Form BD, if section 10.1(b) of this Part would have allowed that broker or dealer to file ~~[f]~~Form BD as an original filing.

(c) The filing requirements of paragraph (a)(4) of this section, for firms who file through the [Central Registration Depository]~~CRD~~ system, shall be fulfilled by the filing of ~~[f]~~Form U[-]4 or U[-]5 pursuant to section 10.6 of this Part.

(d) Each Federal Regulation D Covered Securities Dealer, having already filed a Form D in the Department of Law within the past 4 years, shall file a copy of any subsequent Form D or Form D/A filed with the U.S. Securities and Exchange Commission if such form contains any information that differs from the information previously filed with the Department of Law within the past 4 years. Such supplemental Form D/A filing shall constitute a supplemental statement under GBL § 359-e.

(e) Each Federal Tier 2 Dealer, having already filed a Uniform Notice Filing of Regulation A – Tier 2 Offering regarding a particular issuance in the Department of Law within the registration period, shall file a supplemental Uniform Notice Filing of Regulation A – Tier 2 Offering, each time that such dealer submits an amendment regarding said issuance, to the SEC. Such supplemental filing shall constitute a supplemental statement under GBL § 359-e.

(f) Each Federal Covered Investment Company Dealer shall file Form NF upon any change to the information previously submitted to the Department of Law. Such Form NF shall constitute a supplemental statement under GBL § 359-e.

(g) All supplemental statements required herein shall be made within 30 days of the event warranting the supplement, except with regard to information about injunctions and other proceedings which must be made as soon as practicable.

Section 10.4 of title 13 is amended to read as follows:

§ 10.4 Supplemental salesperson's statement for salespersons employed by a non-[NASD]FINRA member firm

(a) Every salesperson of securities employed by a non-[NASD]FINRA member firm, and who has already filed a salesperson's statement or a [f]Form U[-]4 with the Department of Law of the State of New York [pursuant to chapter 692 of the Laws of 1959,] shall file a [f]Form M-4, supplemental salesperson's statement, whenever any of the following changes have taken place to indicate the change of information originally filed:

(1) Name. The change of name of the registrant.

(2) Address. Change of residence address of the registrant.

(3) Termination of employment. Termination of employment as a salesperson, giving the date of termination and reason therefor.

(4) Change of employment. Information as to a change of employment, giving the name and address of the new firm and the date of commencement of employment as a salesperson.

(5) Injunctions and other proceedings. Each registrant shall file a supplemental salesperson's statement upon each occasion when the registrant becomes the subject of any criminal action, or is convicted of any misdemeanor or felony, or is the subject of any pending civil action commenced by a governmental agency relating to the offer or sale of securities or commodities, or is the subject of any injunction or cease and desist order relating to the offer or sale of securities or commodities.

(b) In lieu of the filing of a supplemental salesperson's statement, an executed current [f]Form U[-]4 may be filed to update or correct the information on an existing [f]Form M-2, salesperson's registration, or to disclose employment by a different broker or dealer of a previously registered salesperson.

(c) In lieu of the filing of a supplemental salesperson's statement, a letter signed by the salesperson or by a principal officer, partner, sole proprietor or managing agent, as appropriate, containing information making an

existing filing accurate and complete, may be filed for a securities salesperson if a [f]Form U[-]4 has been previously filed with the Department of Law for that salesperson.

(d) A current [f]Form U[-]5 may be used to report the termination of a salesperson.

Section 10.5 of title 13 is amended to read as follows:

§ 10.5 Fee for supplemental statements

The filing of any supplemental information pursuant to section 10.3 or 10.4 of this Part [on forms M-3 and M-4, or by letter or on forms BD, U-4 and U-5, as applicable,] must be accompanied by the current statutory fee of \$ [2]30 for each filing. Checks for filings made directly with the Department of Law of the State of New York shall be made payable to it. Once the Department of Law implements an electronic filing system, such fees shall be paid electronically. No fee is required for any supplemental statement which reports only the cancellation of a salesperson's registration.

Section 10.6 of title 13 is amended to read as follows:

§ 10.6 Alternative method of filing supplemental salesperson's and broker-dealer statements and fees attendant thereto.

(a) The requirements of sections 10.3 and 10.4 of this Part shall be fulfilled through the [Central Registration Depository system]CRD system with regard to a firm that is a member of [the National Association of Securities Dealers, Inc.]FINRA and its salespersons [who have filed through the Central Registration Depository system].

(b) The filing of supplemental or amendatory information with the [Central Registration Depository] CRD system. shall be made on current [f]Forms U[-]4, U[-]5, B[-]D or BDW only[, and shall be forwarded to the CRD]. No fee is required to report a change of information on a [f]Form B[-]D or to terminate a registration on [f]Form BDW. The filing of a single [f]Form U[-]4 to report the change of employment of a salesperson shall be deemed to satisfy the requirements of section 10.3(a)(4) of this Part.

(c) All filings that, pursuant to sections 10.3(a)(4) and 10.4(a)(4), report a change of employment to a new broker-dealer will require a fee of \$ [4]60.

(d) In the event of a mass transfer of employment from one [NASD]FINRA member firm to another caused by acquisition, merger or change of entity, the [Central Registration Depository]CRD system shall execute [the] said transfer in accordance with the guidelines established for such by the [Central Registration Depository]CRD system. All such mass transfers will require the payment of a \$ [2]30 fee by the broker-dealer and a \$ [2]30 fee for each salesperson transferred, payable through the CRD system[directly to the Department of Law].

Section 10.7 of title 13 is amended to read as follows:

§ 10.7 Annual renewal for [NASD]FINRA member broker-dealers

(a) An initial single renewal invoice for the renewal of broker-dealer and salesperson's registrations will be [mailed]sent by the [Central Registration Depository]CRD system to each firm before the end [on or about December 1st] of each year.

(b) Each broker-dealer shall pay the invoice amount, pursuant to the fee schedule set forth in this Part, directly to [the NASD]FINRA before the payment date indicated on the renewal invoice.

Section 10.8 of title 13 is amended to read as follows:

§ 10.8 Filing fees

(a) The Department of Law shall collect the following fees:

(1) \$ [8]1,200 for each M-1 broker-dealer statement or Form B[]D filed by a non-[NASD]FINRA member firm and for each [f]Form [M-1A]NF filed;

(2) \$ [8]1,200 for each M-11 issuer statement, Form D, or Uniform Notice Filing of Regulation A – Tier 2 Offering where the amount of the offering is in excess of \$ 500,000;

(i) All brokers and dealers whose principal business is in the offering, sale or promotion of real estate securities in or from the state of New York also shall pay the filing fees required by GBL § 352-e(7)(a).

(3) \$ [2]300 for each M-11 issuer statement, Form D, or Uniform Notice Filing of Regulation A – Tier 2 Offering where the amount of the offering is \$ 500,000 or less;

(i) All brokers and dealers whose principal business is in the offering, sale or promotion of real estate securities in or from the state of New York also shall pay the filing fees required by GBL § 352-e(7)(a).

(4) \$ 1[0]50 for each salesperson's statement, including Form M-2;

(5) \$ 3[2]0 for each supplemental statement, including Form D/A and other supplemental forms; and

[(6) \$ 100 for each M-1 broker-dealer statement or form B-D filed as an initial registration by an NASD member firm or applicant between December 3, 1984 and December 31, 1984; and]

[(7)6] \$ [1]300 for each M-10 (Real Estate) broker-dealer statement filed for or by a broker-dealer offering for sale, selling or promoting cooperative or homeowners association interests in real estate, including condominium units, plus \$ 15 for each partner, officer, director or principal of any such firm, association or corporation.

(b) Checks for filing fees shall be made payable to the New York State Department of Law and shall be forwarded with appropriate filings to the New York State Department of Law, [Bureau of] Investor Protection

Bureau [and Securities], 28 Liberty Street, New York, NY 10005. Only attorneys' checks, bank checks, certified checks, firm checks or money orders will be accepted.

(c) Payments and filings shall be processed electronically upon implementation of an online system by the Department of Law.

(d) Fee schedules for FINRA members are detailed in parts 10.2, 10.5, 10.6 and 10.7 and shall be communicated through the CRD system.

Section 10.10 is added to title 13 to read as follows:

§ 10.10 Definitions

- (a) Definitions;
 - (1) A “broker-dealer” is a person or entity that acts as either a broker or a dealer, or both.
 - (2) “Federal Covered Investment Company Securities” are any security or securities that meet the definition of covered securities, or that will meet such definition upon completion of the transaction, under Section 18 (b)(2) of the Securities Act of 1933 (15 USC 77r (b)(2)).
 - (3) A “Federal Covered Investment Company Dealer” is any person, firm, association, or corporation satisfying the definition of dealer under GBL 359-e (1)(a) that offers for sale or sells Federal Covered Investment Company Securities.
 - (4) “Federal Regulation D Covered Securities” are any security or securities that meet the definition of covered securities, or that will meet such definition upon completion of the transaction, under Sections 18(b)(4)(F) and 18(b)(4)(G) of the Securities Act of 1933 (15 USC 77r (b)(4)(F)-(G)).
 - (5) A “Federal Regulation D Covered Securities Dealer” is any person, firm, association, or corporation satisfying the definition of dealer under GBL § 359-e (1)(a) that offers or sells Federal Regulation D Covered Securities.
 - (6) “Federal Tier 2 Securities” are any security or securities that meet the definition of covered securities, or that will meet such definition upon completion of the transaction, under Section 18(b)(3) or (b)(4)(D)(ii) of the Securities Act of 1933 (15 USC 77r (b)(3) or (b)(4)(D)(ii)).
 - (7) A “Federal Tier 2 Dealer” is any person, firm, association, or corporation satisfying the definition of dealer under GBL § 359-e (1)(a) that offers or sells Federal Tier 2 Securities.
 - (8) A “Finder” shall mean a person, firm, association, or corporation who as part of a regular business, engages in the business of effecting transactions in securities for the account of others within or from this state, to the limited extent that such person, firm, association, or corporation, receives compensation

for introducing a prospective investor or investors to any broker, dealer or salesperson. Finders shall be subject to all of the filing and exam requirements of brokers, broker-dealers, and salespersons under this part and under GBL § 359-e.

- (9) A “Salesperson” has the same definition as “salesman” under GBL § 359-e (1)(c).

A new section 10.11 is added to title 13 to read as follows:

§ 10.11 Alternative method of filing for certain dealers.

(a) Federal Covered Investment Company Dealers must satisfy the initial statement, state notice, and further notice requirements of GBL § 359-e by filing a completed Uniform Investment Company Notice Filing known as Form NF, along with the fees designated herein, with the Department of Law prior to the sale of any securities issued or to be issued by such dealer. Such filings shall be valid for a period of four years.

(1) Form NF filings and payments of fees shall be sent to and made payable to the Department of Law. The Department of law shall accept electronic or paper filings until such time as the Department of Law designates a system for exclusive electronic filings. The Department of Law may accept filings exclusively through the North American Association of Securities Administrators (“NASAA”) Electronic Filing Depository (“EFD”) as soon as such capability is available, approved and implemented by the Department of Law.

(2) Federal Covered Investment Company Dealer filings shall be renewed every four years, by submitting Form NF and the same fee applicable to an initial statement filing to the Department of Law. Upon availability of the EFD system to accept Form NF, and the Department of Law’s implementation of EFD, filings and payments shall be made through the EFD system.

(3) Federal Covered Investment Company Dealers must satisfy the supplemental statement requirements of GBL § 359-e by filing an amended Form NF with the Department of Law and the supplemental statement fee described in this part. Upon availability of the EFD system to accept Form NF supplemental statements, and the Department of Law’s implementation of EFD, such filings and payments shall be made through the EFD system.

(b) Federal Regulation D Covered Securities Dealers must satisfy the initial statement, state notice, and further notice requirements of GBL § 359-e by filing a completed Form D, along with the fees designated in this part

with the Department of Law within 15 days of the first sale of any securities issued or to be issued by such dealer. Such filings shall be valid for a period of four years.

(1) Form D filings and payments of fees shall be made through the EFD system as soon as such capability is approved by the Department of Law.

(2) Federal Regulation D Covered Securities Dealer filings must be renewed every four years, by submitting Form D or Form D/A and the same fee applicable to an initial statement filing through the EFD system.

(3) Federal Regulation D Covered Securities Dealers must satisfy the supplemental requirements of GBL § 359-e and 13 NYCRR 10.3 and 10.4 by filing an amended Form D/A through the EFD system with the Department of Law and paying the supplemental statement fee described in this part.

(c) Federal Tier 2 Dealers must satisfy the initial statement, state notice, and further notice requirements of GBL § 359-e by filing a completed Uniform Notice Filing of Regulation A – Tier 2 Offering Form, along with the fees designated in this part with the Department of Law not less than twenty-one (21) calendar days prior to qualification by the SEC of any securities issued or to be issued by such dealer. Such filings shall be valid for a period of four years.

(1) Uniform Notice Filing of Regulation A – Tier 2 Offering Form filings and payments of fees shall be directed to the Department of Law. The Department of law shall accept paper filings and payments until such time as the Department of Law designates a system for exclusive electronic filings and payments.

(2) Federal Tier 2 Dealer filings shall be renewed every four years, by submitting the Uniform Notice Filing of Regulation A – Tier 2 Offering Form and the same fee applicable to an initial statement filing to the Department of Law. Upon availability of the EFD system to accept the Uniform Notice Filing of Regulation A – Tier 2 Offering Form, and the Department of Law's implementation of EFD, filings and payments shall be made through the EFD system.

(3) Federal Tier 2 Dealers must satisfy the supplemental requirements of GBL § 359-e and 13 NYCRR 10.3 and 10.4 by filing an amended Uniform Notice Filing of Regulation A – Tier 2 Offering Form with the Department of Law and the supplemental statement fee described in this part.

(d) In addition to other filings required in this section, all Federal Regulation D Covered Securities Dealers, Federal Covered Investment Company Dealers and Federal Tier 2 Dealers not incorporated or organized in New York State must also file a Uniform Consent to Service Form U-2 with the Department of State and pay a \$35 fee thereto at the time each dealer makes its required initial filing.

(e) If electronic filing is unavailable, filings may be made in paper, to the Department of Law, 28 Liberty St., 21st Floor, New York, NY, 10005, except for the Form U-2 which must be filed according to subsection (d).