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(Public)

Sponsors:

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A BILL TO BE ENTITLED
AN ACT TO CONFORM THE NORTH CAROLINA SECURITIES ACT AND THE
INVESTMENT ADVISERS ACT TO THE NATIONAL SECURITIES MARKETS
IMPROVEMENT ACT OF 1996.

The General Assembly of North Carolina enacts:

I. Securities

Section 1. G.S. 78A-2(2)d.1. reads as rewritten:

"1. The security is exempted under subdivisions (1), (2), (3),
(4), (5), (7), (9), (10), (11), (13), or (14) of G.S. 78A-16,
or the transaction is exempted under G.S. 78A-17, and
such exemption has not been denied or revoked under
G.S. 78A-18, or the transaction is in a security covered
under federal law, or".

Section 2. G.S. 78A-2(9) reads as rewritten:

"(9) 'Salesman' means any individual other than a dealer who represents a
dealer in effecting or attempting to effect purchases or sales of
securities. 'Salesman' does not include an individual who represents (i)
an issuer in effecting transactions in a security described in sub-

subdivision (2)d. of this section or a security covered under federal law, provided no commission or other special remuneration is paid or given directly or indirectly for soliciting any prospective purchaser in this State; or (ii) a dealer in effecting transactions in this State limited to those transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934 [15 U.S.C. § 78o(h)(2)]. A partner, executive officer, or director of a dealer, or a person occupying a similar status or performing similar functions, is a salesman only if he otherwise comes within this definition."

Section 3. G.S. 78A-2 is amended by adding a new subdivision to read:

"(11a) 'Security covered under federal law' means any security that is a covered security under Section 18(b) of the Securities Act of 1933 [15 U.S.C. § 77r(b)] or rules or regulations adopted under that section. 'Security covered under federal law' does not include a security for which a fee required by this Article has not been paid and promptly remedied following written notification from the Administrator to the issuer of the nonpayment or underpayment of the fee.'"

Section 4. Effective October 10, 1999, G.S. 78A-2(11a), as enacted by Section 3 of this act, reads as rewritten:

"(11a) 'Security covered under federal law' means any security that is a covered security under Section 18(b) of the Securities Act of 1933 [15 U.S.C. § 77r(b)] or rules or regulations adopted under that section. 'Security covered under federal law' does not include a security for which a fee required by this Article has not been paid and promptly remedied following written notification from the Administrator to the issuer of the nonpayment or underpayment of the fee.'"

Section 5. G.S. 78A-17(16) reads as rewritten:

"(16) Any offer to purchase or to sell or any sale or issuance of a security security, other than a security covered under federal law, pursuant to a plan approved by the Administrator after a hearing conducted pursuant to the provisions of G.S. 78A-30 of this Chapter. G.S. 78A-30."

Section 6. The title to Article 4 of Chapter 78A reads as rewritten:

"ARTICLE 4.

"REGISTRATION AND NOTICE FILING PROCEDURES OF SECURITIES."

Section 7. G.S. 78A-24 reads as rewritten:

"§ 78A-24. Registration requirement.

It is unlawful for any person to offer or sell any security in this State unless (i) it is registered under this Chapter or Chapter, (ii) the security or transaction is exempted under G.S. 78A-16 or 78A-17 and such exemption has not been denied or revoked under G.S. 78A-18. G.S. 78A-18, or (iii) it is a security covered under federal law."

Section 8. G.S. 78A-30(d) reads as rewritten:

"(d) The Administrator's authority under this section shall extend to the issuance or the delivery of securities or ~~the delivery~~ of other consideration:

- 1 (1) By any corporation organized under the laws of this State; or
2 (2) In any transaction which is subject to the registration or qualification
3 requirements of this Chapter or which would be so subject except for
4 the availability of an exemption under G.S. 78A-16 or ~~78A-17~~ or by
5 reason of G.S. ~~78A-2(8)(f)~~-78A-17, by reason of G.S. 78A-2(8)(f), or by
6 reason that the security is a security covered under federal law."

7 Section 9. Article 4 of Chapter 78A of the General Statutes is amended by
8 adding a new section to read:

9 "**§ 78A-31. Securities covered under federal law.**

10 (a) The Administrator, by rule or order, may require the filing of any of the
11 following documents with regard to a security covered under Section 18(b)(2) of the
12 Securities Act of 1933 [15 U.S.C. § 77r(b)(2)]:

- 13 (1) Prior to the initial offer of the security in this State, all documents that
14 are part of a federal registration statement filed with the Securities and
15 Exchange Commission under the Securities Act of 1933, together with a
16 consent to service of process signed by the issuer and with the payment
17 of a notice filing fee of one-tenth of one percent (1/10 of 1%) of the
18 maximum aggregate offering price at which the securities covered under
19 federal law are to be offered in this State, but the notice filing fee shall
20 not be less than twenty-five dollars (\$25.00) or more than one thousand
21 six hundred dollars (\$1,600).
- 22 (2) After the initial offer of the security in this State, all documents that are
23 part of an amendment to a federal registration statement filed with the
24 Securities and Exchange Commission under the Securities Act of 1933,
25 which shall be filed concurrently with the Administrator.
- 26 (3) A report of the value of securities covered under federal law that are
27 offered or sold in this State.

28 (b) With regard to any security that is covered under Section 18(b)(4)(D) of the
29 Securities Act of 1933 [15 U.S.C. § 77r(b)(4)(d)], the Administrator, by rule or order,
30 may require the issuer to file a notice on SEC Form D [17 C.F.R. § 239.500] and a
31 consent to service of process signed by the issuer no later than 15 days after the first sale
32 of the security in this State. The Administrator may, by rule, establish a fee to recover
33 costs for filing required by this section, not to exceed one hundred fifty dollars (\$150.00).

34 (c) The Administrator, by rule or order, may require the filing of any document
35 filed with the Securities and Exchange Commission under the Securities Act of 1933,
36 with respect to a security covered under Section 18(b)(3) or (4) of the Securities Act of
37 1933 [15 U.S.C. § 77r(b)(3) or (4)]. The Administrator may, by rule, establish a fee to
38 recover costs for any filing required under this section, not to exceed one hundred fifty
39 dollars (\$150.00).

40 (d) The Administrator may issue a stop order or a cease and desist order
41 suspending the offer and sale of a covered security except a covered security under
42 Section 18(b)(1) of the Securities Act of 1933 [15 U.S.C. § 77r(b)(1)], if the

1 Administrator finds that (i) the order is in the public interest, and (ii) there is a failure to
2 comply with any condition established under this section.

3 (e) The Administrator, by rule or order, may waive any of the requirements set by
4 this section."

5 Section 10. G.S. 78A-38 reads as rewritten:

6 "**§ 78A-38. Post-registration provisions.**

7 (a) Every registered dealer shall make and keep such accounts, correspondence,
8 memoranda, papers, books, and other records as the Administrator by rule ~~prescribes.~~
9 prescribes, except as provided by Section 15 of the Securities Exchange Act of 1934 [15
10 U.S.C. § 78o]. All records so required shall be preserved for three years unless the
11 Administrator by rule prescribes otherwise for particular types of records.

12 (b) Every registered dealer shall file such financial reports as the Administrator by
13 rule ~~prescribes.~~ prescribes, except as provided by Section 15 of the Securities Exchange
14 Act of 1934 [15 U.S.C. § 78o].

15 (c) If the information contained in any document filed with the Administrator is or
16 becomes inaccurate or incomplete in any material respect, the registrant shall promptly
17 file a correcting amendment unless notification of the correction has been given under
18 G.S. 78A-36(b).

19 (d) All the records referred to in subsection (a) of this section are subject at any
20 time or from time to time to such reasonable periodic, special, or other examinations by
21 representatives of the Administrator, within or without this State, as the Administrator
22 deems necessary or appropriate in the public interest or for the protection of investors.
23 For the purpose of avoiding unnecessary duplication of examinations, the Administrator,
24 insofar as he deems it practicable in administering this subsection, may cooperate with
25 the securities administrators of other states, the Securities and Exchange Commission,
26 and any national securities exchange or national securities association registered under
27 the Securities Exchange Act of 1934."

28 Section 11. G.S. 78A-49(d) reads as rewritten:

29 "(d) The Administrator may by rule or order require the filing of any prospectus,
30 pamphlet, circular, form letter, advertisement, or other sales literature or advertising
31 communication addressed or intended for distribution to prospective investors, unless the
32 security or transaction is exempted by G.S. 78A-16 or 78A-17 (except 78A-17(9), (17))
33 and such exemption has not been denied or revoked under ~~G.S. 78A-18.~~ G.S. 78A-18 or is
34 a security covered under federal law."

35 Section 12. G.S. 78A-63(a) reads as rewritten:

36 "(a) Sections 78A-8, 78A-10, 78A-24, 78A-31, 78A-36(a), and 78A-56 apply to
37 persons who sell or offer to sell when (i) an offer to sell is made in this State, or (ii) an
38 offer to buy is made and accepted in this State."

39 Section 13. G.S. 78A-63(f) reads as rewritten:

40 "(f) Every applicant for registration under this Chapter and every issuer who
41 proposes to offer a security in this State through any person acting on an agency basis in
42 the common-law sense shall file with the Administrator, in such form as he by rule
43 prescribes, an irrevocable consent appointing the Administrator or his successor in office

1 to be his attorney to receive service of any lawful process in any noncriminal suit, action
2 or proceeding against him or his successor, executor or administrator which arises under
3 this Chapter or any rule or order hereunder after the consent has been filed, with the same
4 force and validity as if served personally on the person filing the consent. A person who
5 has filed such a consent in connection with a previous registration or notice filing need
6 not file another. Service may be made by leaving a copy of the process in the office of the
7 Administrator, but it is not effective unless (i) the plaintiff, who may be the Administrator
8 in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and
9 a copy of the process by registered mail to the defendant or respondent at his address on
10 file with the Administrator, and (ii) the plaintiff's affidavit of compliance with the
11 subsection is filed in the case on or before the return day of the process, if any, or within
12 such further time as the court allows."
13

14 **II. Investment Advisers**

15 Section 14. G.S. 78C-2 reads as rewritten:

16 **"§ 78C-2. Definitions.**

17 When used in this Chapter, the definitions of G.S. 78A-2 shall apply along with the
18 following, unless the context otherwise requires:

- 19 (1) 'Investment adviser' means any person who, for compensation, engages
20 in the business of advising others, either directly or through publications
21 or writings, as to the value of securities or as to the advisability of
22 investing in, purchasing, or selling securities, or who, for compensation
23 and as part of a regular business, issues or promulgates analyses or
24 reports concerning securities. 'Investment adviser' also includes
25 financial planners and other persons who, as an integral component of
26 other financially related services, provide the foregoing investment
27 advisory services to others for compensation and as a part of a business
28 or who hold themselves out as providing the foregoing investment
29 advisory services to others for compensation. 'Investment adviser' does
30 not include:

- 31 a. An investment adviser representative or a person excluded from
32 the definition of investment adviser representative pursuant to
33 G.S. 78C-2(3)c.;
- 34 b. A bank, savings institution, or trust company;
- 35 c. A lawyer, accountant, engineer, or teacher whose performance of
36 any such services is solely incidental to the practice of his
37 profession;
- 38 d. A dealer or its salesman whose performance of these services is
39 solely incidental to the conduct of its business as a dealer and
40 who receives no special compensation for them;
- 41 e. A publisher of any newspaper, news column, newsletter, news
42 magazine, or business or financial publication or service, whether
43 communicated in hard copy form, or by electronic means, or

- 1 otherwise, that does not consist of the rendering of advice on the
2 basis of the specific investment situation of each client;
- 3 f. A person solely by virtue of such person's services to or on
4 behalf of any 'business development company' as defined in
5 Section 202(a)(22) of the Investment Advisers Act of 1940
6 provided the business development company is not an
7 'investment company' by reason of Section 3(c)(1) of the
8 Investment Company Act of 1940, as both acts were in effect on
9 June 1, 1988;
- 10 g. A personal representative of a decedent's estate, guardian,
11 conservator, receiver, attorney in fact, trustee in bankruptcy,
12 trustee of a testamentary trust, or a trustee of an inter vivos trust,
13 not otherwise engaged in providing investment advisory services,
14 and the performance of these services is not a part of a plan or
15 scheme to evade registration or the substantive requirements of
16 this Chapter;
- 17 h. A licensed real estate agent or broker whose only compensation
18 is a commission on real estate sold;
- 19 i. An individual or company primarily engaged in acting as a
20 business broker whose only compensation is a commission on the
21 sale of a business;
- 22 j. An individual who, as an employee, officer or director of, or
23 general partner in, another person and in the course of
24 performance of his duties as such, provides investment advice to
25 such other person, or to entities that are affiliates of such other
26 person, or to employee benefit plans of such other person or its
27 affiliated entities, or, with respect to such employee benefit
28 plans, to employees of such other person or its affiliated entities;
- 29 k. Any person who is exempt from registration under the
30 Investment Advisers Act of 1940 by operation of Section
31 203(b)(3) of said act or by operation of any rule or regulation
32 promulgated by the United States Securities and Exchange
33 Commission under or related to said Section 203(b)(3) provided
34 that any reference in this sub-subsection to any statute, rule or
35 regulation shall be deemed to incorporate said statute, rule or
36 regulation (and any statute, rule or regulation referenced therein)
37 as in effect on June 1, 1988;
- 38 l. An employee of a person described in subdivision b., e., f., g., h.,
39 or j. of G.S. 78C-2(1) acting on behalf of such person within the
40 scope of his employment;
- 41 m. An investment adviser who is covered under federal law as
42 defined in subdivision (4) of this section.

1 ~~m-n.~~ Such other persons not within the intent of this subsection as
2 the Administrator may by rule or order designate.

3 (2) 'Investment Advisers Act of 1940' means the federal statute of that name
4 as amended before or after the effective date of this Chapter.

5 (3) 'Investment adviser representative' means any partner, officer, director
6 (or a person occupying a similar status or performing similar functions)
7 or other individual ~~employed by or associated with an investment adviser,~~
8 ~~except clerical personnel, who: except clerical or ministerial personnel,~~
9 who is employed by or associated with an investment adviser that is
10 registered or required to be registered under this Chapter, or who has a
11 place of business located in this State and is employed by or associated
12 with an adviser excluded under the definition of 'investment adviser
13 covered under federal law', and who:

14 a. Makes any recommendations or otherwise renders advice
15 regarding securities directly to clients,

16 b. Manages accounts or portfolios of clients,

17 c. Determines which recommendations or advice regarding
18 securities should be given; provided, however if there are
19 more than five such persons employed by or associated with
20 an investment adviser, who do not otherwise come within the
21 meaning of G.S. 78C-2(3)a., b., d., or e., then only the direct
22 supervisors of such persons are deemed to be investment
23 adviser representatives under G.S. 78C-2(3)c.,

24 d. Solicits, offers or negotiates for the sale of or sells investment
25 advisory services, unless such person is a dealer or salesman
26 registered under Chapter 78A of the General Statutes and the
27 person would not be an investment adviser representative
28 except for the performance of the activities described in G.S.
29 78C-2(3)d., or

30 e. Directly supervises investment adviser representatives as
31 defined in G.S. 78C-2(3)a., b., c. (unless such investment
32 adviser representatives are already required to register due to
33 their role as supervisors by operation of G.S. 78C-2(3)c.), or
34 d. in the performance of the foregoing activities.

35 (4) 'Investment adviser covered under federal law' means any adviser who
36 is (i) registered under Section 203 of the Investment Advisers Act of
37 1940 [15 U.S.C. § 80b-3]; or (ii) excluded from the definition of
38 'investment adviser' under Section 202(a)(11) of the Investment
39 Advisers Act of 1940 [15 U.S.C. § 80b-2(a)(11)]. 'Investment adviser
40 covered under federal law' does not include advisers who have received
41 written notification of nonpayment or underpayment of a fee and have
42 failed and refused to pay the fee."

1 Section 15. Effective October 10, 1999, G.S. 78C-2(4) as enacted by Section
2 14 of this act, reads as rewritten:

3 "(4) 'Investment adviser covered under federal law' means any adviser who
4 is (i) registered under Section 203 of the Investment Advisers Act of
5 1940 [15 U.S.C. § 80b-3]; or (ii) excluded from the definition of
6 'investment adviser' under Section 202(a)(11) of the Investment
7 Advisers Act of 1940 [15 U.S.C. § 80b-2(a)(11)]. ~~Investment adviser
8 covered under federal law' does not include advisers who have received
9 written notification of nonpayment or underpayment of a fee and have failed
10 and refused to pay the fee."~~

11 Section 16. The title to Article 3 of Chapter 78C reads as rewritten:

12 **"ARTICLE 3.**

13 **"REGISTRATION AND NOTICE FILING PROCEDURES OF INVESTMENT
14 ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES."**

15 Section 17. G.S. 78C-16 reads as rewritten:

16 **"§ 78C-16. Registration and notice filing requirement.**

17 (a) It is unlawful for any person to transact business in this State as an investment
18 adviser or as an investment adviser representative unless:

19 (1) ~~He~~The person is ~~so~~ registered under this Chapter;

20 (2) ~~His~~The person's only clients in this State are investment companies as
21 defined in the Investment Company Act of 1940, other investment
22 advisers, investment advisers covered under federal law, dealers, banks,
23 trust companies, savings institutions, savings and loan associations,
24 insurance companies, employee benefit plans with assets of not less than
25 one million dollars (\$1,000,000), and governmental agencies or
26 instrumentalities, whether acting for themselves or as trustees with
27 investment control, or other institutional investors as are designated by
28 rule or order of the Administrator;

29 (3) ~~He has no place of business in the State and during any period of 12
30 consecutive months does not direct business communications into this
31 State in any manner to more than 10 clients, other than those specified
32 in subdivision (2), whether or not he or any of the persons to whom the
33 communications are directed is then present in the State; or~~The person
34 has no place of business in this State, and during the preceding 12-
35 month period has had not more than five clients, other than those
36 specified in subdivision (2) of this subsection, who are residents of this
37 State; or

38 (4) ~~He~~The person is an investment adviser representative employed by or
39 associated with an investment adviser exempt from registration under
40 subdivisions (2) or (3), above.

41 (b) ~~It is unlawful for any investment adviser required to be registered to
42 employ or associate an investment adviser representative unless the investment adviser
43 representative is registered under this Chapter. The registration of an investment adviser~~

1 ~~representative is not effective during any period when he is not employed by or~~
2 ~~associated with an investment adviser registered under this Chapter. When an investment~~
3 ~~adviser representative begins or terminates employment or association with an investment~~
4 ~~adviser, the investment adviser shall promptly notify the Administrator. It is unlawful for~~
5 ~~any (i) person required to be registered as an investment adviser under this Chapter to~~
6 ~~employ an investment adviser representative unless the investment adviser representative~~
7 ~~is registered under this Chapter, provided that the registration of an investment adviser~~
8 ~~representative is not effective during any period when the representative is not employed~~
9 ~~by an investment adviser registered under this Chapter; or (ii) investment adviser covered~~
10 ~~under federal law to employ, supervise, or associate with an investment adviser~~
11 ~~representative having a place of business located in this State, unless the investment~~
12 ~~adviser representative is registered under this Chapter, or is exempt from registration.~~
13 ~~When an investment adviser representative begins or terminates employment with an~~
14 ~~investment adviser, the investment adviser (in case of G.S. 78C-16(b)(i)), or the~~
15 ~~investment adviser representative (in case of G.S. 78C-16(b)(ii)) shall notify promptly the~~
16 ~~Administrator. No investment adviser representative may be registered with more than~~
17 ~~one investment adviser unless each of the investment advisers which employs or~~
18 ~~associates the investment adviser representative is under common ownership or control.~~

19 (c) Every registration or notice filing expires December 31st of each year unless
20 renewed.

21 (d) Except with respect to investment advisers whose only clients are those
22 described in G.S. 78C-16(a)(2), it is unlawful for any investment adviser covered under
23 federal law to conduct advisory business in this State unless the investment adviser
24 complies with the provisions of G.S. 78C-17."

25 Section 18. G.S. 78C-17 reads as rewritten:

26 "**§ 78C-17. Registration procedures.**

27 (a) An investment adviser, or investment adviser representative may obtain an
28 initial or renewal registration by filing with the Administrator or his designee an
29 application together with a consent to service of process pursuant to G.S. 78C-46(b). The
30 application shall contain whatever information the Administrator by rule requires
31 concerning such matters as:

- 32 (1) The applicant's form and place of organization;
- 33 (2) The applicant's proposed method of doing business;
- 34 (3) The qualifications and business history of the applicant; in the case of
35 an investment adviser, the qualifications and business history of any
36 partner, officer, or director, any person occupying a similar status or
37 performing similar functions, or any person directly or indirectly
38 controlling the investment adviser;
- 39 (4) Any injunction or administrative order or conviction of a misdemeanor
40 involving a security or any aspect of the securities business and any
41 conviction of a felony;
- 42 (5) The applicant's financial condition and history; and

1 (6) Any information to be furnished or disseminated to any client or
2 prospective client.

3 If no denial order is in effect and no proceeding is pending under G.S. 78C-19,
4 registration becomes effective at noon of the 30th day after an application is filed. The
5 Administrator may by rule or order specify an earlier effective date, and he may by order
6 defer the effective date until noon of the 30th day after the filing of any amendment.
7 Registration of an investment adviser automatically constitutes registration of any
8 investment adviser representative who is a partner, executive officer, or director, or a
9 person occupying a similar status or performing similar functions.

10 (a1) The Administrator may require investment advisers covered under federal law
11 to file with the Administrator any documentation filed with the Securities and Exchange
12 Commission as a condition of doing business in this State. This subsection does not
13 apply to investment advisers covered under federal law whose only clients are those
14 described in G.S. 78C-16(a)(2).

15 (b) Every applicant for initial or renewal registration shall pay a filing fee of two
16 hundred dollars (\$200.00) in the case of an investment adviser, and forty-five dollars
17 (\$45.00) in the case of an investment adviser representative. When an application is
18 denied or withdrawn, the Administrator shall retain the fee.

19 (c) A registered investment adviser may file an application for registration of a
20 successor, whether or not the successor is then in existence, for the unexpired portion of
21 the year. There shall be no filing fee.

22 (c1) Every person acting as an investment adviser covered under federal law in this
23 State shall pay an initial filing fee of two hundred dollars (\$200.00) and a renewal notice
24 filing fee of two hundred dollars (\$200.00).

25 (d) The Administrator may by rule establish minimum net capital requirements not
26 to exceed one hundred thousand dollars (\$100,000) for registered investment advisers,
27 subject to the limitations of Section 222 of the Investment Advisers Act of 1940 [15
28 U.S.C. § 80(b)-18a], which may include different requirements for those investment
29 advisers who maintain custody of clients' funds or securities or who have discretionary
30 authority over same and those investment advisers who do not.

31 (e) The Administrator may by rule require registered investment advisers who
32 have custody of or discretionary authority over client funds or securities to post surety
33 bonds in amounts up to one hundred thousand dollars (\$100,000), subject to the
34 limitations of Section 222 of the Investment Advisers Act of 1940 [15 U.S.C. § 80(b)-
35 18a], and may determine their conditions. Any appropriate deposit of cash or securities
36 shall be accepted in lieu of any bond so required. No bond may be required of any
37 investment adviser whose minimum net capital, which may be defined by rule, exceeds
38 one hundred thousand dollars (\$100,000). Every bond shall provide for suit thereon by
39 any person who has a cause of action under G.S. 78C-38 and, if the Administrator by rule
40 or order requires, by any person who has a cause of action not arising under this Chapter.
41 Every bond shall provide that no suit may be maintained to enforce any liability on the
42 bond unless brought within the time limitations of G.S. 78C-38(d)."

43 Section 19. G.S. 78C-18 reads as rewritten:

1 **"§ 78C-18. Post-Registration provisions.**

2 (a) Every registered investment adviser shall make and keep such accounts,
3 correspondence, memoranda, papers, books and records as the Administrator by rule
4 ~~prescribes.~~prescribes, except as provided by Section 222 of the Investment Advisers Act
5 of 1940 [15 U.S.C. § 80(b)-18a].

6 All records so required shall be preserved for three years unless the Administrator by
7 rule prescribes otherwise for particular types of records.

8 (b) With respect to investment advisers, the Administrator may require that certain
9 information be furnished or disseminated as necessary or appropriate in the public
10 interest or for the protection of investors and advisory clients. To the extent determined
11 by the Administrator in his discretion, information furnished to clients or prospective
12 clients of an investment adviser pursuant to the Investment Advisers Act of 1940 and the
13 rules thereunder may be used in whole or partial satisfaction of this requirement.

14 (c) Every registered investment adviser shall file such financial reports as the
15 Administrator by rule ~~prescribes.~~prescribes, except as provided by Section 222 of the
16 Investment Advisers Act of 1940 [15 U.S.C. § 80(b)-18a].

17 (d) If the information contained in any document filed with the Administrator is or
18 becomes inaccurate or incomplete in any material respect, the registrant or an investment
19 adviser covered under federal law shall promptly file a correcting amendment~~amendment,~~
20 if the document is filed with respect to a registrant or when the amendment is required to
21 be filed with respect to an investment adviser covered under federal law, unless
22 notification of the correction has been given under G.S. 78C-16(b).

23 (e) All the records referred to in subsection (a) of this section are subject at any
24 time or from time to time to such reasonable periodic, special, or other examinations by
25 representatives of the Administrator, within or without this State, as the Administrator
26 deems necessary or appropriate in the public interest or for the protection of investors.
27 For the purpose of avoiding unnecessary duplication of examinations, the Administrator,
28 insofar as he deems it practicable in administering this subsection, may cooperate with
29 the securities administrators of other states, the Securities and Exchange Commission,
30 and any national securities exchange or national securities association registered under
31 the Securities Exchange Act of 1934."

32 Section 20. G.S. 78C-46(b) reads as rewritten:

33 "(b) Every applicant for registration under this Chapter shall file with the
34 Administrator, in such form as he by rule prescribes, an irrevocable consent appointing
35 the Administrator or his successor in office to be his attorney to receive service of any
36 lawful process in any noncriminal suit, action or proceeding against him or his successor,
37 executor or administrator which arises under this Chapter or any rule or order hereunder
38 after the consent has been filed, with the same force and validity as if served personally
39 on the person filing the consent. A person who has filed such a consent in connection
40 with a previous registration or notice filing need not file another. Service may be made
41 by leaving a copy of the process in the office of the Administrator, but it is not effective
42 unless (i) the plaintiff, who may be the Administrator in a suit, action, or proceeding
43 instituted by him, forthwith sends notice of the service and a copy of the process by

1 registered or certified mail to the defendant or respondent at his last address on file with
2 the Administrator, and (ii) the plaintiff's affidavit of compliance with the subsection is
3 filed in the case on or before the return day of the process, if any, or within such further
4 time as the court allows."

5 Section 21. Sections 4 and 15 of this act become effective October 10, 1999.
6 The remainder of this act becomes effective October 1, 1997. Sections 1 through 13 of
7 this act apply to securities offered or sold and to persons who offer or sell securities on or
8 after the applicable effective date of each of these sections. Sections 14 through 20 of
9 this act apply to advisory business conducted on or after the applicable effective date of
10 each of these sections.