

§ 275.203A-4

business'' of an investment adviser means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

[62 FR 28134, May 22, 1997, as amended at 63 FR 39715, July 24, 1998]

§ 275.203A-4 Investment advisers registered with a State securities commission.

The Commission shall not assert a violation of section 203 of the Act (15 U.S.C. 80b-3) (or any provision of the Act to which an investment adviser becomes subject upon registration under section 203 of the Act (15 U.S.C. 80b-3)) for the failure of an investment adviser registered with the securities commission (or any agency or office performing like functions) in the State in which it has its principal office and place of business to register with the Commission if the investment adviser reasonably believes that it does not have assets under management of at least \$30,000,000 and is therefore not required to register with the Commission.

[62 FR 28134, May 22, 1997]

§ 275.203A-5 [Reserved]

§ 275.203A-6 Transition period for Ohio investment advisers.

(a) *Ohio Authority.* Notwithstanding section 203A(b) of the Act (15 U.S.C. 80b-3a(b)), the Ohio Revised Code, sections 1707.01 to 1707.99, is effective with respect to an investment adviser registered with the Commission that, but for having its principal office and place of business in Ohio, would be prohibited from registering with the Commission under section 203A of the Act (15 U.S.C. 80b-3a).

(b) *Withdrawal Required.* Every investment adviser that is registered with the Commission solely because its principal office and place of business is located in Ohio must withdraw from Commission registration by March 30, 2000.

[64 FR 15683, Apr. 1, 1999]

17 CFR Ch. II (4-1-03 Edition)

§ 275.204-1 Amendments to application for registration.

(a) *When amendment is required.* You must amend your Form ADV (17 CFR 279.1):

(1) At least annually, within 90 days of the end of your fiscal year; and

(2) More frequently, if required by the instructions to Form ADV.

(b) *Transition to electronic filing.* (1) If you are an investment adviser registered with the Commission on December 31, 2000, you must amend your Form ADV by electronically filing a completed Part 1A of Form ADV (as amended effective October 10, 2000) with the Investment Adviser Registration Depository (IARD) according to the following schedule:

(i) If your fiscal year ends in December, and

(A) Your SEC registration number is 801-1 through 801-36806, you must file no later than January 31, 2001;

(B) Your SEC registration number is 801-36807 through 801-54145, you must file no later than February 28, 2001;

(C) Your SEC registration number is 801-54146 or higher, you must file no later than March 30, 2001.

(ii) If your fiscal year ends in any month other than December (*i.e.*, January through November), you must file no later than April 30, 2001.

NOTE TO PARAGRAPHS (a) AND (b): Information on how to file with the IARD is available on our website at <<http://www.sec.gov/iard>>.

(2) If you are an investment adviser whose registration application (filed on paper) was pending on January 1, 2001 and became effective after that date, you must amend your Form ADV by electronically filing a completed Part 1A of Form ADV (as amended effective October 10, 2000) with the IARD by April 30, 2001.

(3) If you have received a continuing hardship exemption under § 275.203-3, you must file a completed Part 1A of Form ADV on paper with NASD Regulation, Inc. (NASDR) when you are required to amend your Form ADV by the schedule in paragraph (b)(1) of this section.

(4) If you have filed Part 1A of Form ADV with the IARD under paragraphs (1) or (2) of this section, you must file

all subsequent amendments to Part 1A of your Form ADV with the IARD.

(c) *Special rule for Part II.* You are not required to file with the Commission a copy of Part II of Form ADV if you maintain a copy of your Part II (and any brochure you deliver to clients) in your files. The copy maintained in your files is considered filed with the Commission.

NOTE TO PARAGRAPH (c): The Commission has proposed, but not adopted, substantial changes to Part II of Form ADV. Thus, the rules for preparing, delivering, and offering Part II (or a brochure containing at least the information contained in Part II) have not changed. If you are an SEC-registered adviser, however, you no longer have to file Part II with the Commission. Instead, you must keep a copy in your files, and update the information in your Part II whenever it becomes materially inaccurate. State law may continue to require you to file Part II with the appropriate State securities authority on paper, regardless of whether you are filing Part I on paper or through the IARD.

(d) *Filing fees.* You must pay NASDR (the operator of the IARD) an initial filing fee when you first electronically file Part 1A of Form ADV pursuant to sub-paragraph (b) of this section. After you pay the initial filing fee, you must pay an annual filing fee each time you file your annual updating amendment. No portion of either fee is refundable. The Commission has approved the filing fees. Your amended Form ADV will not be accepted by NASDR, and thus will not be considered filed with the Commission, until you have paid the filing fee.

(e) *Amendments to Form ADV are reports.* Each amendment required to be filed under this section is a "report" within the meaning of sections 204 and 207 of the Act (15 U.S.C. 80b-4 and 80b-7).

[65 FR 57450, Sept. 22, 2000; 65 FR 81738, Dec. 27, 2000]

§ 275.204-2 Books and records to be maintained by investment advisers.

(a) Every investment adviser registered or required to be registered under section 203 of the Act (15 U.S.C. 80b-3) shall make and keep true, accurate and current the following books and records relating to its investment advisory business;

(1) A journal or journals, including cash receipts and disbursements, records, and any other records of original entry forming the basis of entries in any ledger.

(2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.

(3) A memorandum of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. Such memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed such order; and shall show the account for which entered, the date of entry, and the bank, broker or dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.

(4) All check books, bank statements, cancelled checks and cash reconciliations of the investment adviser.

(5) All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment adviser as such.

(6) All trial balances, financial statements, and internal audit working papers relating to the business of such investment adviser.

(7) Originals of all written communications received and copies of all written communications sent by such investment adviser relating to (i) any recommendation made or proposed to be made and any advice given or proposed to be given, (ii) any receipt, disbursement or delivery of funds or securities, or (iii) the placing or execution of any order to purchase or sell any security: *Provided, however, (a)* That the investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not