

(Unofficial) TEXT OF REVISED REGULATIONS

13 N.Y.C.R.R. Part 10.

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

All forms referenced in this Part are viewable at <https://ag.ny.gov/forms>.

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

(1) 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 Form M-10 (Real Estate)

(2) All dealers that are issuers of securities not subject to subdivision (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 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 shall file Form N. 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 other brokers and dealers shall file Form M-1, except as provided elsewhere in this part.

(7) 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 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 Financial Industry Regulatory Authority (“FINRA”) and not required to file Form M-10 and not an issuer offering or selling its own securities may, in lieu of filing Form M-1, file an executed current Form BD with page 2 of Form U4 completed for each person listed on Schedule A or B. In lieu of filing Form M-2, a securities salesperson may file an executed current Form U4. Form BD, Uniform Application for Broker-Dealer Registration is published by the U.S. Securities and Exchange Commission, 100 F Street, NE Washington, DC 20549, and Form U4, Uniform Application for Securities Industry Registration or Transfer General Instructions is published by FINRA, 1735 K St NW, Washington, DC 20006 (“Form U4 Instructions”), both viewable at <https://ag.ny.gov/forms>.

(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 elsewhere in this part.

(d) Effective date. The revisions to this Part shall become effective upon legal adoption and publication in the New York State Register.

§ 10.2 Central registration for FINRA member broker-dealers and salespersons of FINRA members

(a) All broker-dealers who are members of, or have applied for membership in, FINRA shall file initial broker-dealer registrations directly with the Central Registration Depository (“CRD”) system (information regarding CRD is viewable at <https://www.finra.org>).

(b) A salesperson employed by a firm that is a member of FINRA and engaged in the sale of securities in the State of New York, shall file Forms U4 and U5 through the CRD system.

(c) The CRD system shall be maintained by 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 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 CRD system.

(d) Filings through the CRD system shall be made on an annual basis for a period ending on the 31st day of December following the date of filing.

(e) Filings through the CRD system shall be filed and paid for in accordance with CRD and form instructions. These fees shall be known as in lieu filing fees. Only current Forms U4 and U5 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 Form BD under the alternative system is \$ 300. The annual fee represents one-fourth the statutory fee, GBL § 359-e.5,. The initial fee for filing a Form U4 is \$ 70, which initial fee represents a \$ 40 portion of the statutory fee of \$ 50, GBL § 359-e.5, and \$ 30 which covers the required fee for broker-dealer supplemental statements pursuant to this Part. Thereafter, the annual salesperson renewal fee will be \$ 37 which represents a portion of the current statutory fee of \$ 150. 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 Form BD and who shall act as a salesperson, shall register as a salesperson with the CRD on Form U4. 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 CRD system shall be reviewed for completeness and accuracy by the CRD system. The Department of Law may designate to the CRD system the method of approval of applications for New York registration either by automatic approval by the 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 Form U4 (salesperson's registration) within 180 days from receipt by the 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 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 Form U4 Instructions, 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.

§ 10.3 Supplemental broker-dealer statements for non-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 FINRA and who shall have filed a Form M-1 broker-dealer statement, or a Form BD with the Department of Law of the State of New York, shall file a 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 Form M-3), except as hereinafter provided, a broker or dealer may file, as an amendment, an appropriately executed current Form BD, if section 10.1(b) of this Part would have allowed that broker or dealer to file Form BD as an original filing.

(c) The filing requirements of paragraph (a)(4) of this section, for firms who file through the CRD system, shall be fulfilled by the filing of Form U4 or U5 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 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 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 Form 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 Form, each time that such dealer submits an amendment regarding said issuance, to the U.S Securities and Exchange Commission (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.

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

(a) Every salesperson of securities employed by a non-FINRA member firm, and who has already filed a salesperson's statement or a Form U4 with the Department of Law of the State of New York shall file a 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 Form U4 may be filed to update or correct the information on an existing 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 Form U4 has been previously filed with the Department of Law for that salesperson.

(d) A current Form U5 may be used to report the termination of a salesperson.

§ 10.5 Fee for supplemental statements

The filing of any supplemental information pursuant to section 10.3 or 10.4 of this Part must be accompanied by the current statutory fee of \$ 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 a mandatory electronic filing or payment system, such fees shall be paid electronically, unless a filer can demonstrate a material hardship presented by such electronic payment method. In the case of hardship, the Department of Law may accept payment by check or other means at the Department of Law's discretion. No fee is required for any supplemental statement submitted by a salesperson which reports only the cancellation of a salesperson's registration.

§ 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 CRD system with regard to a firm that is a member of FINRA and its salespersons.
- (b) The filing of supplemental or amendatory information with the CRD system shall be made on current Forms U4, U5, BD or BDW only. No fee is required to report a change of information on a Form BD or to terminate a registration on Form BDW. The filing of a single Form U4 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 \$ 60.
- (d) In the event of a mass transfer of employment from one FINRA member firm to another caused by acquisition, merger or change of entity, the CRD system shall execute said transfer in accordance with the guidelines established for such by the CRD system. All such mass transfers will require the payment of a \$ 30 fee by the broker-dealer and a \$ 30 fee for each salesperson transferred, payable through the CRD system.

§ 10.7 Annual renewal for FINRA member broker-dealers

- (a) An initial single renewal invoice for the renewal of broker-dealer and salesperson's registrations will be sent by the CRD system to each firm before the end of each year.
- (b) Each broker-dealer shall pay the invoice amount, pursuant to the fee schedule set forth in this Part, directly to FINRA before the payment date indicated on the renewal invoice.

§ 10.8 Filing fees

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

(1) \$ 1,200 for each M-1 broker-dealer statement or Form BD filed by a non-FINRA member firm and for each Form NF filed;

(2) \$ 1,200 for each M-11 issuer statement, Form D, or Uniform Notice Filing of Regulation A – Tier 2 Offering form 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) \$ 300 for each M-11 issuer statement, Form D, or Uniform Notice Filing of Regulation A – Tier 2 Offering form 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) \$ 150 for each salesperson's statement, including Form M-2;

(5) \$ 30 for each supplemental statement, including an amended Form D and other supplemental forms; and

(6) \$ 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, Investor Protection Bureau, 28 Liberty Street, New York, NY 10005. Only attorneys' checks, bank checks, certified checks, firm checks or money orders will be accepted. The Department of Law may accept other methods of payment at its discretion.

(c) Payments and filings shall be processed electronically upon implementation of a mandatory electronic filing or payment system by the Department of Law, unless a filer can demonstrate a material hardship presented by

such electronic payment or filing method. In the case of hardship, the attorney general may accept payment by check or other means or a filing in paper form, at the Department of Law's discretion.

(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.

§ 10.9 Filing time limit.

The information required by sections 10.3, 10.4 and 10.6 of this Part shall be filed no later than 30 days after the change in circumstances has occurred.

§ 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) of the Securities Act of 1933 (15 USC 77r (b)(4)(F)).
 - (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 “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 (viewable at <https://ag.ny.gov/forms>), 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, within or from New York State. 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 may 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 after any transition period as determined by the Department of Law, 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 after any transition period as determined by the Department of Law, 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 (Form D Notice of Exempt Offering of Securities, published by the U.S. Securities and Exchange Commission, 100 F Street, NE Washington, DC

20549, viewable at <https://ag.ny.gov/forms>) 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, within or from New York State. 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. Information regarding the EFD system is available at <https://www.efdnasaa.org/>.

(2) Federal Regulation D Covered Securities Dealer filings must be renewed every four years, by submitting Form D 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 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 may accept electronic or paper filings and payments until such time as the Department of Law designates a system for 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 for such filings, 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, and request a copy of the Form U-2 be submitted to the Department of Law unless and until such dealers file through EFD. Any dealer completing a filing through EFD is deemed to have irrevocably appointed the Secretary of State as its agent upon whom may be served any summons, complaint, subpoena, subpoena duces tecum, notice, order, judgment or other process directed at it.

(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).